

TOWN OF OSSIAN, INDIANA

CODE OF ORDINANCES

2020 S-4 Supplement contains:

Local legislation current through Ord. 20-3-1, passed 3-9-2020 and
State legislation current through 2020 Advance Legislative Service #2

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AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE
OF ORDINANCES FOR THE TOWN OF OSSIAN AND DECLARING AN EMERGENCY

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the first supplement to the Code of Ordinances of the Town of Ossian, which supplement contains all ordinances of a general and permanent nature enacted since the original Code of Ordinances of the Town of Ossian; and

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

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

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

NOW, THEREFORE, BE IT ORDAINED BY THE OSSIAN TOWN COUNCIL OF THE POLITICAL SUBDIVISION OF TOWN OF OSSIAN:

- Section 1. That the first supplement to the Code of Ordinances of the Town of Ossian as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.
- Section 2. Such supplement shall be deemed published as of the day of its adoption and approval by the Ossian Town Council and the Town of Ossian Clerk is hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk.
- Section 3. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety and general welfare of the people of this municipality, and shall take effect at the earliest date provided by law.

PASSED AND ADOPTED by the Town Council of Ossian, Indiana, on this 28th day of June, 2010.

Ordinance 14-4-1

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCE FOR THE TOWN OF OSSIAN, INDIANA, AND DECLARING AN EMERGENCY.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 2014 supplement to the Code of Ordinances of the Political Subdivision, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of the Political Subdivision; and

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

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

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

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE AUTHORITY OF THE POLITICAL SUBDIVISION OF THE TOWN OF OSSIAN, INDIANA:

- Section 1. That the 2014 supplement to the Code of Ordinances of the Political Subdivision as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.
- Section 2. Such supplement shall be deemed published as of the day of its adoption and approval by the Legislative Authority and the Clerk of the Political Subdivision is hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk.
- Section 3. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety and general welfare of the people of this municipality, and shall take effect at the earliest date approved by law.

PASSED AND ADOPTED by the Legislative Authority of the Political Subdivision on this 14 day of April, 2014.

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§ 10.01 TITLE OF CODE.

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

§ 10.02 INTERPRETATION.

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

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

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

§ 10.04 CONSTRUCTION OF CODE.

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

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

(C) The numerical order and position of sections in this code does not resolve a conflict between 2 or more sections.

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

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

(F) (1) The numerical designations and descriptive headings assigned to the various titles, chapters, subchapters or sections of this code, as originally enacted or as added by amendment, are not law, and may be altered by the compilers of this or any subsequent codification, in any official publication, to more clearly indicate its content. These descriptive headings are for organizational purposes only and do not affect the meaning, application or construction of the law they precede.

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

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

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

§ 10.05 RULES OF INTERPRETATION; DEFINITIONS.

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

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

(2) Words imputing joint authority to 3 or more persons shall be construed as imputing authority to a majority of the persons, unless otherwise declared in the section giving the authority.

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

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

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

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

COUNCIL. The Ossian Town Council.

COUNTY. Wells County.

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

MONTH. One calendar month.

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

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

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

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

YEAR. One calendar year, unless otherwise expressly provided.

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

§ 10.06 SEVERABILITY.

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

(B) (1) Except in the case of a section or amendment to this code containing a nonseverability 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:

(a) 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

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

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

(C) The repeal of a code section stating that the provisions of an act are severable as provided in division (B) of this section does not affect the operation of division (B) with respect to that act.
(I.C. 1-1-1-8)

§ 10.07 REFERENCE TO OTHER SECTIONS.

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

§ 10.08 REFERENCE TO OFFICES; NAME DESIGNATIONS.

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

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

§ 10.09 ERRORS AND OMISSIONS.

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

§ 10.10 REASONABLE TIME.

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

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

§ 10.11 REPEAL OR MODIFICATION OF CODE SECTION.

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

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

§ 10.12 LIMITATION PERIODS.

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

Statutory reference:

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

§ 10.13 ORDINANCES UNAFFECTED.

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

§ 10.14 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

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

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

§ 10.15 SECTION HISTORIES; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and amending ordinances, if any, are listed following the text of the code section. Example: (Ord. 10, passed 5-13-1960; 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 included in the history, this indicates that the text of the section reads substantially the same as the statute. Example:
(I.C. 36-5-2-2)

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

§ 39.01 PUBLIC RECORDS AVAILABLE.

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

Statutory reference:

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

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

All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws. This code does not affect any rights or liabilities accrued, penalties incurred or proceedings begun prior to the effective date of this code. The liabilities,

proceedings and rights are continued; punishments, penalties or forfeitures shall be enforced and imposed as if this code had not been enacted. In particular, any agreement granting permission to utilize highway rights-of-way, contracts entered into or franchises granted, the acceptance, establishment or vacation of any highway, and the election of corporate officers shall remain valid in all respects, as if this code had not been enacted.

§ 10.99 GENERAL PENALTY.

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

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

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

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

Statutory reference:

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

TITLE III: ADMINISTRATION

Chapter

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- 31. FINANCES AND FEES**
- 32. TOWN COUNCIL**
- 33. TOWN EMPLOYEES**
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Cross-reference:

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§ 30.01 COUNTY ECONOMIC DEVELOPMENT INCOME TAX.

The Town Council supports the imposition of a County Economic Development Income Tax by the Wells County Council, Indiana.

(Res. 97-2-1, passed - -)

§ 30.02 REVIEWING APPLICATIONS FOR TAX ABATEMENT; POLICY AND PROCEDURE.

The Town of Ossian shall approve an application for tax abatement by passing a Confirmatory Resolution granting the deduction from assessed valuation and specifying that real property improvements are approved for 5, 7 or 10 years and/or new manufacturing equipment is approved from 5 or 10 years. The Confirmatory Resolution shall also reference the resolution by which the Economic Revitalization Area was so designated by the Ossian Town Council, or in the case of real property improvements within an Economic Development Target Area, the ordinance number.

(Ord. 95-12-1, passed 4-20-1998)

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- 31.02 Providing copies of public documents to general public

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- 31.15 Purchasing agency; role of Town Council and Town Clerk-Treasurer
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- 31.19 Funding of Economic Development Council
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Cross-reference:

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FEES

§ 31.01 FIXED FEE FOR CHECKS, REPORTS AND FINGERPRINTING.

(A) *Criminal history check.* Pursuant to I.C. 5-14-3, the Ossian Police Department shall collect a \$3 fee for criminal history checks.

(B) *Fingerprints, VIN checks and police reports.* Pursuant to I.C. 5-14-3-8, the Ossian Police Department shall charge the following fees for:

- (1) Fingerprints: \$3;

(2) Police reports: \$3; and

(3) Vehicle ID number checks: \$5.

(C) *Fees deposited into fund.* The fees charged by the Ossian Police Department for criminal history checks, fingerprints, VIN checks and police reports shall be deposited in the Law Enforcement Training Fund.

(Ord. 98-9-2, passed 9-14-1998)

§ 31.02 PROVIDING COPIES OF PUBLIC DOCUMENTS TO GENERAL PUBLIC.

(A) The appropriate officials within the governmental structure of the Town of Ossian are hereby required to provide to the general public any documents of public record when requested.

(B) Any personnel providing those documents is hereby required to make a charge of \$1 per page for those documents.

(C) The charge for those documents is to go into the General Fund of the Town of Ossian.
(Ord. 98-5-1, passed 5-11-1998)

FINANCES

§ 31.15 PURCHASING AGENCY; ROLE OF TOWN COUNCIL AND TOWN CLERK-TREASURER.

(A) The Town Council hereby determines that it is the purchasing agency for the town.

(B) The Town Council hereby designates the following persons to serve as purchasing agents for the town:

(1) The Town Clerk-Treasurer; and

(2) Town employees as are designated from time to time, in writing.
(Ord. 98-7-6, passed 7-13-1998)

§ 31.16 PURCHASING RULES FOR THE TOWN.

(A) *Protection of offers; status of documents as public records.*

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

(2) *Unobstructed evaluation of offers.* After offers have been opened, the purchasing agent shall be responsible for maintaining the offers in a manner so as to permit evaluation of the offers by the persons responsible for evaluating the offers.

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

(4) *Register of proposals.* The purchasing agent shall prepare a register of proposals for each request for proposals issued which shall contain information concerning the proposals available for public inspection and copying. Proposals may not be disclosed.

(B) *Discussions for offerors responding to a request for proposals.* The purchasing agent may conduct discussions with, and best and final offers may be obtained from responsible offerors who submit proposals determined to be reasonably susceptible of being selected for a contract award.

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

(D) *Evidence of financial responsibility.*

(1) *Purchases less than \$25,000.* The purchasing agent may not require evidence of financial responsibility when the estimated cost of a purchase is less than \$25,000.

(2) *Purchases between \$25,000 and \$100,000.* The solicitation may include a requirement that an offeror provide evidence of financial responsibility. If evidence of financial responsibility is required, the solicitation must indicate the kind of evidence that will be acceptable. If a bond or certified check is required, it may not exceed 10% of the estimated cost of the purchase.

(3) *Purchases over \$100,000.* The solicitation shall include a requirement that an offeror provide evidence of financial responsibility and must indicate the kind of evidence that will be acceptable. If a bond or certified check is required, it may not exceed 10% of the estimated cost of the purchase.

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

(E) *Use of RFP for purchases of designated types of supplies.* The town determines that it is either not practicable or not advantageous to purchase certain types of supplies by sealed competitive bidding.

(F) *Modification and termination of contracts.*

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

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

(b) Price adjustments must be computed by unit prices specified in the contract or subsequently agreed upon;

(c) Price adjustments must be computed by costs attributable to the events or situations under clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon;

(d) Price adjustments must be computed in another manner as the contracting parties may mutually agree upon; or

(e) In the absence of agreement by the parties, price adjustments must be computed by a unilateral determination by the governmental body of the costs attributable to the events or situations under clauses with adjustment of profit or fee, all as computed by the governmental body in accordance with applicable rules adopted by the governmental body.

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

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

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

(G) *Purchase of services.*

(1) The town determines that each town agency, department and office and elected town official may purchase services in whatever manner the purchaser determines to be reasonable.

(2) The town purchasing agency may not require any town agency, department of office or any town-elected official, to purchase services in any particular manner.

(H) *Purchase of supplies manufactured in the United States.* Supplies manufactured in the United States shall be specified for all town purchases and shall be purchased unless the town determines that:

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

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

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

(4) The purchase of supplies manufactured in the United States is not in the public interest.
(Ord. 98-7-4, passed 7-13-1998; Ord. 98-7-5, passed 7-13-1998)

§ 31.17 APPROPRIATION OF FUNDS TO PAY EXPENSES INCURRED.

(A) The Town Council of the Town of Ossian is authorized to budget and appropriate funds from the General Fund of the town to pay the expenses of or to reimburse town officials for expenses incurred in promoting the best interest of the town.

(B) Expenses incurred in promoting the best interest of the town may include, but not necessarily be limited to rental of meeting places; meals; decorations; memorabilia; awards; expenses incurred in interviewing job applicants; expenses incurred in promoting industrial, commercial and residential development; expenses incurred in developing relations with other units of government; and any other expenses of a civic or governmental nature deemed by the Town Council to be in the interest of the town.

(Ord. 99-9-6, passed 9-13-1999)

§ 31.18 CLAIMS; PAYMENT PRIOR TO ALLOWANCE.

(A) Notwithstanding I.C. 5-11-10, with the prior written approval of the Board having jurisdiction over allowance of the claim, the Clerk-Treasurer may make claim payments in advance of Board allowance for the following types of expenses:

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

(2) License fees or permit fees;

(3) Insurance premiums;

(4) Utility payments or utility connection charges;

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

(6) Grants of state funds authorized by statute;

(7) Maintenance agreements or service agreements;

(8) Principal and interest payments on bonds;

(9) Lease agreements or rental agreements;

(10) Payroll;

(11) State, federal or county taxes;

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

(13) Expenses described in an ordinance.

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

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

(Ord. 95-10-2, passed 10-17-1995)

§ 31.19 FUNDING OF ECONOMIC DEVELOPMENT COUNCIL.

(A) The Town of Ossian contributes annually 10% of its revenues from the Wells County Economic Development Income Tax to the Wells County Economic Development Council ("Development Council") to enable the Development Council to maintain an office, hire personnel and generally support economic development opportunities on behalf of each governmental unit adopting an ordinance similar to this section. To the extent permitted by law, the Wells County Auditor is authorized to remit a portion of the revenues directly to the Development Council within 30 days of receipt of the revenues from the State of Indiana. To the extent not so remitted, the Clerk-Treasurer shall remit the required payment to the Development Council within 30 days of receipt of the revenues.

(B) Periodically, within 30 days after request of the Executive Director of the Development Council, the Town Council shall appoint an individual residing within its corporate boundaries to serve on the Board of Directors of the Development Council for a term as specified by the Town Council.

(C) The Town Council reserves the right to rescind this section effective the next January 1 or July 1 which is at least 6 months after the effective date of the rescinding ordinance; provided that no rescission shall affect the Development Council's entitlement to the revenues specified in division (A) above until the effective date of the rescission.

(Ord. 98-4-2, passed 4-13-1998)

§ 31.20 UNIFORM INTERNAL CONTROL STANDARDS.

(A) In a meeting duly assembled, that the town adopted as its policy the minimum requirements of I.C. 5-11-1-27, and shall authorize the development and implementation of specific policies to effectuate those requirements;

(B) The town finds that its objectives as related to an internal control system are as follows:

- (1) Operations objectives, which are designed to analyze operational and performance goals, along with the effectiveness and efficiencies of the way governmental services are performed and the safeguarding of assets;
- (2) Reporting objectives, which are designed to consider the dissemination of financial and non-financial information, internally and externally; and
- (3) Compliance objectives, which are designed to assure adherence to applicable laws and regulations.

(C) The minimum requirements of I.C. 5-11-1-27 adopted by the town shall specifically include the five components as described in the uniform internal control standards for Indiana political subdivision guidance document from the State Board of Accounts dated September 2015, and any subsequent version thereof, which are the following:

- (1) Control environment;
- (2) Risk assessment;
- (3) Control activities;
- (4) Information and communication; and
- (5) Monitoring.

(D) The town specifically adopts the following principles to effectuate the five components above:

(1) *Control environment.*

- (a) The oversight body and management demonstrate a commitment to integrity and ethical values;
- (b) The oversight body oversees the town's internal control system;
- (c) Management establishes an organizational structure, assigns responsibility, and delegates authority to achieve the town's objectives;
- (d) Management demonstrates a commitment to attract, develop, and retain competent individuals; and

(e) Management evaluates performance and holds individuals accountable for their internal control responsibilities.

(2) *Risk assessment.*

(a) Management defines objectives clearly to enable the identification of risks and defines risk tolerances;

(b) Management identifies, analyzes, and responds to risk related to achieving the defined objectives;

(c) Management considers the potential for fraud when identifying, analyzing, and responding to risks; and

(d) Management identifies, analyzes, and responds to significant changes that could impact the internal control system.

(3) *Control activities.*

(a) Management designs control activities to achieve objectives and respond to risks;

(b) Management designs the town's information system and related control activities to achieve objectives and respond to risks; and

(c) Management implements control activities through policies.

(4) *Information and communication.*

(a) Management uses quality information to achieve the town's objectives;

(b) Management internally communicates the necessary quality information to achieve the town's objectives; and

(c) Management externally communicates the necessary quality information to achieve the town's objectives.

(5) *Monitoring activities.*

(a) Management establishes and operates monitoring activities to monitor the internal control system and evaluate the results; and

(b) Management remediates identified internal control deficiencies on a timely basis.

(E) The Town Council directs that the above principles be used to design, implement, operate, and modify current operations, reporting, and compliance objectives, where necessary, to establish and ensure that the minimum internal control standards and procedures are met or exceeded;

(F) The Town Council authorizes the Town Council President and Clerk-Treasurer to review the current internal control system of the town and to implement a policy that ensures that the minimum internal control standards and procedures are met or exceeded in compliance with I.C. 5-11-1-27;

(G) The personnel whose official duties include receiving, processing, depositing, disbursing, or otherwise having access to funds that belong to the Federal government, state government, a political subdivision, or another governmental entity shall comply with the minimum internal control standards and procedures and any other policy implemented to effectuate or surpass those standards, and that they shall be trained at least once during a calendar year and annually thereafter, unless on leave status, on the adopted and implemented control standards and procedures;

(H) The fiscal officer of the town shall certify in writing that the minimum internal control standards and procedures have been adopted by the town and that the personnel, who are not otherwise on leave status, have received training, which shall be filed annually with the State Board of Accounts at the same time as the annual financial report required by I.C. 5-11-1-4(a);

(I) The town authorizes the Town Council President and Clerk-Treasurer to determine which personnel must receive the required training and to notify such personnel;

(J) All elected and appointed officials of the town are hereby directed to abide by and to cooperate fully in the implementation and modification of the internal control system.
(Ord. 16-7-1, passed 7-11-2016)

§ 31.21 CREDIT CARDS AND CHARGE ACCOUNTS.

(A) *Issuance.*

(1) The Clerk-Treasurer may make application for business credit, charge accounts and/or charge card, with authorization from the Town Council, for use by town employees (herein after "accounts"), and no other employee of the town shall make application for or otherwise obtain any credit card, charge account or charge card in the name of the town.

(2) Business credit cards issued to the town shall have a maximum credit card limit of not more than \$5,000.

(B) *Use and procedure.*

(1) When not in use, credit cards not issued shall be secured by and in the Office of the Clerk-Treasurer.

(2) Charges made on any account shall be for items which are authorized within the Department Head's spending limitation and budgeted in the town's then-current budget.

(3) As soon as possible, but not later than 72 hours following any use of an account, the person using such account shall provide the original receipt to the Clerk-Treasurer, Deputy Clerk-Treasurer or Department Head.

(4) No credit card or charge account issued in the name of the town shall be used for private purchases. Any credit card or charge account user who fails to provide a receipt for a purchase shall be personally liable to the town for the full amount of such charge and shall be subject to discipline by the town.

(5) Credit cards and charge accounts shall not be used to bypass or avoid the accounting system of the town and charges to the credit cards and charge accounts shall be paid by the Clerk-Treasurer only on the basis of original receipts and from appropriate budgeted funds, accounts, and line items pursuant to the claims procedures of the town.

(6) The Clerk-Treasurer shall endeavor to pay the accounts promptly so that no interest, carrying charges or penalties shall be incurred due to late payments. However, any such interest, carrying charges or penalties due to late payments shall be paid personally by the Clerk-Treasurer in accordance with Indiana law.

(7) No credit card or charge account shall be used to obtain cash advances.

(8) Any and all interest, late charges, over-limit fees, and/or penalties/charges of any kind that are charged to the town which were caused by the card or account user's failure to follow the credit card and charge account use and procedures shall be paid by that user along with the town's cost of collection including its attorney fees.

(9) Appropriate discipline shall be taken against any credit card or charge account user who:

(a) Improperly uses a town credit card or charge account; or

(b) Otherwise violates the credit card and charge account use and procedures set out above.

(Ord. 16-10-2, passed 11-14-2016)

§ 31.22 MATERIALITY THRESHOLD.

The Town Council in a meeting duly assembled and in accordance with information it has received and deemed sufficient, as follows:

(A) All erroneous or irregular variances, losses, shortages or thefts of the town's funds or property or funds or property the town holds in trust, shall be reported to the Clerk-Treasurer or her designee promptly.

(B) It will be the policy of the Clerk-Treasurer to report to the State Board of Accounts any erroneous or irregular variances, losses, shortages or thefts of cash in excess of \$500 dollars, except for inadvertent clerical errors that are identified timely and promptly corrected with no loss to the town.

(C) It will be the policy of the Clerk-Treasurer to report promptly to the State Board of Accounts any erroneous or irregular variances, losses, shortages or thefts of non-cash items in excess of \$2,000 estimated market value, except for those resulting from inadvertent clerical errors or misplacements that are identified timely and promptly corrected with no loss to the town and except for losses from genuine accidents.

(D) The Ossian Town Council directs the Clerk-Treasurer to advise it of any changes in the policy on materiality and process for reporting material items.

(E) Further details about the town's materiality threshold policies can be found in Appendix as attached to Res. 16-7-2 and shall be incorporated herein by reference, standing as if here in full: Clerk-Treasurer Directive Policy on Materiality.

(Res. 16-7-2, passed 7-11-16)

§ 31.23 ELECTRONIC FUND TRANSFERS.

(A) *Electronic fund transfers authorized.* The Town of Ossian/Ossian Utilities is hereby authorized to use electronic fund transfers for official business of the town.

(B) *Authority of Clerk-Treasurer.* The Town Clerk-Treasurer is hereby authorized and responsible for:

- (1) Selecting the financial institution(s) to be used by the town for electronic fund transfers;
- (2) Executing the application and agreement with the selected financial institution(s) for the town;
- (3) Overseeing the use of electronic fund transfers for official town business of the town;

(4) Maintaining the agreement and the relationship between the town and the financial institution(s);

(5) Establishing appropriate security procedures for passwords, codes, controls, and other authorizations to protect and preserve the funds and assets of the town;

(6) Reviewing all transactions and confirmation in connection with the use of electronic fund transfers for property authorization, documentation, itemization, and purpose.

(C) *Administration of payments.*

(1) The Town Clerk-Treasurer shall not draw a warrant for an electronic fund transfer unless:

(a) There is a fully itemized invoice or bill for each expense;

(b) Each invoice or bill is approved by the town employee or representative receiving the goods or services;

(c) The invoice or bill is filed with the Town Clerk-Treasurer;

(d) The Town Clerk-Treasurer audits and certifies before payment that the invoice or bill is true and correct; and

(e) Payment of the invoice or bill is allowed by the Town Council on the register of claims.

(2) All electronic fund transfers must be for official business of the town and shall not be personal in nature.

(D) *Electronic fund transfers.* Electronic fund transfers shall include automated clearinghouse payments (ACH), wire transfers, direct deposit, on-line banking transactions, telephone transfers, and other electronically authorized or implemented transfers or payments.

(E) *Compliance with other requirements.* Notwithstanding the provisions of this section, the town shall comply with all other requirements regarding the payment of claims by a political subdivision.

(F) *Retroactivity.* This section shall be made retroactive to July 30, 2009.
(Res. 20-3-2, passed 3-9-2020)

CHAPTER 32: TOWN COUNCIL

Section

- 32.01 Number of members
- 32.02 Staggered terms for 2 members
- 32.03 Nepotism and contracting with the town by a relative

§ 32.01 NUMBER OF MEMBERS.

(A) The number of members of the Council of the Town of Ossian is hereby altered from 3 to 5 effective January 1, 1993.

(B) The number of members of the Council of the town to be elected at the November 1995 general election for terms of 4 years beginning at noon January 1, 1996, following the election shall be 3.

(C) Each of the 3 Council members described in division (B) above is to reside in and be nominated as a representative from 1 of the 3 wards of the town as set forth previously by the Board of Trustees of the Town of Ossian. All 3 members are to then be elected by the voters of the whole town. The 3 members are to be nominated and elected as previously but prior to the adoption of this section.

(D) The number of members of the Council of the town to be appointed in December, 1992, by the Council per I.C. 3-13-9-4 for initial terms of 4 years to be followed by terms of 4 years is 2.

(E) The 2 Council members described in division (D) above are to reside in the town and be nominated and elected at large by the voters of the whole town.
(Ord. 96-5-1, passed 5-15-1996)

§ 32.02 STAGGERED TERMS FOR 2 MEMBERS.

(A) Pursuant to the provisions of I.C. 3-10-6-2.5 and 3-10-7-2.5(b), 2 Ossian Town Council members shall, in the municipal election conducted on November 2, 1999, be elected to an initial term of 3 years, commencing at 12 p.m. January 1, 2000.

(B) The 2 Town Council members elected to these 3-year terms shall be those individuals elected to the seats designated as "at large."

(C) Thereafter, the Council members, or the Council members' successors' terms, shall be for a period of 4 years, all as pursuant to I.C. 36-5-2-3.
(Ord. 98-2-1, passed 2-9-1998)

§ 32.03 NEPOTISM AND CONTRACTING WITH THE TOWN BY A RELATIVE.

(A) As used in this resolution, "relative" shall mean spouse, parent, stepparent, child (natural or adopted), stepchild, brother, half-brother, sister, half-sister, stepbrother, stepsister, niece, nephew, aunt, uncle, daughter-in-law, or son-in-law.

(B) The town "nepotism policy" is hereby established effective July 1, 2012, by adopting as part of the policy the minimum requirements as set forth in I.C. 36-1-20.2, as adopted and effective July 1, 2012, and as may be amended from time to time in the future, and making them a part hereof as if fully set out herein. A copy of I.C. 36-1-20.2 "Nepotism," in effect on July 1, 2012, is attached to Ord. 12-6-1, passed June 6, 2012.

(C) The town "contracting with a unit by a relative policy" is hereby established effective July 1, 2012, by adopting as part of the policy the minimum requirements as set forth in I.C. 36-1-21, as adopted and effective July 1, 2012, and as may be amended from time to time in the future, and making them a part hereof as if fully set out herein. A copy of I.C. 36-1-21 "Contracting with a Unit by a Relative," in effect on July 1, 2012, is attached to Ord. 12-6-1, passed June 6, 2012.

(D) No single member of the Town Council shall be authorized to act for the body with respect to work assignments, compensation, grievances, advancement, or a performance evaluation without prior authority of a majority of the body, and therefore, without such authority by the majority, no single member of the body shall be in the direct line of supervision.

(E) No single member of any governing body of the town with authority over employees shall be authorized to act for said body with respect to work assignments, compensation, grievances, advancement, or a performance evaluation without prior authority of a majority of the body when a statute provides that a majority is needed to act, and therefore, without such authority by the majority, no single member of the body shall be in the direct line of supervision.

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

(G) Failure to abide by or cooperate with the implementation, compliance, and certifications connected with the nepotism policy is a violation of the policy and may result in the discipline, termination, or transfer of an employee or other curative action. An elected or appointed official of the town who fails to abide by or cooperate with the implementation, with the compliance, and with mandated certifications or the nepotism policy may be subject to action allowed by law.

(H) Failure to abide by or cooperate with the implementation, compliance, and certifications connected with the “contracting with unit by a relative” policy is a violation of the policy and may result in the discipline, termination, or transfer of an employee or other curative action. An elected or appointed official of the town who fails to abide by or cooperate with the implementation, with the compliance, and with mandated certifications or the “contracting with unit by a relative” policy may be subject to action allowed by law.

(I) (1) The policies created by this section are hereby directed to be implemented by any of the following actions:

(a) Posting a copy of this section in its entirety in at least one of the locations in the town where it regularly posts employer posters or other notices to its employees;

(b) Providing to its employees and its elected and appointed officials a copy of this section;

(c) Providing to its employees and its elected and appointed officials a notice of the adoption of this section; or

(d) Any such other action or actions that would communicate the policies established by this section to its employees and its elected and appointed officials.

(2) Upon the taking of any of these actions, these policies are deemed to have been implemented by the town.

(J) A copy of the provisions of I.C. 36-1-20.2 and I.C. 36-1-21, effective July 1, 2012, are annexed to Ord. 12-6-1, passed June 6, 2012.

(K) Two copies of I.C. 36-1-20.2 and I.C. 36-1-21, as supplemented or amended, are on file in the office of the Clerk-Treasurer for the town for public inspection as required by I.C. 36-1-5-4. (Ord. 12-6-1, passed 6-6-2012)

CHAPTER 33: TOWN EMPLOYEES

Section

- 33.01 Deferred Compensation Plan adopted by reference
- 33.02 Personnel matters

Cross-reference:

Nepotism and contracting with the town by a relative, 32.03

§ 33.01 DEFERRED COMPENSATION PLAN ADOPTED BY REFERENCE.

The Town of Ossian, Indiana, hereby establishes the 457 Deferred Compensation Plan for employees, and hereby authorizes its officials to execute all documents necessary to effectuate the existence of the plan effective upon passage of this section. This plan is adopted and incorporated as part of this code of ordinances as fully as if set out at length herein.
(Ord. 97-11-1, passed 11-10-1997)

§ 33.02 PERSONNEL MATTERS.

Town employee personnel matters including but not limited to hours of work; overtime; emergency closings; compensatory time off; travel and meal expense; holidays; vacations; and leave policies are addressed in the current Ossian Employee Handbook — Policy and Procedures Manual. Copies of the current handbook are available from the Clerk-Treasurer.
(Ord. 92-3-1, passed 5-12-1992; Am. Ord. 18-7-1, passed 7-9-2018)

CHAPTER 34: OFFICES, BOARDS, COMMISSIONS AND DEPARTMENTS

Section

Establishment

- 34.01 Abolishment of Town Marshal; Board of Police Commissioners
- 34.02 Economic Revitalization Board
- 34.03 Department of Storm Water Management
- 34.04 Department of Economic Development
- 34.05 Wells County Emergency Management Advisory Council
- 34.06 Department of Redevelopment

Property Disposal

- 34.30 Department head responsibility
- 34.31 Report to Town Council; Town Council determination
- 34.32 Department authorization
- 34.33 Disposal by auction or sealed bid
- 34.34 Exception

ESTABLISHMENT

§ 34.01 ABOLISHMENT OF TOWN MARSHAL; BOARD OF POLICE COMMISSIONERS.

(A) The Office of Town Marshal shall be abolished upon the effective date of this section as hereafter defined.

(B) (1) There is hereby established a Board of Metropolitan Police Commissioners (hereinafter referred to as "the Board.") The Board shall consist of 3 Commissioners, all appointed by the Town Council of the Town of Ossian. In order to qualify as a Commissioner, an appointee must be of good moral character and a legal resident of the town. Not more than 2 of the Commissioners may be of the same political party. All 3 Commissioners shall be appointed no earlier than the first regular meeting of the Town Council in January, 2000. The appointment of each Commissioner shall carry with it a specific term. One Commissioner shall serve for a term of 1 year. One of the Commissioners shall serve for a term of 2 years. One of the Commissioners shall serve a term of 3 years. After the initial appointment of the first Board, 1 Commissioner shall come up for reappointment on January 1 of each succeeding

year. Thereafter, on January 1 of each year, 1 Commissioner shall be appointed to serve for a term of 3 years. Each Commissioner is subject to removal by the Town Council of the Town of Ossian for any cause that the Town Council considers sufficient.

(2) Before entering upon his or her duties, each Commissioner shall take and subscribe an oath of office before the Clerk of Wells County. Each Commissioner shall also take and subscribe before the Clerk a further oath or affirmation that, in each appointment or removal made by the Board to or from the Town Police Department under this chapter, he or she will not appoint or remove a member because of the political affiliation of the person or for another cause or reason other than that of the fitness of the person. The oath and affirmation shall be recorded and placed among the records of the court. Each Commissioner shall give bond in the penal sum of \$5,000 payable to the state and conditioned upon the faithful and honest discharge of his or her duties. The bond must be approved by the Town Council. The salary of the Commissioners shall be fixed by the Town Council and is payable monthly out of the treasury of the town.

(C) (1) Upon its creation as provided for herein, the Board may appoint, subject to the qualifications for employment determined by the Board and approved by the Town Council of the Town of Ossian, as many persons as necessary to serve in the Police Department of the town. One person shall be appointed to serve as the Police Chief. The Board may also appoint other employees that are necessary to carry on the work of the Police Department. The Board may recommend and the Town Council of the Town of Ossian shall determine the compensation to be paid to members of the Police Department in amounts that are just and reasonable.

(2) All persons so appointed by the Board must be of good moral character and serve only during good behavior. The Board constitutes the Safety Board of the town for purposes of the suspension, demotion or dismissal of any member of the Police Department. Proceedings for the suspension, demotion or dismissal of any member of the Police Department 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. 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. Members of the Police Department must:

(a) Have adequate means of transportation into the town; and

(b) Maintain in their residence telephone service with the town.

(D) In all other respects, the Police Department and the Police Chief as provided for herein shall be governed by applicable statutes of the State of Indiana as set forth in the Indiana Code and as amended from time to time, and to the extent appropriate, other ordinances as govern the conduct of the Police Department enacted now or hereafter by the Town Council of the Town of Ossian.

(E) Except to the extent that any prior ordinance adopted by the town is inconsistent with the specific provisions of I.C. 36-8-9-1 and following, ordinances shall continue to apply to the extent that they provide for governance of the Police Department, previously, the Town Marshal and his or her deputies.

(F) The effective date of this section shall be the date of the first meeting in January, 1999, or the appointment of the initial 3 Commissioners, whichever comes later. Specifically, the abolition of the office of Town Marshal shall become effective upon the appointment of a Police Chief as provided herein. It is the intent of this section that there be no gap between the abolition of the office of Town Marshal and the creation of the office of Police Chief. All ordinances or parts thereof which are inconsistent with or contrary to the provisions of this ordinance are hereby repealed.

(G) The Town Council does hereby acknowledge that upon the adoption and with effective date of this section, that it is mandated to participate in the 1977 PERF Fund, all in accordance with I.C. 36-8-8-3.

(Ord. 99-12-1, passed 3-13-2000; Am. Ord. 99-12-1, passed 9-11-2000)

§ 34.02 ECONOMIC REVITALIZATION BOARD.

(A) There is hereby established an Economic Revitalization Board (hereinafter referred to as "the Board"). The Board shall consist of 12 Board members, all appointed by the Town Council. In order to qualify as a Board member, the appointee must have an interest in economic revitalization. Six Board members must be legal residents of the town. Two Board members must be legal residents of the town or Jefferson Township. Four Board members may be legal residents of the town or town business representatives.

(B) The appointment of each member shall carry with it a specific term. The terms of those initially appointed shall be 1, 2 or 3 years. All terms shall expire January 1, but an appointee shall continue in the position until his or her successor is appointed.

(C) At its first regular meeting in each year, the Board shall elect a Chairperson, Vice-Chairperson and Secretary. The Vice-Chairperson shall have authority to act as the Chairperson of the Board during the absence or disability of the Chairperson. The Secretary shall have the responsibility to provide public notification of meetings, prepare and post an agenda and provide a written record of the meetings.

(D) The Board shall be an Advisory Board responsible to the Town Council.
(Ord. 05-3-1, passed 3-14-2005; Am. Ord. 05-3-1, passed 7-11-2005; Am. Ord. 05-3-1, passed 1-28-2013)

Cross-reference:

*Special ordinances establishing or extending tax deductions for Economic Revitalization Areas,
see Table of Special Ordinances VI*

§ 34.03 DEPARTMENT OF STORM WATER MANAGEMENT.

(A) The Town Council hereby adopts the provisions as set out in the Storm Water Management Systems statute as found in I.C. 8-1.5-5-1 *et seq.* except for the exception set out in division (D) below and as amended from time to time by the Indiana legislature.

(B) A Department of Storm Water Management is hereby established for the town to be controlled by a Board of Directors consisting of 3 directors. Directors shall be appointed by the executive of the town and not more than 2 of the directors may be of the same political party.

(C) (1) The terms of office of the directors shall be staggered so that 1 of the first appointed directors shall serve an initial term of 1 year; 1 director shall serve an initial term of 2 years; and 1 director shall serve an initial term of 3 years. All initial terms shall begin effective as of July 1, 2004, the Executive, when making the appointments of directors, shall specify which director shall serve which initial term.

(2) From and after the initial term each director so appointed shall serve a term of 3 years. The executive of the town may remove a director at any time when in the judgment of the executive it is in the best interest of the Department of Storm Water Management to do so.

(D) The Town Council replaces I.C. 8-1.5-5-6 with the following. The Board has the powers and duties as set out below:

- (1) Hold hearings following public notice;
- (2) Make findings and determinations;
- (3) Install, maintain and operate a storm water collection and disposal system;
- (4) Make all necessary or desirable improvements of the grounds and premises under its control;
- (5) Issue and sell bonds of the district in the name of the unit served by the Department for the acquisition, construction, alteration, addition or extension of the storm water collection and disposal system or for the refunding of any bonds issued by the Board; and
- (6) Enforce Chapter 52, § 52.03 as written and as amended from time to time by Council.

(E) The territory initially included in the special taxing district shall be and is all the territory now and hereafter included in within the corporate limits of the town.
(Ord. 04-6-2, passed 8-9-2004; Am. Ord. 18-4-1, passed 4-9-2018)

§ 34.04 DEPARTMENT OF ECONOMIC DEVELOPMENT.

The Ossian Department of Economic Development, controlled by the Ossian Economic Development Commission be, and are hereby created and granted all powers and duties of the Department and the Commission as set forth in I.C. 36-7-11.9 and 36-7-12.
(Ord. 92-8-1, passed 8-11-1992)

§ 34.05 WELLS COUNTY EMERGENCY MANAGEMENT ADVISORY COUNCIL.

(A) In accordance with I.C. 10-14, there is established a Wells County Emergency Management Advisory Council, which shall consist of the following:

- (1) The President of the County Executive;
- (2) The President of the County Fiscal Body;
- (3) The Mayor of the City of Bluffton;
- (4) One individual representing the towns located within the county;

(5) Representatives of private and public agencies or organizations within the county which can be of assistance to emergency management as added by the County Emergency Management Advisory Council; and

- (6) One commander of a local civil air patrol unit in the county, or the commander's designee.

(B) The County Emergency Management Council shall select a Chairperson from its membership.

(C) The County Emergency Management Council shall have general supervision and control over the Emergency Management and Disaster Program of the county, and shall select or cause to be selected with approval of the County Executive, the county emergency management and disaster director who shall have direct responsibility for the organization, administration and operation of the emergency management program in the county, and shall be responsible to the Chairperson of the County Emergency Management Advisory Council.

(Ord. 2000-1, passed 1-3-2000)

§ 34.06 DEPARTMENT OF REDEVELOPMENT.

(A) The Town Council of the Town of Ossian, Indiana ("the town") now deems it to be in the best interest of the town and its citizenry to establish a Department of Redevelopment to afford a maximum opportunity for rehabilitation, redevelopment, or economic development of areas by private enterprise and the town.

(B) The Town Council of the town hereby establishes the Department of Redevelopment for the town, which Department shall be controlled by a board of five voting members and one non-voting advisory member to be designated and known as the Ossian Redevelopment Commission ("the Commission").

(C) Pursuant to the terms of the act, all of the territory within the corporate boundaries of the town constitutes a taxing district for the purpose of levying and collecting special benefit taxes for redevelopment purposes as provided in the act, which district shall be known as the Ossian Redevelopment District.

(D) The town hereby finds and determines that all of the taxable property within the Ossian Redevelopment District is considered to be benefitted by redevelopment projects carried out under the act to the extent of the special taxes levied under the act.

(E) As the Town Executive under I.C. 36-5-2-2, and pursuant to the act, the President of the Town Council shall appoint three of the five members of the Commission and, in accordance with I.C. 36-7-14-6.1(d), shall appoint a member of the Board of Trustees of the Northern Wells School District as a non-voting advisory member of the Commission.

(F) In accordance with the act, the term of office of the original members of the Ossian Redevelopment Commission shall commence from the date of the member's appointment and expire January 1, 2015; thereafter, each member shall serve one-year terms as provided by the act. The term of office of the non-voting member advisory member of the Commission shall be two years with the initial term commencing from the date of his or her appointment and expiring on January 1, 2016.
(Ord. 14-1-2, passed 1-27-2013)

PROPERTY DISPOSAL**§ 34.30 DEPARTMENT HEAD RESPONSIBILITY.**

From time to time, but not less than annually, the head of each town department shall consider the town's personal property under its control and identify those items of personal property which are appropriate for disposal because they are either no longer needed or are unfit for their intended purpose.

(Ord. 2006-4-2, passed 4-10-2006)

§ 34.31 REPORT TO TOWN COUNCIL; TOWN COUNCIL DETERMINATION.

(A) Each department shall then report to Council, on a form Council shall from time to time adopt, the following information:

- (1) A list of personal property appropriate for disposal;
- (2) The reason each is no longer needed or is unfit for its intended purpose;
- (3) The estimated value of each;
- (4) The estimated cost of sale;
- (5) The estimated cost of transportation (to sale or other disposition); and
- (6) The department's suggested form of disposition (e.g., sale, transfer, junk).

(B) At a regular Council meeting, Council shall examine the reports and determine:

- (1) Whether the property is no longer needed or is unfit for its intended purpose; and
- (2) Whether the property is:

(a) Worthless (the value of the property is less than the cost of sale plus transportation);

or

(b) one item has an estimated value of less than \$1,000; or

(c) more than one item has an estimated value of less than \$5,000.

(Ord. 2006-4-2, passed 4-10-2006)

§ 34.32 DEPARTMENT AUTHORIZATION.

(A) Upon Council's affirmative findings in § 34.31, the department shall then be authorized by Council to either:

- (1) Demolish or junk the subject property.
- (2) Sell the property at a public or private sale without advertising.
- (3) Transfer the property without advertising.

(B) Any money received from the disposition of the property shall be directed to the Clerk-Treasurer and deposited in the town's General Fund.
(Ord. 2006-4-2, passed 4-10-2006)

§ 34.33 DISPOSAL BY AUCTION OR SEALED BID.

If Council determines that the property does not meet the criteria set out in § 34.31, then the town shall follow the procedures of I.C. 5-22-22 for disposition by public auction, appropriate internet auction, or sale by receipt of sealed bids.
(Ord. 2006-4-2, passed 4-10-2006)

Editor's note:

I.C. 5-22-22 was repealed by P.L. 253-1997(ss), Sec. 39.

§ 34.34 EXCEPTION.

Excepted from this subchapter are town-owned law enforcement vehicles which shall be disposed of in accordance with I.C. 5-22-22-9 as it exists or is hereafter amended.
(Ord. 2006-4-2, passed 4-10-2006)

Editor's note:

I.C. 5-22-22 was repealed by P.L. 253-1997(ss), Sec. 39.

CHAPTER 35: ORDINANCE VIOLATIONS BUREAU

Section

- 35.01 Establishment; purpose
- 35.02 Administrator; location
- 35.03 Application
- 35.04 Schedule of offenses
- 35.05 Procedures
- 35.06 Payment of penalties and continued enforcement
- 35.07 Institution of enforcement action
- 35.08 Forms

§ 35.01 ESTABLISHMENT; PURPOSE.

There is established an Ordinance Violations Bureau (OVB) for the town pursuant to the provisions of I.C. 33-6-3-1 to 33-6-3-5, as amended. The purpose of the OVB shall be to receive, during regular business hours, or other hours as may be established, fines and fees imposed pursuant to the town ordinances for violations thereof, except for moving traffic violations, as a means of resolving a citation, however, the OVB is not a court and the administrator has no authority to compromise penalty amounts.

(Ord. 2007-8-1, passed 8-27-2007)

Statutory reference:

The town Ordinance Violation Bureau was originally established under the authority of the statutes cited in this section, I.C. 33-6-3-1 through 33-6-3-5. Those statutes have been repealed and replaced by I.C. 33-36-1-1 through 33-36-3-7.

§ 35.02 ADMINISTRATOR; LOCATION.

The town's duly elected and sitting Clerk-Treasurer is appointed and shall serve as the Violations Bureau's Clerk and Administrator to act with regard to ordinance violations as provided by applicable law. The Ordinance Violations Bureau shall be located in the office of the Clerk-Treasurer.

(Ord. 2007-8-1, passed 8-27-2007)

§ 35.03 APPLICATION.

This chapter shall not apply to moving traffic violations. The penalties set forth in this chapter amend all specific or general monetary penalty sections of other town ordinances only as they relate to

the specific offenses set out in § 35.04. Otherwise, this chapter does not amend any monetary or non-monetary penalty or remedial rights or enforcement rights.
(Ord. 2007-8-1, passed 8-27-2007)

§ 35.04 SCHEDULE OF OFFENSES.

The following may be subject to admission of violation before the OVB:

<i>Ordinance Reference</i>	<i>Violation</i>	<i>Penalty First</i>	<i>Penalty Second</i>	<i>Penalty Third</i>
2007-8-3	Nuisance	\$25	\$50	\$100
2007-8-2	Curfew	\$25	\$50	\$100
96-11-3	Animals	\$25	\$50	\$100
98-9-1	Loud noise	\$25	\$50	\$100
15-12-1	Structure address numbering	\$25	\$50	\$100

(Ord. 2007-8-1, passed 8-27-2007; Am. Ord. 2007-8-1, passed 12-10-2007; Am. Ord. 15-12-1, passed 12-14-2015)

§ 35.05 PROCEDURES.

Upon receiving a citation, the alleged ordinance violator:

(A) May admit the violation and/or pay the appropriate fine amount;

(B) May deny the citation and request a trial for the alleged violation by submitting a written denial; or

(C) Who does neither (A) or (B), shall be deemed to have denied the violation and a trial will be set.
(Ord. 2007-8-1, passed 8-27-2007)

§ 35.06 PAYMENT OF PENALTIES AND CONTINUED ENFORCEMENT.

(A) A separate and distinct violation of any of the provisions referenced in § 35.04 constitutes a separate offense which may result in multiple violations and increasing penalties as indicated. In

circumstances where there exists a continuing act or omission, or a continuing existing condition, which constitutes a violation, every day that violation continues shall constitute a separate offense. The payment of the penalty for the violation of any of the above provisions shall not excuse the violation or permit it to continue, nor shall such payment prevent the enforced correction of any prohibited act, omission, or condition as appropriate under this or other ordinances and/or state law.

(B) The payment of the penalty for any ordinance violation as provided in this chapter shall not relieve the violator from liability for personal injury or property damage arising out of the violating act, omission, or condition. The town, or third persons, may pursue any and all other appropriate legal remedies for such injury or damage.

(Ord. 2007-8-1, passed 8-27-2007)

§ 35.07 INSTITUTION OF ENFORCEMENT ACTION.

At the town's option, an action for appropriate relief may be brought against an alleged ordinance violator in the County Superior Court.

(Ord. 2007-8-1, passed 8-27-2007)

§ 35.08 FORMS.

With Council's consent, the OVB's Administrator shall prepare and use forms to assist in the administration and prosecution of ordinance violations.

(Ord. 2007-8-1, passed 8-27-2007)

TITLE V: PUBLIC WORKS

Chapter

- 50. UTILITIES IN GENERAL**
- 51. SOLID WASTE, HAZARDOUS WASTE AND THE LIKE**
- 52. WATER**
- 53. SEWER**

CHAPTER 50: UTILITIES IN GENERAL

Section

General

- 50.001 Rates and charges for water and sewer tap fees and insufficient check charge
- 50.002 Beginning new service on new construction
- 50.003 Beginning new service at established location
- 50.004 Installation and maintenance

Utility Construction Standards

- 50.015 Construction and operational standards, specifications and procedures

Utility Operation Regulations

- 50.050 Day to day operation
- 50.051 Billing procedures
- 50.052 Deposit for services
- 50.053 Delinquent payment charges
- 50.054 Collection of delinquent charges
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- 50.056 Discontinuance of service for non-payment
- 50.057 Reconnection charge
- 50.058 Temporary disconnect charge
- 50.059 Service calls and fees

Cross-Connection Control; Backflow Prevention; Disconnections

- 50.070 Definitions
- 50.071 Cross-connections prohibited; regulation of booster pumps
- 50.072 Backflow preventer required
- 50.073 Installation of backflow preventer
- 50.074 Inspections
- 50.075 Violations

Prohibitions

50.090 Prohibitions

Disconnection

50.100 Involuntary disconnection

50.101 Voluntary disconnection

Emergency Prohibitions

50.115 Emergency measures

Cross-reference:*Attachments to utility poles prohibited, 130.15****GENERAL*****§ 50.001 RATES AND CHARGES FOR WATER AND SEWER TAP FEES AND INSUFFICIENT CHECK CHARGE.**

(A) The following rate charges are hereby established:

<i>Water Tap Connection and Fee</i>	
Residential water tap fee	\$500
Non-residential water tap fee:	
1 inch and less pipe	\$1,000
<i>Water Tap Fee</i>	
Greater than 1 inch pipe	\$1,000
<i>Sewer Tap Fee</i>	
Residential sewer tap fee	\$500
Non-residential sewer tap fee	\$1,500

(Ord. 93-3-1, passed 5-11-1993; Am. Ord. 93-3-1, passed 1-10-1995; Am. Ord. 93-3-1, passed 2-12-2001; Am. Ord. 15-8-1, passed 8-24-2015)

§ 50.002 BEGINNING NEW SERVICE ON NEW CONSTRUCTION.

(A) Beginning December 1, 1998, there will be a new policy for beginning new utility service on new construction.

(B) The procedure will be as follows:

- (1) A request for water service is made at the utility office: 622-4251;
- (2) A meter will be delivered to the site to be installed by the plumbing contractor;
- (3) After the meter is set, the town will make the copper connection to the curb stop;
- (4) Billing will begin the day the copper connection is made and service is made; and
- (5) It is recommended that a turnoff valve is used on both sides of the water meter.

(C) If there are any questions concerning this policy or procedure, please contact the Clerk-Treasurer's office.

(Ord. passed 11-30-1998; Am. Ord. 15-8-1, passed 8-24-2015)

§ 50.003 BEGINNING NEW SERVICE AT ESTABLISHED LOCATION.

Application for turn on of water utility services shall be made at the Clerk-Treasurer's business office.

(Ord. 15-8-1, passed 8-24-2015)

§ 50.004 INSTALLATION AND MAINTENANCE.

All service pipes shall be installed and maintained at the expense of the municipality from the main to the curb stop or from the main to the meter pit. All service pipes from the main to the meter shall be inspected by the Town Manager or his or her authorized employee before same have been covered over. The town will provide the curb box at its own expense, but it is expressly understood that the customer shall, at his or her own expense, extend the service line from the curb stop or from the meter pit, make all connections necessary for the installation of the meter and set the meter for new construction.

(Ord. 15-8-1, passed 8-24-2015)

UTILITY CONSTRUCTION STANDARDS**§ 50.015 CONSTRUCTION AND OPERATIONAL STANDARDS, SPECIFICATIONS AND PROCEDURES.**

(A) All entities providing any facility or improvement to the town shall only do so in accordance with the construction and operational standards, specifications and procedures as contained in Appendix A as attached to Ord. 16-6-1 and kept on file in the Office of the Clerk-Treasurer.

(B) Any deviation requested from the construction and operational standards, specifications and procedures contained in Appendix A must be submitted in writing to the Town Manager. Any approval of a requested deviation shall only be granted in writing by the Town Manager after consultation with the Council President, or Town Council, as the Council President shall direct.

(Ord. 16-6-1, passed 6-13-2016)

UTILITY OPERATION REGULATIONS**§ 50.050 DAY TO DAY OPERATION.**

(A) Customer is required to keep the surroundings around the meter clean, dry, and easily accessible to employees of the Ossian Utilities and to protect the same from freezing.

(B) No connection or alteration whatsoever shall be made ahead of the water meter whereby water may be released without passing through the meter. Should it become necessary, through the process of making repairs or alterations in the pipeline to which the meter is attached, to remove the meter a request shall be made to ossian utilities for the removal. Water utility service shall not be turned on again until after proper inspection is made by ossian utilities and the work is approved.

(C) It is expressly understood and agreed that the ossian utilities personnel shall have reasonable access to any meter.

(Ord. 15-8-1, passed 8-24-2015)

§ 50.051 BILLING PROCEDURES.

(A) Bills for water utility services, storm water, waste water, and the collection of domestic solid waste, shall be sent to each owner or occupant of a dwelling unit monthly by the Office of the Clerk-Treasurer on the first day of the month.

(B) The owners of properties served, which are occupied by tenants, may examine the collection records of the town for the purpose of determining whether the rates and charges have been paid by the tenants, provided that an examination shall be made in the office which the records are kept and during the hours that the office is open for business.

(C) For the purpose of billing and collecting charges for water usage, water meters shall be read monthly and the customer shall be billed monthly provided; however, that Ossian utilities shall have the option of estimating a customer's monthly water usage in the event that a meter reading cannot be taken for a particular month. If a customer's water usage is estimated, the bill shall be adjusted accordingly based upon the next actual meter reading.

(D) In the event that a customer requests a termination of water utility service, the meter shall be read on the date of the termination of services and billed accordingly. The final bill shall not be less than any minimum charge established by ordinance or policy adopted by the Ossian utilities.

(E) All bills shall be paid on or before the due date indicated on the billing. Any payment not received on or before the due date shall be subject to a late fee assessed in accordance with ordinances or policies adopted by the Ossian utilities.

(Ord. 15-8-1, passed 8-24-2015)

§ 50.052 DEPOSIT FOR SERVICES.

(A) Except as provided in divisions (E) and (F) below, utility services may not be commenced or reinstated until the applicable meter deposit in (B) or (C) below, any then remaining delinquent bills, and any reconnection fee, have been paid in full.

(B) A \$75 meter deposit shall be paid against the account of a customer, who is an owner of record of the property located at the service address, as a part of each application for utility services submitted to the town.

(C) A \$150 meter deposit shall be paid against the account of a customer who is not an owner of record of the property located at the service address, as a part of each application for utility services submitted to the town.

(D) Deposits shall be held, without interest, and upon a termination of service to that applicant, applied against the connection's account obligations to Ossian utilities, with any then remaining balance refunded to that customer, in accordance with the requirements of applicable authority.

(E) *Deposit waived.* The deposit required under divisions (B) or (C) above shall be waived for a current Ossian utilities customer who applies for utility services at a new service address who, within the last 12 billing cycles, has:

- (1) No more than one delinquent payment charge assessed within the last 12 billing cycles;
- (2) No returned check charges; and
- (3) No discontinuance of service for nonpayment.

(F) *Deposit reduced.* The deposit required under divisions (B) or (C) above shall be reduced to \$25 for a customer who applies for utility services that is not a current Ossian utilities customer but has provided documentation to the Ossian utilities from a like utility service provider that, within the last 12 billing cycles, he or she has:

- (1) No more than one delinquent payment charge assessed;
- (2) No returned check charges; and
- (3) No discontinuance of service for nonpayment.

(Ord. 15-8-1, passed 8-24-2015)

§ 50.053 DELINQUENT PAYMENT CHARGES.

(A) Customer's failure to pay the charges identified in § 51.18 within 30 days from billing shall incur a 10% late charge on the delinquent solid waste charges.

(B) Customer's failure to pay the charges identified in § 52.01 within 20 days from billing shall incur a 10% late charge on the delinquent storm water charges.

(C) Customer's failure to pay the charges identified in § 52.50 within 20 days from billing shall incur a 10% late charge on the delinquent water charges.

(D) Customer's failure to pay the charges identified in § 53.01 within 20 days from billing shall incur a 10% late charge on the delinquent waste water charges.

(Ord. 15-8-1, passed 8-24-2015)

§ 50.054 COLLECTION OF DELINQUENT CHARGES.

(A) It shall be the duty of the Clerk-Treasurer, charged with the collection of rates or charges, to enforce payment thereof, together with the penalty herein provided.

(B) In the event that a lawsuit is filed to collect a delinquent utility bill, town shall recover its costs of collection, including attorney's fees and court costs.
(Ord. 15-8-1, passed 8-24-2015)

§ 50.055 INSUFFICIENT CHECK CHARGE.

There will be a charge of \$20 assessed to the consumer for each check which is returned to the town for non-sufficient funds. Personal checks will not be accepted as payment on the account of a consumer which has had one or more such bad checks in the most recent 12 monthly billing periods.
(Ord. 15-8-1, passed 8-24-2015)

§ 50.056 DISCONTINUANCE OF SERVICE FOR NON-PAYMENT.

If the utility bill is not paid within ten days from the date due thereof, as stated on the bill, the past due amount will be indicated on the following bill. If the past due amount still remains unpaid as of the next following billing date, a disconnect notice shall be mailed to the user. If the utility bill is not paid within seven from the date the disconnect notice is mailed, the water service shall be turned off at the curb shut-off valve.
(Ord. 15-8-1, passed 8-24-2015)

§ 50.057 RECONNECTION CHARGE.

When utility service is discontinued for nonpayment, a charge of \$50 shall be made for disconnecting the water service. This charge must be paid and customer must replenish the deposit required by § 50.52 before the water will be reconnected.
(Ord. 15-8-1, passed 8-24-2015)

§ 50.058 TEMPORARY DISCONNECT CHARGE.

(A) A user shall pay a charge of \$25 for each request that water and waste water services be discontinued for a period of time.

(B) This charge shall be assessed and payable upon customer submitting the turn off request.
(Ord. 15-8-1, passed 8-24-2015)

§ 50.059 SERVICE CALLS AND FEES.

(A) Work hours for Ossian Utilities are Monday through Friday 7:00 a.m. to 3:30 p.m. Any service call outside of these hours will be considered an after-hours service call.

(B) Ossian Utilities is responsible for and will maintain and repair the pipes connecting the water main to the customer's property, from the main up to and including the curb stop or meter pit, and the water meter. Customer is responsible for the maintenance and repair of the pipe from the curb stop or meter pit, excluding any inside meter, up to and within any structures served by the Ossian Utilities.

(C) An after-hours service fee of \$125 will be charged for each service call for a situation on the customer's side of town's curb stop or meter pit.

(D) It is the customer's responsibility to supply sufficient heat to prevent freezing of the water meter. If the meter is discovered to be frozen due to insufficient heat the customer shall pay town \$25 for repair of freeze plate, or cost of meter materials together with all applicable service calls and fees. (Ord. 15-8-1, passed 8-24-2015)

CROSS-CONNECTION CONTROL; BACKFLOW PREVENTION; DISCONNECTIONS**§ 50.070 DEFINITIONS.**

For the purpose of this chapter, the definitions contained in I.C 13-11-2, 327 IAC 1, and 327 IAC 8-10-1, as each is from time to time amended, are hereby incorporated by reference and shall apply unless the context clearly indicates or requires a different meaning. Two copies of the materials referenced shall be available for inspection and copying at the Clerk-Treasurer's Office during normal business hours.

(Ord. 16-3-1, passed 3-14-2016)

§ 50.071 CROSS-CONNECTIONS PROHIBITED; REGULATION OF BOOSTER PUMPS.

(A) No customer shall establish, maintain, or permit to be established or maintained any cross-connection.

(B) No interconnection shall be established whereby a secondary source of supply may enter the supply or distribution system of the town's public water supply system unless the secondary source of supply and the method of connection and use are approved by the Ossian utilities and IDEM in accordance with 327 IAC 8-10, as amended.

(C) No customer shall install or maintain a booster pump to the town's public water supply system unless a device is installed to control the operation of the booster pump in accordance with 327 IAC 8-10-3, as amended.

(Ord. 16-3-1, passed 3-14-2016)

§ 50.072 BACKFLOW PREVENTER REQUIRED.

(A) All customers whose facilities are designated as cross-connection hazards, as defined in 327 IAC 8-10-4, as amended, shall install and maintain an approved backflow prevention device. The type of protection assembly required shall depend on the degree of hazard which exists pursuant to 327 IAC 8-10, as amended.

(B) All customers who install or maintain a connection to the town's public water supply system of any land irrigation facility buried below ground that has a sprinkler outlet located less than six inches above grade shall install and maintain either:

- (1) An approved backflow prevention device;
- (2) An air gap installed in accordance with 327 IAC 8-10-7, as amended; or
- (3) A pressure type vacuum break installed in accordance with 327 IAC 8-10-7, as amended.

(C) If, in the judgment of the Commissioner, Cross-Connection Control Device Inspector, Town Manager, or town's Water Supervisor, an approved backflow prevention device is necessary for the safety of the town's public water supply system, the Town Manager, town's Water Supervisor, or Cross-Connection Control Device Inspector shall give the customer notice to install an approved backflow prevention device immediately. The notified customer shall install an approved backflow prevention device within 30 days.

(Ord. 16-3-1, passed 3-14-2016)

§ 50.073 INSTALLATION OF BACKFLOW PREVENTER.

(A) The customer shall install an approved backflow prevention device according to the IDEM Cross-Connection Control and Backflow Prevention Manual: 2013 Edition, and 327 IAC 8-10-7, as amended, in a location which is above ground level, downstream from the meter, and approved in advance by the town's Water Supervisor. Two copies of the materials referenced shall be available for inspection and copying at the Clerk-Treasurer's Office during normal business hours.

(B) The customer shall purchase, install, and maintain the backflow prevention device at its own expense.

(Ord. 16-3-1, passed 3-14-2016)

§ 50.074 INSPECTIONS.

(A) The Cross-Connection Control Device Inspector, as defined in 327 IAC 8-10-1, as amended, includes a private inspector hired by the town or customer for this purpose.

(B) Upon presentation of proper credentials, the Cross-Connection Control Device Inspector and town's Water Supervisor shall have the right to request entry at any reasonable time to examine the property serviced by the town's public water supply system for cross connections.

(C) Upon request from the Town Manager, town's Water Supervisor, or Cross-Connection Control Device Inspector, the customer shall furnish to the Ossian utilities any pertinent information regarding the piping systems or fire prevention assemblies installed on the customer's property.

(D) The customer shall, at its own expense, schedule a Cross Connection Control Device Inspector to perform the inspections and re-inspections required pursuant to 327 IAC 8-10-8, as amended, of properties serviced by the town's public water supply system where Cross Connections are present or deemed possible.

(E) In the event an inspection is performed by Cross Connection Control Device Inspector not employed by the town, the customer shall furnish a copy of the report to the Ossian utilities within seven days of receipt.

(F) The customer shall be assessed any inspection fees incurred by the town as a result of the customer's failure to comply with subsection (D) or (E).

(Ord. 16-3-1, passed 3-14-2016)

§ 50.075 VIOLATIONS.

(A) The town may proceed with an involuntary disconnection pursuant to § 50.080(A) in the event of:

(1) A customer's violation of §§ 50.061, 50.062 or 50.063;

(2) A customer's failure to permit the Cross-Connection Control Device Inspector or town's Water Supervisor access to premises for performing an inspection pursuant to § 50.064;

(3) A customer's failure to complete the inspections within the required intervals; or

(4) Upon a written determination issued to the customer by the Town Manager, town's Water Supervisor, or Cross-Connection Control Device Inspector that conditions posing a danger of contamination to the town's public water supply system are present or are suspected to exist and are not eliminated.

(B) The town may proceed with an involuntary disconnection pursuant to § 50.080(B) in the event that a cross-connection or an emergency endangers public health, safety, or welfare and requires immediate action. A written finding to that effect shall be filed with the Clerk-Treasurer with a copy delivered the customer. Upon the customer's request, the customer shall appear before the Town Council for a hearing on the emergency involuntary disconnection at its next regularly-scheduled meeting.

(Ord. 16-3-1, passed 3-14-2016)

PROHIBITIONS

§ 50.090 PROHIBITIONS.

(A) No person, without written authority from the town, shall rum on the water to any service. This rule does not prevent plumbers from testing their work, but they must not in any case leave the water turned on without written authority from the Town Manager.

(B) No person without written authority from the Town Manager, shall tamper with or permit any tampering with any service pipe, curb stop or service valve, meter or meter seal or any other appliance or equipment owned by the utility.

(C) There shall be no cross-connections of water systems between private wells and the public water system.

(D) The use of any jumper line of other connector to obtain water service without the town's connection or approval is prohibited.

(E) The digging and construction of water wells for private use, whether commercial or residential, shall be prohibited within the corporate boundaries of the town. This shall not prohibit the use or repair of water wells that exist within the town at the time of the passage of this section.

(F) No person shall open any fire hydrant or remove or obstruct the stopcock of any hydrant, or place or deposit any dirt or other material in any stopcock boxes, or meter boxes or turn any public or private stopcock or commit any act tending to obstruct the use thereof.

(G) It shall be unlawful, except in time of fire, to draw or cause the water to be removed from any public or private hydrant, unless metered, or to open any valve on the hydrants, or fire protection openings except in case of fire. This is not intended to prevent any department from using fire hydrants to flush sewers.

(H) There shall be no waste of water either to prevent freezing of water lines or for any other purpose. Water will not be furnished to premises where there are leaky pipes or fixtures. When like conditions are found, the supply will be shut off until repairs have been made. Consumers shall keep their own service pipes in repair and protect same from freezing at their own expense, and must prevent all unnecessary waste or use of water.

(Ord. 15-8-1, passed 8-24-2015)

DISCONNECTION

§ 50.100 INVOLUNTARY DISCONNECTION.

(A) Upon written notice provided to the customer at least seven days before termination of service, advising the customer of date of proposed disconnect, specific basis for disconnection, the telephone number for the utilities office, a reference to where the customer can find information concerning their rights, the town may disconnect utility service without request of the customer:

(1) For failure to repair any leak in the service pipe or appurtenances between the service connection and the meter, in any private protection system, or other unmetered facilities;

(2) For failure to timely pay the bill or other charges in connection with Ossian utilities services;

(3) For failure to provide reasonable, unobstructed and non-hazardous access to the premises and meter, appliance and/or other utility-owned equipment so that representatives of the utility may take meter readings, make all necessary inspections, and maintain, replace or remove the meter, appliances and/or equipment of the utility;

(4) Upon discovery of improper installation of a new service pipe and appurtenances, or alteration or removal of existing service pipe and appurtenances, including the meter, without written authority of the utility;

(5) If a customer issues or causes to be issued a check for services which is not honored because of insufficient funds or no account found; or

(6) For failure to comply with the terms of an extension payment agreement.

(B) Town may disconnect utility service without request of the customer and without advance notice to the customer only if:

(1) A condition dangerous or hazardous to life, physical safety, or property exists;

(2) Under order of any court, the IURC, or other duly authorized public authority;

(3) Fraudulent or unauthorized use of water is detected and the utility has reasonable grounds to believe the affected customer is responsible for the use; or

(4) The utility's regulating or measuring equipment has been tampered with and the utility has reasonable grounds to believe that the affected customer is responsible for the tampering.

(C) Reconnection after remedying the condition triggering termination of service, paying all delinquent charges to the utility, and paying any applicable deposit or reconnection fees, shall be completed within one business day.

(Ord. 15-8-1, passed 8-24-2015)

§ 50.101 VOLUNTARY DISCONNECTION.

Whenever a request is made to and complied with by the town that a customer's water service be shut off at the town's water valve for routine or emergency repairs to the inside plumbing; the property owner shall install a shut-off valve immediately before the meter when the meter setting is inside the building structure; or immediately after the point where the service pipe enters the building structure if the meter setting is outside the building as a precondition to water service being restored.

(Ord. 15-8-1, passed 8-24-2015)

EMERGENCY PROHIBITIONS

§ 50.115 EMERGENCY MEASURES.

In the event that the Town Manager or his or her authorized employee determines that the town's water system is in imminent danger of a shortage of water or is experiencing a shortage of water, the

Town Manager shall declare a water emergency and the Council shall prescribe rules for conservation of water until a time as the emergency is determined by the Town Manager to have passed.
(Ord. 15-8-1, passed 8-24-2015)

[Text continues on page 23.]

CHAPTER 51: SOLID WASTE, HAZARDOUS WASTE AND THE LIKE

Section

General

- 51.01 Regulating the accumulation and disposal of waste, garbage and junk
- 51.02 Solid Waste Revenue Fund

Collection, Processing and Disposal

- 51.15 Definitions
- 51.16 Administration
- 51.17 Method of pickup and charges
- 51.18 Charges for solid waste
- 51.19 Miscellaneous

- 51.99 Penalty

GENERAL

§ 51.01 REGULATING THE ACCUMULATION AND DISPOSAL OF WASTE, GARBAGE AND JUNK.

(A) *Specific acts prohibited.* The following acts are specifically prohibited in the county. No person shall:

(1) Cause, or allow to be caused, an accumulation or scattering of any solid waste in the county. However, this does not include:

(a) Accumulations of solid waste, prior to compaction and application of daily cover, at sanitary landfills; and

(b) Accumulations of solid waste for the purposes of pick-up and disposal at sanitary landfills. These accumulations shall be stored only in rat-proof covered containers, or containers otherwise approved by the Wells County Board of Health.

(2) Maintain any condition which may support vectors, generate, transmit or promote disease; or, in general, cause or possibly cause health problems for a person or persons of the county or Town of Ossian.

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

COUNTY. Wells County, Indiana and those unincorporated areas which are under the jurisdiction of the Wells County Health Officer and not incorporated cities or towns, except as provided for under the authority of I.C. 16-20.

CURBSIDE. That portion of right-of-way adjacent to paved or traveled town roadways.

DISPOSAL. The discharge, deposit, injection, spilling, leaking or placing of any solid waste or hazardous waste, as defined herein, into or on any land or water.

GARBAGE. All putrescible animal solid, vegetable solid and semi-solid wastes resulting from the processing, handling, preparing, cooking, serving, consumption of food or food materials.

HEALTH OFFICER. The Wells County Health Officer, or his or her authorized representative.

PERSON. Not limited to any individual, partnership, co-partnership, firm, company, corporation, association, trust, estate or his or her legal representative or agent.

RUBBISH. Includes ashes, cans, metalware, broken glass, crockery, sweepings, boxes, furniture, appliances, cardboard and all similar matter.

SOLID WASTE. Any garbage, rubbish or other material that is typically discarded, including solid, liquid and semi-solid debris resulting from commercial, mining or agricultural operations or from community activities. However, the term solid waste does not include:

(a) Solid or dissolved material in domestic sewage as defined in 410 I.A.C. 608, or dissolved materials in irrigation return flows or industrial discharge, which are point sources subject to permits under § 402 of the Federal Water Pollution Control Act Amendments (P.L. 92-500) being 33 USC 1342;

(b) Source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, being USC 2011 et seq.; or

(c) Manures or crop residues returned to the soil as fertilizers or soil conditioners.

TOWN. Town of Ossian.

VECTOR. Any living organism that is capable of harboring and/or transmitting any disease-producing virus or micro-organism from one animal to another animal or human being.

(C) *Enforcement.*

(1) The provisions of this section shall be enforced by the Health Officer or the County Sheriff.

(2) The Health Officer or County Sheriff may enter upon and inspect private property at proper times after due notice in regard to violations of this section.

(D) *Notice.*

(1) Whenever the Health Officer or County Sheriff determines that there are reasonable grounds to believe that there has been a violation of any provision of this section, the Health Officer or County Sheriff shall give notice of the alleged violation to the person responsible therefor.

(2) The notice shall:

(a) Be in writing;

(b) Include a statement which indicates the precise reason for the issuance of notice;

(c) Indicate a reasonable time for the performance of any act required to bring the situation into compliance;

(d) Be served upon the person responsible, or the occupant, or the landowners, as the case may be; be deemed to be properly served upon the person, occupant or landowner, if a copy thereof is posted in a conspicuous place in or about the area affected by the notice, or if he or she is served with the notice by any other method authorized or required under the laws of this state; and

(e) Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this section.

(E) *Appeal hearings.*

(1) Any person affected by any notice issued by the Health Officer or County Sheriff may request and shall be granted a hearing before the County Board of Health if the person affected files in the office of the Health Officer within 10 calendar days after the service of the notice a written petition requesting the hearing and setting forth a brief statement of the grounds therefor.

(2) Upon receipt of the petition, the Health Officer shall arrange a time and place for the hearing, and it shall be held as soon as practicable after the receipt of the request.

(3) The Board of Health shall sustain, modify or withdraw the notice based upon their findings on the relevant facts and the applicable violations. Action may be taken by a majority vote, provided a quorum is present.

(F) *Violations.* An action under this section may be brought by the Wells County Attorney or the Wells County Prosecuting Attorney.

(Ord. 96-11-1, passed 11-12-1996; Am. Ord. 15-8-1, passed 8-24-2015) Penalty, see § 51.99

§ 51.02 SOLID WASTE REVENUE FUND.

(A) There is hereby established a Solid Waste Revenue Fund on the books and accounts of the town.

(B) The Solid Waste Revenue Fund shall be subject to all of the provisions of Indiana law with respect to the deposit of funds, the filing of claims for payments therefrom, and funds therefrom shall be paid by the Clerk-Treasurer only on the appropriation and approval for payment as provided by law.

(C) All user charges imposed and collected by the town for the collection, receipt, acceptance and disposal of domestic solid waste under the provisions of this chapter shall be deposited in the Solid Waste Revenue Fund.

(Ord. 15-8-1, passed 8-24-2015)

COLLECTION, PROCESSING AND DISPOSAL

§ 51.15 DEFINITIONS.

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

BAGS. Plastic sacks designed to store refuse, provided by the contractor at a set cost to residents for refuse in excess of that contained in the provided containers.

BULKY WASTE. Stoves, refrigerators (with freon removed), water tanks, washing machines, furniture and other waste materials other than construction debris, dead animals, hazardous waste or stable matter with weights or volumes greater than those allowed for containers.

BUNDLE. Tree, shrub and brush trimmings which lengths do not exceed 4 feet or are enclosed in a container. The maximum size **BUNDLE** shall not be more than 12-inch diameter, 4 feet long and does not exceed 60 pounds in weight.

COMMODITY BUYER. A buyer or processor, selected by contractor pursuant to the contract documents of recyclable materials delivered by contractor.

CONSTRUCTION DEBRIS. Waste building materials resulting from construction, remodeling, repair or demolition operations.

CONTAINER. Ninety-gallon cart designed for the purpose of refuse collection provided by the contractor.

CONTRACT DOCUMENTS. The request for proposals, instructions to proponents, contractor's proposal, general specifications, the contract performance bond and any addenda or changes to the foregoing documents agreed to by the town and contractor.

CONTRACTOR. The person, corporation or partnership performing refuse and/or recyclable materials collection and disposal under contract with the town.

DEAD ANIMALS. Animals or portions thereof equal to or greater than 10 pounds in weight that have expired from any cause, except those slaughtered or killed for human use or consumption.

DISPOSAL SITE. A refuse depository including but not limited to sanitary landfills, transfer stations, incinerators and waste processing separation centers licensed, permitted or approved by all governmental bodies and agencies having jurisdiction and requiring licenses, permits or approvals to receive refuse and dead animals for processing or final disposal.

GARBAGE. All table matter that results from the preparation and use of meat, fish, fowl, fruit or vegetable matter. It shall further mean and include tin cans, glass cans, bottles, crockery and other food containers which have been used as food or beverage holders.

HAZARDOUS WASTE. Waste, in any amount, which is defined, characterized or designated as hazardous by the United States Environmental Protection Agency or appropriate state agency by or pursuant to federal or state law. For purposes of this contract, the term **HAZARDOUS WASTE** shall also include motor oil, gasoline, paint and paint cans.

OWNER. A person, partnership, corporation, association, estate, trust or other organization which holds title to a unit within the corporate boundaries of the town.

PICKUP LOCATION. Each improved lot and improved parcel of real estate within the town to which service is available under this chapter.

PRODUCER. An occupant of a residential unit who generates refuse and residential refuse.

RECYCLABLE MATERIAL(S). The following recyclable materials which are collected by the contractor pursuant to the contract documents and other recyclable materials mutually agreed upon by the town and the contractor: old newsprint; clear, brown and green glass bottles and jars; aluminum, tin, bi-metallic and steel cans; clear HDPE plastic milk, water and juice jugs and bottles; and PET soda bottles.

REFUSE. Residential refuse and bulky waste, construction debris and stable matter generated at a residential unit unless the context otherwise requires.

RESIDENTIAL REFUSE. All garbage and rubbish generated by a producer at a residential unit.

RESIDENTIAL UNIT. A dwelling within the corporate limits of the town occupied by a person or group of persons comprising not more than 4 dwelling units. A **RESIDENTIAL UNIT** shall be deemed occupied when either water or domestic light and power services are being supplied thereto. A condominium dwelling, whether of single or multi-level construction, consisting of 4 or less contiguous or separate single-family dwelling units, shall be treated as a residential unit, except that each single-family dwelling within any **RESIDENTIAL UNIT** shall be billed separately as a **RESIDENTIAL UNIT**.

RUBBISH. Material other than garbage, resulting from ordinary household operations, including items such as papers, magazines, newsprint, boxes (that cannot be recycled), also rags, small cartons, small TV's, radios or small metal appliances and including shrubbery and tree bundles.

SOURCE SEPARATION. Segregation of individual types of materials at the point of generation or discard, as opposed to their entry into the mixed waste flow or refuse bin.

STABLE MATTER. All manure and other waste matter normally accumulated in or about a stable, or any animal, livestock or poultry enclosure, and resulting from the keeping of animals, poultry or livestock.

TOWN. Town of Ossian.

USER. Includes the owner and occupant of each unit within the town, and each use by an owner or occupant shall be deemed a separate user.
(Ord. 96-12-1, passed 9-14-1998)

§ 51.16 ADMINISTRATION.

(A) The Refuse Department of the Town of Ossian, Indiana, shall consist of all town officers and employees assigned to any duties in connection with and disposal of domestic solid waste, and recyclable material including bidding and contracting, operations, billings and supervisory personnel.

(B) The Refuse Department shall be a part of the Street Department. The Refuse Department shall have employees as are required, appointed by the Town Council, in accordance with the number of employees authorized in the budget approved by the Town Council. Employees shall be paid salaries as are provided for in the budget.
(Ord. 96-12-1, passed 9-14-1998)

§ 51.17 METHOD OF PICKUP AND CHARGES.

(A) Refuse collection service shall be afforded once a week only to owners and/or occupants of all units in the town. Unless this chapter is modified or amended, the town shall not be required to provide services to commercial or industrial establishments within the town, who must provide collection service at their expense.

(B) (1) Refuse and acceptable materials for collection when used in this chapter shall be garbage and refuse, which are also known as domestic solid waste and recyclable material.

(2) The contractor will not be required to collect commingled recyclable material or those recyclable material which are mixed with garbage, trash and rubbish. The contractor will notify the town of any addresses where the residents are so commingling waste with recyclable material and will tag the containers as being unacceptable for collection.

(C) Unacceptable materials for collection in this chapter, and except as otherwise provided herein, shall include, but not be limited to debris, hazardous waste and miscellaneous waste.

(D) The owner or occupant of a unit shall dispose of domestic solid waste in the container provided by the contractor and shall maintain in good order that container. Refuse bags for pickup must be plastic bags provided by the contractor for a cost.

(E) Each container, bag and bundle shall be placed at curbside for collection. Containers, bags and bundles shall be placed as close to the roadway as practicable without interfering with or endangering the movement of vehicles or pedestrians. When construction work is being performed in the right-of-way, containers, bags and bundles shall be placed as close as practicable to an access point for the collection vehicle. Contractor may decline to collect any container, bag and bundle not so placed or any residential refuse not in a bag.

(F) Solid waste disposal containers intended for collection shall be placed by the owner or occupant of the unit at the collection point no earlier than 7:00 p.m. of the day proceeding the collection and no later than 6:00 a.m. on the day of collection. Containers shall be removed from the collection point after collection by 7:00 p.m. on the day of collection.

(G) The schedule of routes and days for the weekly domestic solid waste collection created by this chapter shall be determined by the Town Council and the contractor.

(H) The contractor will be required to provide town clean-up one day, per year, of all household trash and rubbish placed at the curb, at a time to be agreed upon by the Town Council and the contractor. This service will be provided at no additional cost.

(I) Bulk items acceptable for limited collection under the provisions of this chapter shall include, but not be limited to debris, empty cartons, crates, boxes, wrapping materials, discarded furniture, appliances, large crates, toys, bicycles, plumbing fixtures and barrels. Acceptable bulk items shall not be collected during regular weekly collection of domestic solid waste, but rather may be collected at a time and a price negotiated between the owner/occupant and the contractor at the regular collection point.

(Ord. 96-12-1, passed 9-14-1998; Am. Ord. 96-12-1, passed 8-9-1999; Am. Ord. 96-12-1, passed 6-13-2005; Am. Ord. 96-12-1, passed 10-26-2009; Am. Ord. 15-8-1, passed 8-24-2015) Penalty, see § 51.99

§ 51.18 CHARGES FOR SOLID WASTE.

(A) The user fee to be paid by unit for services rendered under this chapter shall be established from time to time by ordinance of the Town Council and shall be sufficient to cover the cost and expense of administration of this domestic solid waste collection service including, but not limited, to the funding of the cost of any agreement between the town and any person for the collection, receipt, acceptance and disposal of domestic solid waste produced within the corporate limits of the town.

(B) Beginning November 1, 2019, each unit shall be assessed and pay to the town a monthly user fee for garbage, refuse, and recyclable collection of \$15.98 plus an administration fee of \$1 for a total of \$16.98.

(C) All units within the town shall be subject to the user charge set forth herein.

(D) The owner or occupant of a dwelling unit on the first day of the month will be responsible for the solid waste charges for that month.

(E) In the event that the user fee to be paid by unit for services rendered under this chapter is not paid by the occupant, the owner of the unit shall be responsible for the fee and any delinquent payment charges assessed by the town.

(Ord. 15-8-1, passed 8-24-2015; Am. Ord. 16-6-2, passed 6-13-2016; Am. Ord. 19-10-2, passed 10-14-2019)

§ 51.19 MISCELLANEOUS.

(A) The Town Clerk-Treasurer from time to time shall prepare cost studies showing the cost of providing regular and any experimental service in the manner provided in this chapter, including all costs of collecting materials, all moneys saved by not having to pay fees for landfill disposal of materials, and all moneys received from the sale of recyclable materials either by the town or its contractor.

(B) No person shall, without prior written authorization from the town, collect any newspapers, glass or aluminum or metal cans/containers or any other domestic solid waste containers that are placed at the curb for collection under the terms of this chapter, provided, however, that the town may from time to time permit collection to be made by civic organizations that make application therefore if the collection does not violate the terms of any contract for collection. In that case, the organization may keep the money received.

(Ord. 96-12-1, passed 9-14-1998; Am. Ord. 15-8-1, passed 8-24-2015) Penalty, see § 51.99

§ 51.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) It shall be unlawful to violate any of the terms, conditions or restrictions of § 51.01. Any person or legal entity who is found by a court of competent jurisdiction to have violated any provision of § 51.01 may be fined not more than \$2,500 per offense per day plus costs and attorneys' fees where a judgment has been entered accordingly.

(Ord. 96-11-1, passed 11-12-1996)

(C) Any person who violates any of the applicable provisions of §§ 51.15 through 51.18 shall, upon conviction, be guilty of an infraction punishable by a fine of not more than \$100.
(Ord. 96-12-1, passed 9-14-1998)

[Text continues on page 37.]

CHAPTER 52: WATER

Section

- 52.01 Storm water rates
- 52.02 Assessment lien
- 52.03 Maintenance duties and enforcement

Rates and Charges

- 52.50 Water rates and charges
- 52.51 Temporary users

Quality Standards

- 52.80 Water quality management planning responsibility

§ 52.01 STORM WATER RATES.

(A) For the use of and the service rendered by the storm water utility, rates and charges shall be collected from the owners of each and every lot, parcel of real estate or building that discharges storm water, either directly or indirectly, into the storm water system of the town, which rates and charges shall be based on Equivalent Residential Units (ERU) payable as hereinafter provided and shall be in an amount determinable as follows based on the descriptions in division (E) below.

<i>Type of Property</i>	<i>ERU</i>	<i>Monthly Charge</i>
Residential	1.0	\$8
Apartments:		
First 4 dwelling units	1.0	\$8
Each additional dwelling unit	1.0	\$8
Commercial	2.0	\$16
Industrial	10.0	\$80
Municipal	2.0	\$16

(B) Rates and charges incurred under this section shall be prepared and collected by the town in accordance with those provisions regulating the preparation and issuance of bills for sewer service generally. The monies collected under this section shall be deposited in the Storm Water Revenue Fund.

(C) This section shall be in full force and effect from and after its passage, provided, however, that the schedule of rates and charges herein set forth shall be effective with the commencement of the billing cycle as soon as possible.

(D) (1) The rates and charges shall be prepared and billed by the town monthly, as the town may deem appropriate and as determined by the bylaws and regulations for the town as hereinafter provided by law and ordinance.

(2) This charge shall be paid, in arrears, by the twentieth of the month following the service. Current charges unpaid by the twentieth of the billing month will be assessed a penalty of 10%. The rates and charges will be billed to the tenant or tenants occupying the property served unless otherwise requested in writing by the owners, but billing shall in no way relieve the owner from liability in the event payment is not made as herein required.

(3) The owners of the properties served, which are occupied by tenants, shall have the right to examine the collection records of the town for the purpose of determining whether the rates and charges have been paid by the tenants, provided that an examination shall be made in the office in which the records are kept and during the hours that the office is open for business. If charges are not paid within 30 days after due, the amount of the charge, together with the penalty of 10%, any necessary attorney fees and/or any necessary collection fees, may be recovered by the town.

(E) (1) **APARTMENTS.** A structure with the primary purpose of serving 5 or more dwelling units. Included in this classification are planned apartment complexes with multiple units and multiple buildings under 1 property ownership. For billing purposes, the equivalent units for each structure that is separate and distant shall be:

(a) First 4 dwelling units: 1 ERU; and

(b) Each additional dwelling unit: 1 ERU.

(2) **COMMERCIAL.** A property or parcel of land which is primarily used for commercial purposes. Included within this classification are governmental and institutional properties, places of worship, schools and retail shops. For billing purposes, each facility that is separate and distinct shall be considered 2.0 equivalent residential units.

(3) **INDUSTRIAL.** A property or parcel of land that is used primarily for manufacturing purposes. For billing purposes, each site or other facility that is separate and distinct shall be considered 10.0 equivalent residential units.

(4) **MUNICIPAL.** A property or parcel of land that is used primarily for municipal purposes. For billing purposes, each municipal site shall be considered 2.0 equivalent residential units.

(5) **RESIDENTIAL.** A single-family structure for which the primary purpose is to provide not more than 4 dwelling units. Included within this classification are mobile homes, duplexes, modular homes and freestanding apartment units. For billing purposes, a structure shall be considered as 1 equivalent residential unit.

(Ord. 05-6-2, passed 8-8-2005)

§ 52.02 ASSESSMENT LIEN.

(A) Delinquent fees and charges shall be assessed against real property constitute a lien against the property assessed. The lien is superior to all other liens except tax liens. Except as provided in divisions (B) and (C), the lien attaches when notice of the lien is filed in the County Recorder's Office under I.C. 8-1.5-5-30.

(B) In the event a service address is occupied by someone other than the owner, the delinquent fees and charges shall be assessed against real property and constitute a lien against the property only if the utility notifies the owner not later than 20 days after the time the fees become 60 days delinquent. A notice sent to the owner under this subsection must be sent by first class mail or by certified mail, return receipt requested (or an equivalent service permitted under I.C. 1-1-7-1) to:

(1) The owner of record of real property with a single owner; or

(2) At least one of the owners of real property with multiple owners; at the last address of the owner for the property as indicated in the records of the county auditor on the date of the notice of the delinquency, or to another address specified by the owner, in a written notice to the utility, at which the owner requests to receive a notice of delinquency under this division. The cost of sending notice under this division is an administrative cost that may be billed to the owner.

(C) Delinquent fees and charges are not enforceable as a lien against a subsequent owner of property unless the lien for the fee was recorded with the County Recorder before the conveyance to the subsequent owner.

(Ord. 15-8-1, passed 8-24-2015)

§ 52.03 MAINTENANCE DUTIES AND ENFORCEMENT.

The purpose of this section is to provide for the health, safety and general welfare of the town through the regulation of discharges to the town's storm water management system and to establish the legal authority to carry out all procedures necessary to ensure compliance with this chapter.

(A) *Private property maintenance duties.*

(1) 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 other 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.

(2) Easements intended for periodic or occasional use as conductors for the flow of surface water runoff shall be maintained in an unobstructed condition by the owners of the properties they cross. The Department of Storm Water Management or its designee shall have the right to determine if any obstruction exists and to repair or maintain or require such repair and maintenance by the property owner, as shall be reasonably necessary to keep the conductors unobstructed.

(3) No property owner or occupant shall change the storm water runoff pattern of his or her property in such a way that neighboring properties or town property is adversely affected. Consideration and provisions must be made for drainage to and from neighboring properties when land use or development is altered.

(4) No property owner or occupant shall direct storm water runoff from roof drains, sump pump outfalls or other building drains in such a way that neighboring properties or town property is adversely affected.

(B) *Enforcement.*

(1) *Enforcement actions generally.* Enforcement of this chapter shall be subject to the severity of the infraction and the responsible party's efforts to comply as determined by the Department of Storm Water Management. The Department shall reserve the right to determine the level of enforcement on a case-by-case basis. Subject to division (B)(6) below, enforcement actions shall be initiated by the serving of a notice of violation and may include any one or more of the following:

(a) Verbal warning to the responsible party/parties to make corrections.

(b) Written warning to the responsible party/parties to make corrections within a specified period of time. The period of time shall take into account issues such as the severity of the problem, pending weather, seasonal conditions, and the level of effort necessary to correct the problem.

(c) Warning of non-compliance with directions to the responsible party/parties that site conditions require immediate action.

(d) The performance of monitoring, analysis, and reporting.

- (e) Stop work order.
- (f) Suspension of access to the storm water drainage system.
- (g) Civil penalties and fines.

(2) *Restoration and remediation.* If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the responsible party/parties fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the responsible party/parties.

(3) *Emergency suspensions.* The Department of Storm Water Management may, without prior notice, suspend access to the storm water drainage system to a person or entity 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 water drainage system or waters of the United States. If a responsible party fails to comply with a suspension order issued in an emergency, the Department of Storm Water Management may take such steps as deemed necessary to prevent or minimize damage to the storm water drainage system or waters of the United States, or to minimize danger to persons.

(4) *Civil penalty.* Any person that has violated or continues to violate this chapter shall be liable in civil penalties to the fullest extent of the law and shall be subject to a fine of up to \$2,500 dollars per violation per day. Each and every day that the violation exists shall constitute a separate offense.

(5) *Fees and costs.* The Department of Storm Water Management may recover all reasonable attorneys' fees, court costs, consultant costs, and other expenses associated with enforcement of this chapter, including sampling and monitoring expenses, to the extent permitted by law.

(6) *Remedies not exclusive.* The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Department of Storm Water Management to seek cumulative remedies.

(7) *Authorized enforcement agencies.* The Board of Storm Water Management, its designee, or its subcontractors, shall be authorized to enforce this chapter.

(8) *Appeal of notice of violation.* Any person receiving a Notice of Violation may appeal the determination to the Board of Storm Water Management. The notice of appeal must be received within 30 days from the date of the notice of violation. Hearing on the appeal before the Board shall take place within 30 days from the date of receipt of the notice of appeal. The decision of the Board shall be final, subject to any right of a person to seek judicial review in a court of competent jurisdiction.

(Ord. 18-4-1, passed 4-9-2018)

RATES AND CHARGES**§ 52.50 WATER RATES AND CHARGES.**

There shall be and there are hereby established for the use of and the service rendered by the municipal water utility of the town, the following rates and charges, based on the use of water supplied by the municipal water utility system:

(A) *Meter rates per month.* (See division (C) for phase in effective dates):

(1) *Consumption per month.*

	Phase 1	Phase 2	Phase 3	Phase 4	Phase 5	Phase 6
First 2,500 gallons	7.35	7.60	7.85	8.10	8.35	8.60
Next 7,500 gallons	6.77	7.02	7.27	7.52	7.77	8.02
Next 15,000 gallons	5.67	5.87	6.06	6.25	6.44	6.64
Next 25,000 gallons	4.45	4.60	4.75	4.91	5.06	5.21
Over 50,000 gallons	3.37	3.49	3.60	3.72	3.83	3.95

(2) *Minimum monthly charge.* Each customer (user) shall pay a minimum charge each month in the amount of:

Phase 1	Phase 2	Phase 3	Phase 4	Phase 5	Phase 6
18.38	19.00	19.63	20.25	20.88	21.50

(B) *Fire protection charges.* (See division (C) for phase in effective dates). For stand-by ready-to-serve, fire demand, the following charges shall apply:

(1) *Hydrant charge - per hydrant, per annum.*

	Phase 1	Phase 2	Phase 3	Phase 4	Phase 5	Phase 6
Municipal	265.08	274.09	283.11	292.12	301.14	310.16
Private	265.08	274.09	283.11	292.12	301.14	310.16

(2) *Fire sprinkler connections - per connection, per annum.*

Connection Size	Phase 1	Phase 2	Phase 3	Phase 4	Phase 5	Phase 6
2 inch	29.50	30.51	31.51	32.51	33.52	34.54
3 inch	66.24	68.50	70.75	73.00	75.26	77.51
4 inch	118.10	122.11	126.13	130.15	134.16	138.18
6 inch	265.08	274.09	283.11	292.12	301.14	310.16
8 inch	471.06	487.09	503.11	519.13	535.15	551.18

(C) *Phase in of divisions (A) and (B) rates and charges.*

(1) The phase I rates of divisions (A) and (B) above shall be effective for and after the first billing period of the municipal water utility following May 14, 2018.

(2) The Phase 2 rates shall supersede and replace those Phase 1 rates effective as of and for and after the first billing period commencing following May 31, 2020.

(3) The Phase 3 rates shall supersede and replace those Phase 2 rates effective as of and for and after the first billing period commencing following May 31, 2022.

(4) The Phase 4 rates shall supersede and replace those Phase 3 rates effective as of and for and after the first billing period commencing following May 31, 2024.

(5) The Phase 5 rates shall supersede and replace those Phase 4 rates effective as of and for and after the first billing period commencing following May 31, 2026.

(6) The Phase 6 rates shall supersede and replace those Phase 5 rates effective as of and for and after the first billing period commencing following May 31, 2028

(7) The rates and charges of this section apply to individual customers; they shall not be construed to permit multiple customers being served through 1 meter, except as expressly authorized in advance in writing by the Town Council.

(Am. Ord. 18-4-4, passed 5-14-2018)

§ 52.51 TEMPORARY USERS.

Water furnished to temporary users, such as contractors, shall be charged on the basis of the metered rates set forth herein.

(Ord. 15-8-1, passed 8-24-2015)

QUALITY STANDARDS**§ 52.80 WATER QUALITY MANAGEMENT PLANNING RESPONSIBILITY.**

The town desires to be the approved designated Management Agency for the control of water pollution sources within its area of jurisdiction.

(Ord. 15-8-1, passed 8-24-2015)

[Text continues on page 51.]

CHAPTER 53: SEWER

Section

General Provisions

- 53.01 Rates and charges
- 53.02 Assessment lien
- 53.03 Determination of charges

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- 53.15 Definitions
- 53.16 Unlawful activities
- 53.17 Superintendent, Inspector, and others' right to enter
- 53.18 Enforcement

Construction and Operation

- 53.30 Rights of the town
- 53.31 How sewage works to be constructed
- 53.32 Revenue bonds
- 53.33 Sale of bonds; role of Clerk-Treasurer
- 53.34 Accrued interest and premium of bonds
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- 53.36 Operation and Maintenance Fund
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- 53.39 Bank accounts for funds
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- 53.41 Agreement to keep rates reasonable
- 53.42 Additional bonds
- 53.43 Safeguarding interests of holders of bonds
- 53.44 Rights of holders
- 53.45 Estimate of rates

- 53.99 Penalty

GENERAL PROVISIONS**§ 53.01 RATES AND CHARGES.**

(A) For the use of and the 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 that is connected with the town's sanitary sewer system or otherwise discharges sanitary sewage, industrial wastes, water or other liquids, either directly or indirectly, into the sanitary sewer system of the town, which rates and charges shall be payable as hereinafter provided and shall be in an amount determinable as follows.

(1) Except as herein otherwise provided, sewage rates and charges shall be based on the quantity of water used on or in the property or premises except as otherwise provided in this section, subject to rates and charges, as the same is measured by the water meter then in use.

(2) The rates and charges below in divisions (A)(3), (A)(4), (B)(2), (B)(3); and (B)(8)(a) shall apply for usage and each shall be effective and phased in as follows:

(a) Phase 1 rates shall supersede and replace current rates and be effective for the first monthly billing period commencing following May 14, 2018.

(b) Phase 2 rates shall supersede and replace those Phase 1 rates effective as of and for and after the first monthly billing period commencing following May 31, 2019.

(c) Phase 3 rates shall supersede and replace those Phase 2 rates effective as of and for and after the first monthly billing period commencing following May 31, 2021.

(d) Phase 4 rates shall supersede and replace those Phase 3 rates effective as of and for and after the first monthly billing period commencing following May 31, 2023.

(e) Phase 5 rates shall supersede and replace those Phase 4 rates effective as of and for and after the first monthly billing period commencing following May 31, 2025.

(f) Phase 6 rates shall supersede and replace those Phase 5 rates effective as of and for and after the first monthly billing period commencing following May 31, 2027.

(3) The water usage schedule on which the amount of the wastewater rates and charges shall be determined shall be as follows:

Quantity of Water Used per Month	Rate per 1,000 Gallons					
	Phase 1	Phase 2	Phase 3	Phase 4	Phase 5	Phase 6
First 5,000 gal.	10.73	11.83	12.18	12.54	12.92	13.31
Next 5,000 gal.	9.52	10.50	10.81	11.13	11.47	11.81
Next 5,000 gal.	7.42	8.18	8.42	8.67	8.93	9.20
Next 10,000 gal.	6.90	7.61	7.84	8.07	8.31	8.56
Over 25,000 gal.	6.32	6.97	7.18	7.39	7.61	7.84

(4) The minimum charge for wastewater service where the user is a metered water customer shall be based upon the water meter size as follows:

Water Meter Size	Gallons Allowed	Minimum Per Month					
		Phase 1	Phase 2	Phase 3	Phase 4	Phase 5	Phase 6
5/8 - 1/4inch	3,000	32.20	35.50	36.55	37.65	38.80	40.00
1 inch	5,000	53.65	59.15	60.90	62.70	64.60	66.55
1 1/2 inch	10,000	101.25	111.65	114.95	118.35	121.90	125.55
2 inch	16,000	145.25	160.15	164.90	169.80	174.90	180.15
3 inch	30,000	239.00	263.50	271.30	279.30	287.70	296.35
4 inch	50,000	366.60	402.95	414.90	427.15	440.00	453.20
6 inch	100,000	681.75	751.65	773.90	796.80	820.80	845.40

(B) (1) The quantity of water obtained from sources other than the municipal waterworks and discharged into the public sanitary sewer system may be determined by the town in manner as the town shall elect, and the sewage treatment service may be billed at the above appropriate rates.

(2) Unmetered mobile home parks or apartments will be charged the rate below per month per unit or space available.

<i>Charge Per Month Per Unit or Space Available</i>					
<i>Phase 1</i>	<i>Phase 2</i>	<i>Phase 3</i>	<i>Phase 4</i>	<i>Phase 5</i>	<i>Phase 6</i>
37.85	41.75	42.99	44.26	45.59	46.96

- (3) The monthly rate for unmetered sewage usage for a single residential dwelling is below.

<i>Charge Per Month Per Unmetered Single</i>					
<i>Phase 1</i>	<i>Phase 2</i>	<i>Phase 3</i>	<i>Phase 4</i>	<i>Phase 5</i>	<i>Phase 6</i>
80.62	88.90	91.53	94.24	97.07	99.98

(4) In the event a lot, parcel of real estate or building discharging sanitary sewage, industrial waste, water or other liquids into the town's sanitary sewer system, either directly or indirectly, is not a user of water supplied by the town's waterworks and the water used thereon or therein is not measured by a meter, or is measured by a meter not acceptable to the town, then the amount of water used shall be otherwise measured or determined by the town, in order to ascertain the rates of charge, or the owner or other interested party, at his or her expense, may install and maintain meters, weirs, volumetric measuring devices or any adequate and approved method of measurement acceptable to the town for the determination of the sewage discharge.

(5) In the event a lot, parcel of real estate or building discharging sanitary sewage, industrial waste, water or other liquids into the town's sanitary sewer system, either directly or indirectly, is a user of water supplied by the town's waterworks, and in addition uses water from another source which is not measured by a water meter, or is measured by a water meter not acceptable to the town, then the amount of water used shall be otherwise measured or determined by the town in order to ascertain the rates or charge, or the owner or other interested party, at his or her expense, may install and maintain meters, weirs, volumetric measuring devices or any adequate and approved method of measurement acceptable to the town for the determination of sewage discharge.

(6) In the event a lot, parcel of real estate or building discharges sanitary sewage, industrial waste, water or other liquids into the town's sanitary sewer system, either directly or indirectly, and uses water in excess of 15,000 gallons per month, and it can be shown to the satisfaction of the town that a portion of water as measured by the water meter or meters does not and cannot enter the sanitary sewer system, then the owner or other interested party shall install and maintain meters, weirs, volumetric measuring devices or any adequate and approved method of measurement acceptable to the town for the determination of sewage discharge; or the town may agree to a fair and equitable rate to be charged the user.

(7) In the event 2 or more residential lots, parcels of real estate or buildings discharging sanitary sewage, water or other liquids into the town's sanitary sewer system, either directly or indirectly, are users of water and the quantity of water is measured by a single water meter, then in each case, for billing purposes, the quantity of water used shall be averaged for each user and the minimum charge and the sewage rates and charges shall apply to each of the number of residential lots, parcels of real estate or buildings served through the single water meter.

(8) (a) In the event 2 or more dwelling units such as mobile homes, apartments or housekeeping rooms discharging wastewater, water or other liquids into the town's wastewater system, either directly or indirectly, are users of water and the quantity of water is measured by a single water meter, then in that case billing shall be for a single service in the manner set out elsewhere herein, except that a minimum wastewater additional charge shall be added thereto in the monthly amount set out below for each dwelling unit over 1 served through the single water meter.

<i>Charge Per Month Per Each Additional Unit or Single Meter</i>					
<i>Phase 1</i>	<i>Phase 2</i>	<i>Phase 3</i>	<i>Phase 4</i>	<i>Phase 5</i>	<i>Phase 6</i>
32.20	35.50	36.55	37.65	38.80	40.00

(b) In the case of mobile home parks, the number of dwelling units shall be computed and interpreted as the total number of mobile homes located and installed in the park, plus any other dwelling units served through the meter. A dwelling unit shall be interpreted as a room or rooms or any other space or spaces in which cooking facilities are provided.

(9) Where a measured water supply is used for fire protection as well as for other uses, the town may, in its discretion, make adjustments in the minimum charge and in the use charge as may be equitable.

(10) For the service rendered to the town, the town shall be subject to the same rates and charges hereinabove provided, or to rates and charges established in harmony therewith.

(C) In order that the rates and charges may be justly and equitably adjusted to the services rendered, the town shall have the right to base its charges not only on volume, but also on the strength and content of all sewage and waste discharged, either directly or indirectly, into the town's sanitary sewer system in a manner and by a method as may be deemed practical in the light of the conditions and attending circumstances of the case in order to determine the proper charge. Any and all commercial and industrial installations shall be so controlled and/or treated as to the sewage strength that their affluent discharge to the town's sewers shall have a B.O.D. (biochemical oxygen demand) not to exceed 300 parts per million, and suspended solids not to exceed 350 parts per million, at any time. The Town Council is authorized to prohibit the dumping of wastes into the town's sewer system which, in its discretion, are deemed harmful.

(D) The terms **SANITARY SEWAGE** and **INDUSTRIAL WASTES** shall be defined as follows:

INDUSTRIAL WASTES. The liquid waste or liquid-borne waste resulting from any commercial, manufacturing or industrial operation or process.

SANITARY SEWAGE. The waste from water closets, urinals, lavatories, sinks, bathtubs, showers, household laundries, basement drains, garage floor drains, bars, soda fountains, cuspidors, refrigerator drips, drinking fountains, stable floor drains and all other water-carried wastes, except industrial wastes.

(E) The town shall make and enforce bylaws and regulation as it deems necessary for:

- (1) The safe, economic and efficient management of the town sewer system;
- (2) The construction and use of house sewers and connections to the sewer system; and
- (3) The regulation, collection, rebating, and refunding of rates and charges.

(Ord. 26A, passed 7-11-2005; Am. Ord. 15-8-1, passed 8-24-2015; Am. Ord. 18-4-3, passed 5-14-2018)

§ 53.02 ASSESSMENT LIEN.

(A) Delinquent fees and charges shall be assessed against real property and constitute a lien against the property. The lien is superior to all other liens except tax liens. Except as provided in division (B) and (C), the lien attaches when notice of the lien is filed in the County Recorder's Office under, I.C. 36-9-23-33.

(B) In the event a service address is occupied by someone other than the owner, the delinquent fees and charges shall be assessed against real property and constitute a lien against the property only if the utility notifies the owner not later than 20 days after the time the utility fees become 60 days delinquent. A notice sent to the owner under this division must be sent by first class mail or by certified mail, return receipt request (or an equivalent service permitted under I.C. 1-1-7-1) to:

- (1) The owner of record of real property with a single owner; or

(2) At least one of the owners of real property with multiple owners; at the last address of the owner for the property as indicated in the records of the County Auditor on the date of the notice of the delinquency, or to another address specified by the owner, in a written notice to the utility, at which the owner requests to receive a notice of delinquency under this division. The cost of sending notice under this division is an administrative cost that may be billed to the owner.

(C) Delinquent fees and charges are not enforceable as a lien against a subsequent owner of property unless the lien for the fee was recorded with the county recorder before the conveyance to the subsequent owner.

(Ord. 15-8-1, passed 8-24-2015)

§ 53.03 DETERMINATION OF CHARGES.

(A) In order that the domestic and residential users of sewage service shall not be penalized for sprinkling lawns during the summer months of June, July, August and September, the billing for sewage service for residences or domestic users for those months shall be based upon the water usage for the previous months of January, February and March.

(B) In the event the water usage for the previous month of January, February and March is greater than the water usage for the months of June, July, August, and September, then the billing for sewage services shall be computed on the actual water used in the month for which the sewage service bill is being rendered. Domestic or residential sewage service as applicable to the sprinkling rate shall apply to each lot, parcel of real estate, or building which is occupied and used as a residence by the filing credit applicant during the winter months of January, February and March, and the occupants shall have filed for the sprinkling credit with the Clerk-Treasurer's office during the prescribed time period.

(C) The sprinkling rate shall not apply to any premises which are partially or wholly used for commercial or industrial purposes. In the event a portion of the premises shall be used for commercial or industrial purposes. In the event a portion of the premises shall be used for commercial or industrial purposes, the owner shall have the privilege of separating the water served through a separate meter and in that case the water usage as registered by the water meter serving such portion of the premises used for residential purposes would qualify under the sprinkling rate.

(Ord. 15-8-1, passed 8-24-2015)

CONNECTION TO AND USE OF DRAINS AND SEWERS

§ 53.15 DEFINITIONS.

Unless otherwise defined herein, terms shall be as adopted in the latest edition of Standard Method for the Examination of Water and Wastewater published by the American Public Health Association, and American Water Works Association and the Water Environment Federation and set forth in 40 C.F.R.

136. Waste constituents and characteristics shall be measured by Standard Methods unless a mutually agreed upon acceptable alternative method is adopted, or as established by state or federal regulatory agencies. Monitoring will be carried out by customarily accepted methods. For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

B.O.D. (BIOCHEMICAL OXYGEN DEMAND). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in 5 days at 20°C, expressed in milligrams per liter.

GARBAGE. Solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

GRAY WATER. All water excepting storm water.

INDUSTRIAL WASTES. The liquid wastes from industrial manufacturing processes, trade or business as distinct from sanitary sewage.

INSPECTOR. The person or persons duly authorized by the town, through its Town Council, to inspect and approve the installation of building sewers and their connection to the public sanitary sewer system.

MAY. Permissive.

NATURAL OUTLET. Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

PERSON. Any individual, firm, company, association, society, corporation or group.

pH. The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

PROPERLY SHREDDED GARBAGE. The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree so that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2-inch in any dimension.

PUBLIC SEWER. A sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

PUBLICLY OWNED TREATMENT WORKS or POTW. Any arrangement of devices and structures used for treating sewage.

SANITARY BUILDING DRAIN. That part of the lowest horizontal piping of the sanitary drainage system inside the walls of any building, which receives the discharge from soil or waste stacks and branches and conveys the same to a point 3 feet outside the building walls where it connects with its respective building sewer.

SANITARY BUILDING SEWER. The extension from the building drain to the public sewer or other place of disposal.

SANITARY SEWAGE WORKS. All facilities for collecting, pumping, treating and disposing of sewage.

SANITARY SEWER.

(1) A pipe or conduit for carrying sewage; and

(2) A sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

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

SHALL. Mandatory.

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 5 times the average 24-hour concentration or flows during normal operation.

STORM DRAIN or STORM SEWER. A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

SUPERINTENDENT. The Superintendent of the municipal sewage works of the Town of Ossian, Indiana, or his or her authorized deputy, agent or representative.

TOTAL SUSPENDED SOLIDS or TSS. Solids that either float on the surface of, or are in suspension in water, sewer or other liquids, and which are removable by laboratory filtering.

WATERCOURSE. A channel in which a flow of water occurs, either continuously or intermittently. (Ord. 27, passed 3-8-2004; Am. Ord. 27A, passed 4-27-2009)

§ 53.16 UNLAWFUL ACTIVITIES.

(A) (1) It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the town, or in any area under the jurisdiction of the town, any human or animal excrement, garbage or other objectionable waste.

(2) It shall be unlawful to discharge to any natural outlet within the town, or in any area under the jurisdiction of the town, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this subchapter.

(3) It shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

(4) The owner of all houses, buildings and properties used for human occupancy, employment, recreation or other purposes, situated within the town and abutting on any street, alley or right-of-way in which there is now located a public sanitary sewer of the town, is hereby required at his or her expense to install suitable toilet facilities therein, and to connect facilities directly with the proper public sewer in accordance with the provisions of this subchapter, which shall include connecting to the new sanitary system installed in and around 1993 and 2001, within 30 days after date of official notice to so, provided that the public sewer is within 300 feet of the property line.

(B) (1) No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof.

(2) There shall be 2 classes of building sewer permits (taps); 1 for residential and commercial service and 2, for service to establishments producing industrial wastes. A permit (tap) fee will be charged according to the latest enacted utility rate ordinance.

(3) All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(4) A separate and independent building sewer shall be provided for every building.

(5) Old building sewers may be used in connection with new buildings only when they are found on examination, and tested by the Inspector, to meet all requirements of this subchapter.

(6) The size, slope, alignment, materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench shall all conform to the requirements of the building and plumbing code, other applicable rules and regulations of the town, and the construction standards adopted by the town.

(7) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by the building drain shall be lifted by an approved means and discharged to the building sewer.

(8) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(9) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code, other applicable rules and regulations of the town, and the construction standards adopted by the town, or the procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. 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 Superintendent before installation.

(10) The application for the building sewer permit (tap) shall notify the Inspector when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Inspector or his or her representative.

(11) 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.

(C) (1) No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, sub-surface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer.

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

(a) Any gasoline, benzene, naptha, fuel oil, mineral oil or other flammable or explosive liquid, solid or gas;

(b) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant;

(c) Any waters or wastes having a pH lower than 6.0 or higher than 9 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works; or

(d) Solid or viscous substances in quantities or of a size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

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

(a) Any liquid or vapor having a temperature higher than 150°F (65°C);

(b) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 50 mg/l or containing substances which may solidify or become viscous at temperatures between 32° and 150° F (0° and 65° C);

(c) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of 3/4 horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Superintendent;

(d) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not;

(e) Any waters or wastes containing:

1. Iron;
2. Chromium (hexavalent) in excess of 1.0 mg/l;
3. Chromium (trivalent) in excess of 2.0 mg/l;
4. Total chromium in excess of 3.0 mg/l;
5. Copper in excess of 1.0 mg/l;

6. Zinc in excess of 5.0 mg/l;
7. Nickel in excess of 1.0 mg/l;
8. Lead in excess of 1.0 mg/l;
9. Cadmium in excess of 0.02 mg/l; or
10. Cyanides, as CN ions in excess of 1.0 mg/l;

11. And similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.

(f) Any waters or wastes containing phenols in excess of 0.50 mg/l, or other taste or odor-producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal, or other public agencies of jurisdiction for the discharge to the receiving waters;

(g) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable state or federal regulations. Any toxic radioactive isotopes, without a special permit. The radioactive isotopes I 131 and P 32 used in hospitals are not prohibited, if they are properly diluted before being discharged into the sewer system;

(h) Materials which exert or cause:

1. 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);

2. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions);

3. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

(i) Any waters or waste containing any toxic substances in quantities that are sufficient to interfere with the biochemical processes of the POTW or that will pass through the plant into the receiving stream in amounts exceeding the standards set by federal, interstate, state, or other competent authority having jurisdiction;

(j) Any waters or waste that for a duration of 5 minutes or more have concentration of more than 5 times the average concentration of the B.O.D. or the suspended solids of the customer's sewage discharge during a 24-hour period of normal operation;

(k) Any waters or waste containing suspended solids of a character and quantity that unusual provision attention and expense would be required to handle such materials at the POTW, its pumping stations, or facilities;

(l) Any noxious or malodorous gas or substance which, either alone or by interaction with other waste, is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair; or

(m) Any water or wastes containing a phosphate content in excess of 12 mg/l or an ammonia-nitrogen content of 15 mg/l.

(4) (a) If any waters or wastes are discharged, or are proposed to be discharged, to the public sewers, which waters contain the substances or possess the characteristics enumerated in division (C)(3) of this section, and which in the judgment of the Superintendent may have a deleterious effect upon the POTW, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

1. Reject the wastes;
2. Require pretreatment to an acceptable condition for discharge to the public sewers;
3. Require control over the quantities and rates of discharge; and/or
4. Require a surcharge payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of the latest enacted utility rate ordinance. If the discharge is allowed (within these provisions) by the Superintendent, the user shall pay a surcharge for wastewater with BOD and/or TSS higher than 200 mg/l based on actual flows and testing as required by this subchapter. The amount of the surcharge will be justly and equitably adjusted on an annual basis to ensure that all customers pay for their fair share of wastewater transport and treatment costs.

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

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

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

(7) When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. A manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. This manhole shall be installed by the owner at his or her expense, and shall be maintained by him or her so as to be safe and accessible at all times.

(8) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this subchapter shall be determined in accordance with 40 C.F.R. 136, and shall be determined at the control manhole provided, or upon suitable samples taken at the control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

(a) Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage and property. (This particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, B.O.D. and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples.)

(b) In addition, any industrial wastes discharged into the public sewers shall be subject to periodic inspection and determination of character and concentration. The examination shall be made as often as the Superintendent deems it necessary (but at least once a year) and may include the use of suitable continuously monitoring instruments in appropriate cases. Samples shall be collected either manually or by approved mechanical devices and in such a manner as to be representative of the overall composition of the wastes. Sampling period shall be for a period of 7 consecutive days, but may be of longer duration at the discretion of the town. In periods when the sampling program extends for a greater number of consecutive days than 7, the town shall have the prerogative of selecting the 7 consecutive days of its choice. Every care shall be exercised in collecting the samples to ensure their preservation, until analyzed, in a state comparable to that at the time the samples were collected.

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

(D) No authorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the municipal sewage work. Any person violating this provision shall be subject to immediate arrest

under charge of disorderly conduct.

(Ord. 27, passed 3-8-2004; Am. Ord. 27A, passed 4-27-2009) Penalty, see § 53.99

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§ 53.17 SUPERINTENDENT, INSPECTOR, AND OTHERS' RIGHT TO ENTER.

(A) The Superintendent, Inspector, and other duly authorized employees of the town bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this subchapter. The Superintendent or his or her representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

(B) While performing the necessary work on private properties referred to in division (A) of this section, the Superintendent or duly authorized employees of the town shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the town's employees, and the town shall indemnify the company against loss or damage to its property by town employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as may be caused by negligence or failure of the company to maintain safe conditions as required in § 53.16(C)(8).

(C) The Superintendent and other duly authorized employees of the town bearing proper credentials and identification shall be permitted to enter all private properties through which the town holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within the easement. All entry and subsequent work, if any, on the easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(Ord. 27, passed 3-8-2004; Am. Ord. 27A, passed 4-27-2009) Penalty, see § 53.99

§ 53.18 ENFORCEMENT.

(A) *Liability.* Any person violating any of the provisions of this subchapter shall become liable to the town for any expense, loss or damage occasioned the town by reason of the violation.

(B) *Administration and jurisdiction.* All entities discharging non-domestic wastewater to the POTW are subject to the provisions of the ERP. The POTW consistently administers and implements all elements of the ERP. The ERP does not preclude the POTW from taking any, all, or any combination of action against a noncompliant industrial user (IU).

(C) *Abbreviations.*

(1) AO - Administrative Order.

(2) EPA - Environmental Protection Agency.

- (3) ERG - Enforcement Response Guide.
- (4) ERP - Enforcement Response Plan.
- (5) IDEM - Indiana Department of Environmental Management.
- (6) IU - Industrial User.
- (7) IPC - Industrial Pretreatment Coordinator.
- (8) NOV - Notice of Violation.
- (9) POTW - Publicly Owned Treatment Works.

(D) *Personnel responsibilities.*

(1) *Industrial Pretreatment Coordinator.* The Industrial Pretreatment Coordinator (IPC) is responsible for the day to day implementation and enforcement of the industrial pretreatment program. Potential enforcement responses carried out by the IPC are as follows:

- (a) Informal notices (verbal and written).
- (b) Notices of violation.
- (c) Referrals to the state or EPA for criminal action.

(2) *Superintendent.* The Superintendent has the responsibility to monitor the IPC's actions and to initiate these additional enforcement actions at the recommendation of the IPC:

- (a) Administrative orders.
- (b) Compliance schedule.
- (c) Show cause hearings.
- (d) Termination of service.
- (e) Administrative fines.
- (f) Cost recovery.
- (g) Referrals to the city attorney for judicial action.
- (h) Referrals to the state or EPA for criminal action.

(3) *POTW Attorney.* The POTW Attorney will provide legal consultation as requested by the Superintendent on compliance schedules, administrative fines, administrative orders, and cost recovery and will take the lead on all referrals for judicial action and POTW initiated criminal investigations.

(E) *Description of enforcement actions.* Following are the types of enforcement action that may be undertaken by the POTW:

(1) *Informal notice.* An informal notice may be either a documented phone call, written warning, or a meeting notifying the IU of minor incidences that have occurred and that need to be corrected. Repeat performance of the same incidence, or escalation of the incidence, will result in escalated enforcement action.

(2) *Notice of violation (NOV).* An NOV is the initial formal enforcement action for a violation. The certified letter notifies the IU signatory authority of the violation and requires the following:

- (a) Immediate corrective action or steps being taken to correct the problem;
- (b) Increased sampling of the parameter in violation within 30 days;
- (c) Written response within 10 business days of receipt of NOV.

(3) *Administrative order (AO).* An administrative order is notification to the IU to undertake or to cease specified activities by a specified deadline. It is the first formal response to significant noncompliance (unless factors necessitate escalated enforcement actions). It may contain compliance schedules, administrative fines, termination of service, and show cause orders. In addition, it specifies the name of the parties involved, statement of the facts, the requirement to ensure compliance, and the enforcement associated with any future noncompliance.

(4) *Compliance schedule.* A compliance schedule is a formal time and management schedule established for the non-compliant IU to achieve compliance. It is established for existing IUs to meet the categorical pretreatment standards or local standards. It contains increments of progress in the form of dates for the commencement and completion of major events leading to compliance. In addition, all compliance schedules shall contain the following:

- (a) Monitoring requirements with the location for monitoring;
- (b) How the data will be used for evaluating compliance;
- (c) Enforcement associated with non-compliance;

(d) Closure date after which IU will be considered either non-compliant with the established compliance schedule, or evaluated for compliance.

(5) *Show cause hearing.* A show cause hearing is when the IU and the POTW meet to discuss the cause and effect of the violation, as well as the enforcement action the IU will be subjected to. The IU may present its case as to why the violation occurred and why further enforcement should not be applied. Corrective actions to be undertaken by the IU can also be a part of this meeting.

(6) *Termination of service.* Termination of service is the revocation of an IU's privilege to discharge non-domestic wastewater into the sewer system. Termination of service is used when the discharge from an industrial user presents imminent endangerment to the health or welfare of persons, or the environment; or threatens to interfere with the POTW's operations, or as an escalating enforcement action to a significant violation when a noncompliant industrial user fails to respond adequately to previous enforcement actions. Termination of service may be accomplished by physical severance of the IU's connection to the collection system, issuance of an AO (cease and desist order) which compels the IU to immediately terminate its discharge, revocation of the IU's discharge permit, or a court ruling.

(7) *Administrative fines.* An administrative fine is a punitive monetary charge assessed by the town rather than a court. The penalty authority must be authorized in the POTW's SUO. The purpose of the fine is to recover the economic benefit of noncompliance and to deter future violations. When assessing an administrative fine the following factors are considered:

- (a) Type and severity of the violation;
- (b) Number of violations cited;
- (c) Duration of noncompliance;
- (d) Impact of the violation on the receiving water, sludge quality, and POTW operation;
- (e) Whether the violation threatened public health;
- (f) The economic benefit or savings the industrial user gained from the noncompliance;
- (g) Compliance history of the industrial user; and
- (h) Whether the industrial user is making a good faith effort to comply.

(8) *Cost recovery.* In addition to administrative fines imposed by the Superintendent, the IU shall be responsible for paying the following (but not limited to) costs incurred by the town for the IU's failure to comply:

- (a) Cost of mileage and labor incurred in detecting and correcting the violation;
- (b) Laboratory analysis costs associated with detecting and correcting the violation;

(c) Additional treatment costs caused by the violation or associated with detecting and correcting the violation;

(d) Costs of any additional equipment acquired or expended by the town for detecting or correcting the violation;

(e) Repair and/or replacement of any part of the sewerage system damaged by the violation;

(f) Any liability, damages, fines, or penalties incurred by the town as a result of the violation;

(g) Any and all expenses of outside professionals to include, but not be limited to, engineers, scientists, and/or legal counsel; and

(h) Other costs associated with the detection and correction of the violations.

(9) *Judicial action.* Judicial action will be taken when it is deemed necessary to force the IU to correct the violation and comply with the permit. Judicial action may consist of civil prosecution; criminal prosecution; or an action for injunction, at the discretion of the POTW and its counsel. As an alternative to judicial action, the POTW and IU may agree to a voluntary zero discharge of industrial waste by the IU pending correction of the violation.

(10) *Referral to EPA or the state.* Where a POTW does not rely on criminal prosecution for its enforcement authority, referral to the state or EPA may be made. For violations that may warrant criminal prosecution, the POTW will refer the case to EPA or the state for further action. Circumstances that trigger EPA or state referrals include (but are not limited to) evidence of willfulness, evidence of negligence, and/or bad faith shown by the Industrial User.

(11) *Threat.* Violations that threaten health, property, or environmental quality are considered emergencies and will receive immediate responses, such as halting the discharge or terminating service.

(F) *Enforcement response guide.*

(1) *Enforcement options.* The enforcement response guide (ERG) designates several enforcement options for each type (or pattern) of noncompliance. The intent of the ERG is to provide direction for appropriate enforcement response and to ensure consistent enforcement for similar violations and circumstances. Factors that will be evaluated when determining the appropriate response are as follows:

(a) Good faith of the IU;

(b) Compliance history of the IU;

(c) Previous success of any prior enforcement actions against the IU (e.g., if historically NOVs have not been effective in returning the user to compliance in a reasonable period of time, an administrative order would be a more appropriate response);

(d) Violations' effect on the environment and/or public health;

(e) Violations' effect on the POTW.

(2) *Violations resulting in significant noncompliance.* Any violation that results in significant noncompliance (SNC) will be addressed through formal enforcement action regardless of the enforcement response otherwise required by the enforcement response guide. The minimum level of enforcement used to address SNC is an AO.

(3) *Categories.* The following categories of SNC of IUs shall be subject to enforcement actions initiated by the town:

(a) Chronic violations of wastewater discharge limits, defined as those in which 66% or more of all of the measurements taken during a 6-month period exceed, by any magnitude, the daily maximum limit or the average limit for the same pollutant parameter.

(b) Technical review criteria (TRC) violations, defined as those in which 33% or more of all of the measurements for each pollutant parameter taken during a 6-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC. (TRC equals 1.4 for biochemical oxygen demand, total suspended solids, fats, oil, and grease and 1.2 for all other pollutants except pH.)

(c) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the POTW determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public.

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment or has resulted in the POTW's exercise of its emergency authority under 327 IAC 5-19-3(1)(G) to halt or prevent such a discharge.

(e) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or administrative order for starting construction, completing construction, or attaining final compliance.

(f) Failure to provide, within 30 days after the due date, required reports such as:

1. Baseline monitoring reports;
2. Ninety-day compliance reports;
3. Periodic self-monitoring reports; and

4. Reports on compliance with compliance schedules.

(g) Failure to accurately report noncompliance.

(h) Any other violation or group of violations that the POTW determines will adversely affect the operation or implementation of the approved POTW pretreatment program.

(4) *Escalating enforcement response.* Escalating enforcement response will be used for recurring violations and failure to achieve compliance subsequent to informal or formal enforcement. A recurring violation is one in which the same type of violation occurs on consecutive reporting periods, the violation occurs seasonally, or any other pattern of noncompliance is shown.

(5) *Violations falling under more than one category.* Violations that fall under more than one category in the enforcement response guide will be addressed through the more severe enforcement response. All alleged violations will be included in the more severe response.

(G) *Definitions of violations.*

(1) *Minor sampling, monitoring, or reporting deficiencies.*

(a) Reports/correspondence submitted up to 10 business days late.

(b) Incomplete reports and/or chain-of-custody (first offense).

(c) Transcription error.

(d) Improper sampling or analytical procedure (first offense).

(e) Late notification of violation to POTW (first offense).

(f) Failure to report any operational changes which affects the discharge flow rate but does not impact the permit (first offense).

(g) Any other violation categorized as minor sampling, monitoring, or reporting deficiencies by the POTW.

(2) *Major sampling, monitoring, or reporting deficiencies.*

(a) Reports/correspondence late by 10 - 30 business days.

(b) Sampling point not accessible to the POTW.

(c) Reports not certified.

(d) Failure to report any operational changes which affects the discharge flow rate and impacts the permit.

(e) Incomplete report or chain-of-custody information (repeat offense).

(f) Failure to submit all the information that leads to the determination of a category of an IU.

(g) Failure to use appropriate analytical methods (40 C.F.R. 136).

(h) Failure to sample for a parameter.

(i) Failure to report slug load discharge, illegal discharges, or spills with no damage to POTW.

(j) Unacceptable explanation for violation.

(k) Improper sampling or procedure (repeat offense)

(l) Any other violation categorized as “major sampling, monitoring, or reporting deficiencies” by the POTW.

(3) *Critical sampling, monitoring, or reporting deficiencies.*

(a) Reports greater than 30 days late (SNC).

(b) Complete failure to sample, monitor, or report per the requirements found in the IU’s permit.

(c) Any deficiency of sampling, monitoring, or reporting procedure which places IU in SNC.

(d) Failure to respond to a show cause or administrative order.

(e) Illegal or unauthorized discharge that results in damage to the POTW.

(f) Any violation of sampling, monitoring, or reporting procedures which directly or indirectly contributes to or is responsible for violation of POTW’s NPDES permit.

(g) Any other violation categorized as critical sampling, monitoring, or reporting deficiencies by the POTW.

(4) *Unauthorized discharge.* Discharge of any pollutant(s) from a location, process, source, or categorical operation that has not been previously approved, identified or permitted.

(5) *Damages to the POTW.* Occurs when the discharge from an IU causes:

- (a) Harm to the collection system, its accessories, and wastewater treatment plant.
- (b) Interference with the biological operations of the plant.
- (c) Deterioration of sludge quality.
- (d) The POTW to violate its NPDES permit.

(H) *Timeframes for enforcement responses.*

(1) All violations will be identified and documented within 5 days of receiving compliance information.

(2) Initial enforcement responses (informal or formal) will occur within 15 days of identifying a violation.

(3) Follow up actions for continuing or recurring violations will be taken within 60 days of the initial enforcement response.

(4) Violations which threaten health, property, or environmental quality are considered emergencies and will receive immediate response, such as halting the discharge or terminating service.

(5) *Significant noncompliance.* All violations meeting the criteria for significant noncompliance will be addressed through formal enforcement action within 30 days of the identification of SNC.

(Ord. 27A, passed 4-27-2009)

CONSTRUCTION AND OPERATION

§ 53.30 RIGHTS OF THE TOWN.

The Town of Ossian shall establish, construct, equip, own, operate and maintain sewage works, together with equipment and appurtenances as may be necessary or useful and convenient for the collection, treatment, purification and disposal in a sanitary manner of the sewage and industrial wastes of the town, including the necessary lands, rights-of-way or other property therefor within or without the corporate limits of the town, under and pursuant to I.C. 36-9-23. The terms "sewage treatment works," "works" and other like terms where used in this subchapter shall be construed to mean and include all structures and property.

(Ord. 25, passed 7-16-1970)

§ 53.31 HOW SEWAGE WORKS TO BE CONSTRUCTED.

The sewage works, consisting of lands, easements, rights-of-way, interceptor sewers, activated sludge-type sewage treatment plant and other equipment, accessories and appurtenances, shall be acquired and constructed in accordance with the plans, specifications and estimates heretofore prepared by Strauss Associates, Inc., Consulting Engineers of Fort Wayne, Indiana, which are now on file in the office of the Clerk-Treasurer of the Town of Ossian, Indiana, and are hereby adopted and approved, and by reference made a part of this subchapter as fully as if the same were attached hereto or incorporated herein; the estimated cost of construction of the works shall not exceed the sum of \$484,039; and the works shall be constructed and the bonds herein authorized shall be issued pursuant to and in accordance with the provisions of Chapter 284 of the Acts of the Indiana General Assembly for the year 1967, and all acts supplemental thereto.

(Ord. 25, passed 7-16-1970)

§ 53.32 REVENUE BONDS.

(A) (1) The town shall issue its sewage works revenue bonds in the amount of \$125,000 for the purpose of procuring funds to apply on the cost of the works, as defined in I.C. 36-9-23.

(2) (a) The bonds shall be issued in the denomination of \$5,000 each, numbered consecutively from 1 up, dated as of the first day of the month in which sold, and shall bear interest at a rate or rates not exceeding 8-1/2% per annum, payable on January 1 and July 1 in each year, beginning on January 1, 1971.

(b) Interest shall be evidenced by coupons attached to the bonds. Both bonds and interest coupons shall be payable in coin or currency as at the time of payment shall be legally acceptable for payment of debts due the United States of America at the Ossian State Bank, in the Town of Ossian, Indiana, or, at the principal office of the bank in the City of Indianapolis, Indiana, or the City of Fort Wayne, Indiana, as may be designated by the successful bidder subject to approval of the town; and the bonds shall mature serially in numerical order on July 1 in the years and amounts as follows.

<i>Years</i>	<i>Amounts</i>
1973-1982 incl.	\$5,000
1983-1989 incl.	\$10,000
1990	\$5,000

(B) (1) The bonds of this issue maturing on July 1, 1980, and thereafter, shall be redeemable at the option of the town from any funds regardless of source, in whole, or from time to time in part, in inverse numerical order on January 1, 1980, or any interest payment date thereafter, at the principal amount thereof and accrued interest to the date fixed for redemption, plus the following premiums:

(a) Five percent if redeemed on January 1, 1980, or thereafter on or before July 1, 1984;
or

(b) Four percent if redeemed on January 1, 1985, or thereafter prior to maturity.

(2) Notice of redemption shall be published at least 1 time in a newspaper published in Wells County and of general circulation in the Town of Ossian, not less than 30 days prior to the date fixed for redemption. Notice of redemption shall also be published in The Indianapolis Commercial, or in the event of suspension of publication of the newspaper, then in another newspaper or financial journal published in the City of Indianapolis, Indiana, by 2 insertions, the first to be at least 30 days prior to the date fixed for redemption and the second to be not more than 30 nor less than 15 days prior to the date fixed for redemption.

(3) If any of the bonds so to be redeemed are registered, notice shall be mailed to the address of the registered holder as shown on the registration record of the town. The notice shall specify the date and place of redemption and the serial numbers of the bonds called for redemption. The place of redemption may be any bank determined by the town. Interest on the bonds so called for redemption shall cease on the redemption date fixed in the notice if sufficient funds are available at the place of redemption to pay the redemption price on the date so named and when the bonds shall be presented for redemption. If any unmatured bond and coupon or coupons so called for redemption shall not be presented on the date fixed for redemption at the place of redemption, the town may place in trust at the bank constituting the place of redemption sufficient funds to effect redemption, and thereafter the holder of the bond and coupon or coupons shall be entitled to payment only from trust funds and the redemption thereof shall be deemed to have been effected and the bonds no longer outstanding.

(C) (1) Bonds shall be signed in the name of the Town of Ossian by the President of the Town Council and attested by the Clerk-Treasurer, who shall affix the seal of the town to each of the bonds. The interest coupons attached to the bonds shall be executed by placing thereon the facsimile signature of the Clerk-Treasurer, and the official, by the signing of the bonds, shall adopt as and for his or her own proper signature his or her facsimile signature appearing on the coupons. Bonds shall have all of the qualities and incidents of negotiable instruments under the laws of the State of Indiana.

(2) Bonds shall be negotiable by delivery unless registered. Upon presentation of any of the bonds at the office of the Clerk-Treasurer, the Clerk-Treasurer shall register the bonds as to principal without charge or expense to the holder. Registry shall be noted on each bond so presented, after which no transfer thereof shall be valid unless made by the registered owner in person or by his or her attorney duly authorized and similarly noted on the bond, but bonds so registered may be discharged from registry by being in like manner retransferred to bearer, after which they shall be transferable by delivery but may again be registered as before. The registration of any bond shall not affect the negotiability of the interest coupons attached thereto, but coupons shall continue to pass by delivery merely and shall remain payable to bearer.

(3) (a) The bonds, and any bonds ranking on a parity therewith as to both principal and interest, shall be payable from and secured by an irrevocable pledge of and shall constitute a first charge upon all the net revenues (herein defined as gross revenues after deduction only for the payment of the reasonable expenses of operation, repair and maintenance) of the sewage works of the

town, including

the works herein authorized to be acquired and constructed and all additions and improvements thereto and replacements thereof subsequently constructed or acquired.

(b) The town shall not be obligated to pay the bonds or the interest thereon except from the net revenues of the works, and the bonds shall not constitute an indebtedness of the town within the meaning of the provisions and limitations of the constitution of the State of Indiana.

(D) The form and tenor of the bonds, the interest coupons to be attached thereto, and the form of registry endorsement thereon shall be substantially as follows, all blanks to be filled in properly prior to delivery thereof:

(Form of Bond)
 UNITED STATES OF AMERICA
 State of Indiana County of Wells
 No. _____ \$5,000

 TOWN OF OSSIAN
 SEWAGE WORKS REVENUE BOND

The Town of Ossian, in Wells County, State of Indiana, for value received, hereby promises to pay to the bearer, or if this bond be registered then to the registered holder, solely out of the special revenue fund hereinafter referred to, the principal amount of

FIVE THOUSAND DOLLARS

on July 1, 19__ (unless this bond be subject to and called for redemption prior to maturity as hereinafter provided), and to pay interest thereon from the date hereof until the principal is paid, at the rate of ____ per cent (___%) per annum, payable on January 1 and July 1 in each year, beginning on January 1, 1971, upon presentation and surrender of the annexed coupons as they severally become due.

Both principal and interest of this bond are payable in such coin or currency as at the time of payment shall be legally acceptable for payment of debts due the United States of America, at the Ossian State Bank, in the Town of Ossian, Indiana, or, at the option of the holder, at the principal office of _____, in the City of Indianapolis, Indiana, or, at the principal office of _____, in the City of Fort Wayne, Indiana.

This bond is one of an authorized issue of twenty-five (25) bonds of the Town of Ossian, of like date, tenor and effect, except as to numbering, interest rates and dates of maturity, in the total amount of One Hundred Twenty-five Thousand Dollars (\$125,000), numbered from 1 to 25 inclusive, issued for the purpose of providing funds to apply on the cost of sewage works, as authorized by an ordinance adopted by the Board of Trustees of the town on _____, 1970, entitled "An Ordinance concerning the construction and operation by the Town of Ossian, Indiana, of sewage works, the issuance of revenue bonds to apply on the cost thereof, the collection, segregation and distribution of the revenues of the works, the safeguarding of the interests of the holders of the bonds, and other matters connected therewith," and in strict compliance with the provisions of I.C. 36-9-23.

Pursuant to the provisions of I.C. 36-9-23 and the ordinance, the principal and interest of this bond and all other bonds of the issue, and any bonds ranking on a parity therewith, are payable solely from the Sewage Works Sinking Fund (created by the ordinance) to be provided from the net revenues (herein defined as gross revenues after deduction only for the payment of the reasonable expenses of operation, repair and maintenance) of the sewage works of the town, including the works constructed or acquired by the use of the proceeds of this bond and the issue of which it is a part, and all additions and improvements thereto and replacements thereof subsequently constructed or acquired. This bond shall not constitute an indebtedness of the Town of Ossian within the meaning of the provisions and limitations of the constitution of the State of Indiana, and the town shall not be obligated to pay this bond or the interest thereon except from the special fund provided from the net revenues.

The Town of Ossian irrevocably pledges the entire net revenues of the sewage works to the prompt payment of the principal and interest of the bonds issued on account of the construction of the sewage works, of which this bond is one, and any bonds ranking on a parity therewith, to the extent necessary for that purpose, and covenants that it will cause to be fixed, maintained and collected such rates and charges for service rendered by the works as are sufficient in each year for the payment of the proper and reasonable expenses of operation, repair and maintenance of the works, and for the payment of the sums required to be paid into the Sinking Fund under the provisions of I.C. 36-9-23. In the event the town, or the proper officers thereof, shall fail or refuse to so fix, maintain and collect such rates or charges, or if there be a default in the payment of the interest on or principal of this bond, the holder of this bond shall have all of the rights and remedies provided for in I.C. 36-9-23, including the right to have a receiver appointed to administer the works and to charge and collect rates sufficient to provide for the payment of this bond and the interest thereon.

The town further covenants that it will set aside and pay into its Sewage Works Sinking Fund a sufficient amount of the net revenues of the works to meet (a) the interest on this bond and all other bonds which, by their terms, are payable from the revenues of the sewage works, as such interest shall fall due, (b) the necessary fiscal agency charges for paying the bonds and interest, (c) the principal of this bond and all other bonds payable from the revenues of the sewage works, as such principal shall fall due, and (d) an additional amount as a margin of safety to create the reserve required by the ordinance authorizing the issuance of this bond. Such required payments shall constitute a first charge upon all the net revenues of the works.

This bond and all other bonds of the issue shall have all the qualities and incidents of negotiable instruments under the laws of the State of Indiana. This bond may be registered as to principal at the office of the Clerk-Treasurer in the Town of Ossian, Indiana, in the name of the owner hereof, and such registration noted hereon by the Clerk-Treasurer. Thereafter no transfer hereof shall be valid unless made at the office by the registered owner in person or by his duly authorized attorney and similarly noted hereon, but this bond may be discharged from registration by being in like manner transferred to bearer and may again from time to time be registered or transferred to bearer as before. Such registration shall not restrict or affect the negotiability of the interest coupons hereto attached by delivery only, but such interest coupons shall always be payable to bearer.

The bonds of this issue maturing on July 1, 1980, and thereafter, are redeemable at the option of the town from any funds regardless of source, in whole, or from time to time in part, in inverse numerical

order, on January 1, 1980, or any interest payment date thereafter, at the principal amount thereof and accrued interest to the date fixed for redemption, plus the following premiums:

5% if redeemed on January 1, 1980, or thereafter on or before July 1, 1984, or

4% if redeemed on January 1, 1985, or thereafter prior to maturity.

Noticee of such redemption shall be published at least one time in a newspaper published in Wells County and of general circulation in the Town of Ossian, not less than 30 days prior to the date fixed for redemption. Said notice of redemption shall also be published in The Indianapolis Commercial, or in the event of suspension of publication of such newspaper then in another newspaper or financial journal published in the City of Indianapolis, Indiana, by 2 insertions, the first to be at least 30 days prior to the date fixed for redemption and the second to be not more than 30 days nor less than 15 days prior to the date fixed for redemption. A like notice shall be sent by mail to the holders of such bonds as are then registered. Interest on bonds so called for redemption shall cease on the redemption date fixed in the notice, if funds are available at the place of redemption to pay the redemption price on the date so named and when presented for payment. If any unmatured bond and coupon or coupons so called for redemption shall not be presented on the date fixed for redemption at the place of redemption, the town may place in trust at the bank constituting the place of redemption sufficient funds to effect such redemption, and thereafter the holder of such bond and coupon or coupons shall be entitled to payment only from such trust funds and the redemption thereof shall be deemed to have been effected and the bonds no longer outstanding.

It is hereby certified and recited that all acts, conditions and things required to be done precedent to and in the execution, issuance and delivery of this bond have been done and performed in regular and due form as provided by law.

IN WITNESS WHEREOF, the Town of Ossian, in Wells County, State of Indiana, has caused this bond to be executed in its corporate name by the President of its Board of Trustees, its corporate seal to be hereunto affixed and attested by its Clerk-Treasurer, and the interest coupons hereto attached to be executed by placing thereon the facsimile signature of the Clerk-Treasurer, as of the first day of _____, 1970.

TOWN OF OSSIAN

By _____
President, Board of Trustees

(Seal)

Attest:

Clerk-Treasurer

(Form of Interest Coupon)

Coupon No. _____ \$ _____

On _____, 19____

(unless the bond herein mentioned shall have been called for previous redemption), the Town of Ossian, Indiana, will pay to bearer at the Ossian State Bank, in the Town of Ossian, Indiana, or, at the

option of the holder at the principal office of _____, in the City of Indianapolis, Indiana,
or, at the principal office of _____, in the City of Fort Wayne, Indiana, out of its
Sewage Works Sinking Fund, the amount shown hereon in such coin or currency as at the time of
payment shall be legally acceptable for payment of debts due the United States of America, being the
interest then due on its Sewage Works Revenue Bond, dated _____, 1970, No.

_____.

Ossian - Public Works

TOWN OF OSSIAN

By (Facsimile)

Clerk-Treasurer

(Form of Registration)

REGISTRATION ENDORSEMENT

This bond can be registered only at the office of the Clerk-Treasurer in the Town of Ossian, Indiana.
No writing hereon except by the Clerk-Treasurer.

Date of Registry	In Whose Name Registered	Clerk-Treasurer
_____	_____	_____
_____	_____	_____
_____	_____	_____

(E) (1) The Clerk-Treasurer is hereby authorized and directed to have the bonds and coupons prepared, and the President of the Town Council and the Clerk-Treasurer are hereby authorized and directed to execute the bonds and the interest coupons to be attached thereto in the form and manner herein provided. The Clerk-Treasurer is hereby authorized and directed to deliver the bonds to the purchaser thereof after sale made in accordance with the provisions of this subchapter, provided that at the time of the delivery the Clerk-Treasurer shall collect the full amount which the purchaser has agreed to pay therefor, which shall not be less than the face value of the bonds, plus accrued interest from the date thereof to the date of delivery.

(2) The bonds herein authorized, when fully paid for and delivered to the purchaser, shall be the binding special revenue obligations of the town, payable out of the revenues of the sewage works to be set aside into the Sewage Works Sinking Fund as herein provided, and the proceeds derived from the sale of the bonds shall be and are hereby set aside for application on the cost of acquisition, construction and installation of the sewage works hereinbefore referred to, and the expenses necessarily incurred in connection therewith. The proper officers of the town are hereby directed to draw all proper and necessary warrants, and to do whatever acts and things which may be necessary to carry out the provisions of this subchapter.

(Ord. 25, passed 7-16-1970)

§ 53.33 SALE OF BONDS; ROLE OF CLERK-TREASURER.

(A) Prior to the sale of the bonds, the Clerk-Treasurer shall cause to be published an official notice of the sale once each week for 2 weeks in the Ossian Journal being the only newspaper published in the

Town of Ossian, the last publication to be at least 7 days prior to the date fixed for the sale. The bond sale notice shall state the time and place of sale, the character and amount of the bonds, the maximum rate of interest thereon, the terms and conditions upon which bids will be received and the sale made and other information as the Clerk-Treasurer and the attorneys employed by the town shall deem advisable.

(B) The notice shall provide, among other things, that each bid shall be accompanied by a certified or cashier's check in an amount not less than \$2,000 to guarantee performance on the part of the bidder, and that in the event the successful bidder shall fail or refuse to accept delivery of the bonds and pay for the same as soon as the bonds are ready for delivery, or at the time fixed in the notice of sale, then the check and the proceeds thereof shall be the property of the town and shall be considered as its liquidated damages on account of default; also, that bidders for the bonds will be required to name the rate or rates of interest which the bonds are to bear, not exceeding the maximum rate hereinbefore fixed, and that the interest rate or rates shall be in multiples of 1/8 or 1/10 of 1%. Not more than 3 different interest rates shall be named, but all bonds maturing on the same date must bear the same single rate of interest. A rate may be repeated without being considered a different rate.

(C) There shall be not more than 1 interest coupon for any coupon period on any bond. The notice shall also state that the opinion of Ice Miller Donadio and Ryan, bond counsel of Indianapolis, Indiana, approving the legality of the bonds, will be furnished to the purchaser at the expense of the town, and that no conditional bids will be considered. A notice may in the discretion of the Clerk-Treasurer be published in The Indianapolis Commercial, published in the City of Indianapolis, Indiana.

(D) The bonds shall be awarded by the Clerk-Treasurer to the highest qualified bidder who has submitted his or her bid in accordance with the terms of this subchapter and the notice of sale. The highest bidder will be the one who offers the lowest net interest cost to the town, to be determined by computing the total interest on all of the bonds to their maturities and deducting therefrom the premium bid, if any. The right to reject any and all bids shall be reserved. If an acceptable bid is not received on the date of sale, the sale will be continued from day to day thereafter without further advertisement for a period of 30 days, during which time no bid which is lower than the highest bid received at the time of the advertised sale will be considered.

(Ord. 25, passed 7-16-1970)

§ 53.34 ACCRUED INTEREST AND PREMIUM OF BONDS.

(A) The accrued interest and premium received at the time of delivery of the bonds, if any, shall be deposited in the Sewage Works Sinking Fund hereinafter created, the accrued and accruing interest to be credited to the bond and interest account thereof and the premium to be credited to the debt service reserve account thereof. The remaining proceeds from the sale of the bonds shall be deposited in a bank or banks which are legally designated depositories for the funds of the town, in a special account or accounts, separate and apart from other bank accounts of the town, to be designated as "Town of Ossian, sewage works construction account."

(B) All moneys deposited to the credit of the sewage works construction account shall be deposited, held, secured or invested in direct obligations of the United States of America, in accordance

with the

laws of the State of Indiana relating to the depositing, holding, securing or investing of public funds, including particularly Chapter 9 of the Acts of 1945, as amended and supplemented. Any income from the investment shall become a part of the sewage works construction account.

(C) The funds in the special account or accounts shall be expended only for the purpose of paying the cost of the works, as defined in I.C. 36-9-23. Any balance or balances remaining unexpended in a special account or accounts of the sewage works construction account, after completion of the works, which are not required to meet unpaid obligations incurred in connection with construction, shall, within 60 days after completion of the project, be deposited in the Sewage Works Sinking Fund, credited to the debt service reserve account thereof, and shall be used solely for the purposes of the fund.

(Ord. 25, passed 7-16-1970)

§ 53.35 REVENUE FROM SEWAGE WORKS.

(A) As soon as the sewage works becomes revenue producing, all revenues derived from the operation of the sewage works and from the collection of sewage rates and charges shall be segregated and kept separate and apart from all other funds and bank accounts of the town.

(B) Out of the revenues the proper and reasonable expenses of operation, repair and maintenance of the works shall be paid, the principal and interest of all bonds and fiscal agency charges of bank paying agents shall be paid, and the costs of replacements, extensions, additions and improvements shall be paid as hereinafter provided.

(C) No moneys derived from the revenues of the sewage works shall be transferred to the General Fund of the town or be used for any purpose not connected with the sewage works so long as any bonds payable from the revenues of the sewage works are outstanding.

(Ord. 25, passed 7-16-1970)

§ 53.36 OPERATION AND MAINTENANCE FUND.

There is hereby created a fund to be known as the "Operation and Maintenance Fund," to which fund there shall be credited as of the last day of each calendar month a sufficient amount of the revenues of the sewage works so that the balance in the fund shall be sufficient to pay the expenses of operation, repair and maintenance for the then next succeeding 2 calendar months. The moneys credited to this fund shall be used for the payment of the reasonable and proper operation, repair and maintenance expenses of the sewage works on a day-to-day basis, but none of the moneys in the fund shall be used for depreciation, replacements, improvements, extensions or additions. Any balance in the fund in excess of the expected expenses of operation, repair and maintenance for the next succeeding month may be transferred to the Sewage Works Sinking Fund if necessary to prevent a default in the payment of principal or interest on the outstanding bonds.

(Ord. 25, passed 7-16-1970)

§ 53.37 SEWAGE WORKS SINKING FUND.

(A) *Sinking Fund.* There is hereby created a Sinking Fund for the payment of the principal of and interest on revenue bonds which by their terms are payable from the revenues of the sewage works, and the payment of any fiscal agency charges in connection with the payment of bonds and interest coupons, which fund shall be designated the "Sewage Works Sinking Fund." There shall be set aside and deposited in the Sinking Fund, as available, and as hereinafter provided, a sufficient amount of the net revenues of the sewage works (defined as gross revenues of the sewage works after deduction only for the payment of the reasonable expenses of operation, repair and maintenance) to meet the requirements of the bond and interest account and of the debt service reserve account hereby created in the Sewage Works Sinking Fund. Payments shall continue until the balance in the bond and interest account, plus the balance in the debt service reserve account hereinafter created, equal the principal of and interest on all of the then outstanding bonds to the final maturity thereof.

(B) *Bond and interest account.* As soon as the sewage works becomes revenue producing, there shall be credited on the first day of each calendar month to the bond and interest account an amount equal to the sum of $\frac{1}{5}$ of the interest on all then outstanding bonds payable on the then next succeeding interest payment date, and $\frac{1}{10}$ of the amount of principal payable on the then outstanding bonds which will be payable on the then next succeeding principal payment date, until the amount of interest and principal payable on the then next succeeding respective principal and interest payment dates shall have been so credited. There shall similarly be credited to the account the amount necessary to pay the bank fiscal agency charges for paying principal and interest on the bonds as the same become payable. The town shall, from the sums deposited in the Sewage Works Sinking Fund and credited to the bond and interest account, remit promptly to the bank fiscal agency sufficient moneys to pay the principal and interest on the due dates thereof together with the amount of bank fiscal agency charges.

(C) *Debt service reserve account.* On the first day of each calendar month, after making the credits to the bond and interest account, there shall be credited from available net revenues to the debt service account the sum of \$250, or a higher amount as may be fixed from time to time by the Town Council of the town. Credits to the debt service reserve account shall continue until the balance therein shall equal not less than the maximum annual principal and interest requirements of the then outstanding bonds payable from the Sewage Works Sinking Fund. The debt service reserve account shall constitute the margin for safety and as a protection against default in the payment of principal of and interest on the bonds, and the moneys in the debt service reserve account shall be used to pay current principal and interest on the bonds to the extent that moneys in the bond and interest account are insufficient for that purpose. Any deficiencies in credits to the debt service reserve account shall be promptly made up from the next available net revenues remaining after credits into the bond and interest account. In the event moneys in the debt service reserve account are transferred to the bond and interest account to pay principal and interest on bonds, then depletion of the balance in the debt service reserve account shall be made up from the next available net revenues after the credits into the bond and interest account hereinbefore provided for. Any moneys in the debt service reserve account in excess of the maximum annual principal and interest requirements of the then outstanding bonds may be used for the redemption of bonds which are then callable, or for the purchase of outstanding bonds at a price not exceeding the

then applicable redemption price or the first redemption price if the bonds are not callable, or may be transferred to the Sewage Works Improvement Fund.
(Ord. 25, passed 7-16-1970)

§ 53.38 SEWAGE WORKS IMPROVEMENT FUND.

After meeting the requirements of the Operation and Maintenance Fund, and the Sewage Works Sinking Fund, any excess revenues may be transferred or credited to a fund designated the "Sewage Works Improvement Fund," and the fund shall be used for improvements, replacements, additions and extensions of the sewage works. Moneys in the Sewage Works Improvement Fund shall be transferred to the Sewage Works Sinking Fund if necessary to prevent a default in the payment of principal and interest on the then outstanding bonds or if necessary to eliminate any deficiencies in credits to or minimum balance in the debt service reserve account of the Sewage Works Sinking Fund.

(Ord. 25, passed 7-16-1970)

§ 53.39 BANK ACCOUNTS FOR FUNDS.

The Sewage Works Sinking Fund shall be deposited in and maintained as a separate bank account or accounts apart from all other bank accounts of the town. The Operation and Maintenance Fund and the Sewage Works Improvement Fund may be maintained in a single bank account, or accounts, but the bank account or accounts shall likewise be maintained separate and apart from all other bank accounts of the town and apart from the Sewage Works Sinking Fund bank account or accounts. All moneys deposited in the bank accounts shall be deposited, held and secured as public funds in accordance with the public depository laws of the State of Indiana; provided that moneys therein may be invested in obligations of the United States of America in accordance with the applicable laws, including particularly Chapter 9 of the Acts of the Indiana General Assembly for the year 1945, as amended or supplemented, and in the event of investment the income therefrom shall become a part of the funds invested and shall be used only as provided in this subchapter.

(Ord. 25, passed 7-16-1970)

§ 53.40 RECORDS AND ACCOUNTS.

(A) The town shall keep proper books of records and accounts, separate from all of its other records and accounts, in which complete and correct entries shall be made showing all revenues collected from the works and all disbursements made on account of the works, also all transactions relating to the works.

(B) There shall be prepared and furnished to the original purchasers of the bonds and, upon written request, to any subsequent holder of the bonds, not more than 90 days after the close of each fiscal year, complete operating income and expense statements of the works, covering the preceding fiscal year and the balances in the several funds and accounts created by this subchapter. The fiscal year of the sewage works shall be from January 1 to December 31, both inclusive.

(C) Copies of all statements and reports, together with all audits of the sewage works made available to the town by the Indiana State Board of Accounts or any successor body authorized by law to audit municipal accounts, shall be kept on file in the office of the Clerk-Treasurer.

(D) Any holder or holders of the bonds then outstanding shall have the right at all reasonable times to inspect the works and all records, accounts, statements, audits, reports and data of the town relating to the sewage works. Inspections may be made by representatives duly authorized by written instrument.

(Ord. 25, passed 7-16-1970)

§ 53.41 AGREEMENT TO KEEP RATES REASONABLE.

(A) The town covenants and agrees that it will establish and maintain just and equitable rates or charges for the use of and the service rendered by the works, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses the sewage works by or through any part of the sewerage system of the town, or that in any way uses or is served by the works; that rates or charges shall be sufficient in each year for the payment of the proper and reasonable expenses of operation, repair, replacement and maintenance of the works, and for the payment of the sums required to be paid into the Sewage Works Sinking Fund by this subchapter and by Chapter 284 of the Acts of 1967.

(B) Rates or charges shall, if necessary, be changed and readjusted from time to time so that the revenues therefrom shall always be sufficient to meet the expenses of operation, repair and maintenance, and the requirements of the Sewage Works Sinking Fund. The rates or charges so established shall apply to any and all use of works by and service rendered to the town and all departments thereof as the charges accrue.

(Ord. 25, passed 7-16-1970)

§ 53.42 ADDITIONAL BONDS.

(A) The town reserves the right to authorize and issue additional bonds, payable out of the revenues of its sewage works, ranking on a parity with the bonds authorized by this subchapter, for the purpose of financing the cost of future additions, extensions and improvements to the sewage works, subject to the following conditions:

(1) The interest on and principal of all bonds payable from the revenues of the sewage works shall have been paid to date in accordance with the terms thereof and all credits required to be made to the Sewage Works Sinking Fund and the accounts thereof shall have been made to date;

(2) The net revenues of the sewage works in the fiscal year immediately preceding the issuance of any bonds ranking on a parity with the bonds authorized by this subchapter shall not be less than 125% of the maximum annual interest and principal requirements of the then outstanding bonds and the proposed additional parity bonds to the final maturity of the then outstanding bonds; or, prior to the issuance of the parity bonds, the sewage rates and charges shall be increased sufficiently so that

the

increased rates and charges applied to the average of the 2 preceding fiscal years' operations would have produced annual net operating revenues equal to not less than 125% of the maximum annual interest and principal requirements of the then outstanding bonds and the proposed additional parity bonds to the final maturity of the then outstanding bonds. For purposes of this division, the records of the sewage works shall be analyzed and all showings shall be prepared by a certified public accountant retained by the town for that purpose; and

(3) The interest on the additional parity bonds shall be payable semi-annually on January 1 and July 1, and the principal shall be payable annually on July 1 in the years in which principal and interest are payable.

(B) Parity bonds may also be issued to refund less than all of the then outstanding bonds issued pursuant to this subchapter or ranking on a parity therewith, but any refunding bonds shall be subject to the conditions in this section unless the bonds being refunded mature within 3 months of the date of the refunding and no other funds are available to pay the maturing bonds. In computing the maximum annual interest and principal requirements pursuant to division (A)(2) above, the interest on and principal of the refunding bonds shall be substituted for the interest on and principal of the bonds being refunded.

(Ord. 25, passed 7-16-1970)

§ 53.43 SAFEGUARDING INTERESTS OF HOLDERS OF BONDS.

For the purpose of further safeguarding the interests of the holders of the bonds herein authorized, it is specifically provided as follows:

(A) All contracts let by the town in connection with the construction of the sewage works shall be let after due advertisement as required by the laws of the State of Indiana, and all contractors shall be required to furnish surety bonds in an amount equal to 100% of the amount of the contracts, to ensure the completion of the contracts, in accordance with their terms, and the contractors shall also be required to carry the employers' liability and public liability insurance as are required under the laws of the State of Indiana in the case of public contracts, and shall be governed in all respects by the laws of the State of Indiana relating to public contracts.

(B) The works shall be constructed under the supervision and subject to the approval of Strauss Associates, Inc., or another competent engineer as shall be designated by the town. All estimates for work done or material furnished shall first be checked by the engineer and approved by the town prior to payment therefor.

(C) The town shall at all times maintain its sewage works in good condition and operate the same in an efficient manner and at a reasonable cost.

(D) So long as any of the bonds herein authorized are outstanding, the town shall maintain insurance on the insurable parts of the works of a kind and in an amount as would normally be carried by private companies engaged in a similar type of business. All insurance shall be placed with responsible insurance companies qualified to do business under the laws of the State of Indiana.

Insurance proceeds shall be used in replacing or repairing the property destroyed or damaged; or if not used for that purpose shall be deposited in the Sewage Works Sinking Fund and credited to the debt service reserve account.

(E) So long as any of the bonds are outstanding, the town shall not mortgage, pledge or otherwise encumber the works, or any part thereof, nor shall it sell, lease or otherwise dispose of any portion thereof except equipment or property which may become worn out, obsolete or no longer suitable for use in the sewage works.

(F) Except as hereinbefore provided in § 53.42, so long as any of the bonds herein authorized are outstanding, no additional bonds or other obligations pledging any portion of the revenues of the sewage works shall be authorized, executed or issued by the town except as shall be made subordinate and junior in all respects to the bonds herein authorized, unless all of the bonds herein authorized have been duly called for redemption and sufficient funds to affect the redemption and retirement have been deposited at the place of redemption on the date fixed for redemption in accordance with the terms and conditions of the bonds and this subchapter.

(G) The town shall take all action or proceedings necessary and proper to require connection of all property where liquid and solid waste, sewage, night soil or industrial waste is produced with available sanitary sewers. The town shall, insofar as possible, cause all sanitary sewers to be connected with the sewage works.

(H) The provisions of this subchapter shall constitute a contract by and between the town and the holders of the sewage works revenue bonds herein authorized, and after the issuance of the bonds this subchapter shall not be repealed or amended in any respect which will adversely affect the rights of the holders of the bonds, nor shall the Town Council adopt any law, ordinance or resolution which in any way adversely affects the rights of the holders so long as any of the bonds or the interest thereon remain unpaid.

(I) The provisions of this subchapter shall be construed to create a trust in the proceeds of the sale of the bonds herein authorized for the uses and purposes therein set forth, and the holders of the bonds shall retain a lien on the proceeds until the same are applied in accordance with the provisions of this subchapter and I.C. 36-9-23. The provisions of this subchapter shall also be construed to create a trust in the portion of the net revenues herein directed to be set apart and paid into the Sewage Works Sinking Fund for the uses and purposes of the fund as in this subchapter set forth. The holders of the bonds shall have all of the rights, remedies and privileges set forth in the provisions of I.C. 36-9-23, including the right to have a receiver appointed to administer the sewage works, in the event of default in the payment of the principal of or interest on any of the bonds herein authorized or in the event of default in respect to any of the provisions of this subchapter or I.C. 36-9-23.

(Ord. 25, passed 7-16-1970)

§ 53.44 RIGHTS OF HOLDERS.

(A) Subject to the terms and provisions contained in this section, and not otherwise, the holders of not less than 66-2/3% in aggregate principal amount of the bonds issued pursuant to this subchapter and then outstanding shall have the right, from time to time, anything contained in this subchapter to the contrary notwithstanding, to consent to and approve the adoption by the town of an ordinance or ordinances supplemental hereto as shall be deemed necessary or desirable by the town for the purpose of modifying, altering, amending, adding to or rescinding in any particular any of the terms or provisions contained in this subchapter, or in any supplemental ordinance; provided, however, that nothing herein contained shall permit or be construed as permitting:

(1) An extension of the maturity of the principal of or interest on any bond issued pursuant to this subchapter;

(2) A reduction in the principal amount of any bond or the redemption premium or the rate of interest thereon;

(3) The creation of a lien upon or a pledge of the revenues of the sewage works ranking prior to the pledge thereof created by this subchapter;

(4) A preference or priority of any bond or bonds issued pursuant to this subchapter over any other bond or bonds issued pursuant to the provisions of this subchapter; or

(5) A reduction in the aggregate principal amount of the bonds required for consent to a supplemental ordinance.

(B) (1) The holders of not less than 66-2/3% in aggregate principal amount of the bonds outstanding at the time of adoption of a supplemental ordinance shall have consented to and approved the adoption thereof by written instrument to be maintained on file in the office of the Clerk-Treasurer of the town.

(2) No holder of any bond issued pursuant to this subchapter shall have any right to object to the adoption of a supplemental ordinance or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the adoption thereof, or to enjoin or restrain the town or its officers from adopting the same, or from taking any action pursuant to the provisions thereof.

(3) Upon the adoption of any supplemental ordinance pursuant to the provisions of this section, this subchapter shall be, and shall be deemed, modified and amended in accordance therewith, and the respective rights, duties and obligations under this subchapter of the town and all holders of bonds issued pursuant to the provisions of this subchapter then outstanding, shall thereafter be determined exercised and enforced in accordance with this subchapter, subject in all respects to modifications and amendments.

(4) Notwithstanding anything contained in the foregoing provisions of this subchapter, the rights and obligations of the town and of the holders of the bonds authorized by this subchapter, and the terms and provisions of the bonds and this subchapter, or any supplemental ordinance, may be modified or altered in any respect with the consent of the town and the consent of the holders of all the bonds issued pursuant to this subchapter then outstanding.
(Ord. 25, passed 7-16-1970)

§ 53.45 ESTIMATE OF RATES.

(A) The estimate of the rates for the several classes of users or property to be served is as follows:

<i>Quantity of Water Used per Month</i>	<i>Charge per 1,000 Gallons</i>
First 5,000 gallons	\$0.85
Next 5,000 gallons	\$0.75
Next 5,000 gallons	\$0.65
Next 10,000 gallons	\$0.55
Over 25,000 gallons	\$0.50

(B) The minimum charge for any user shall be not less than \$2.50 per month.

(C) Each property to be connected shall pay \$2.00 per month during the construction period to meet interest and other expenses payable prior to completion of the works.
(Ord. 25, passed 7-16-1970)

§ 53.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) It shall be unlawful to violate any of the terms, conditions or restrictions of §§ 53.15 through 53.18. Any person or legal entity who is found by a court of competent jurisdiction to have violated any provision of §§ 53.15 through 53.18 may be fined not more than \$2,500 per offense per day, plus costs and attorney's fees where judgment has been entered accordingly.
(Ord. 27, passed 3-8-2004; Am. Ord. 27A, passed 4-27-2009)

TITLE VII: TRAFFIC CODE

Chapter

- 70. GENERAL PROVISIONS**
- 71. TRAFFIC SCHEDULES**
- 72. RESERVED**
- 73. OPERATION OF GOLF CARTS AND UTILITY TASK VEHICLES**

CHAPTER 70: GENERAL PROVISIONS

Section

Parking in General

- 70.01 Truck or other vehicle parking
- 70.02 "No Parking" signs
- 70.03 Restrictions

Vehicles Including Recreational Vehicles, Campers, and Boats

- 70.31 Definitions
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PARKING IN GENERAL

§ 70.01 TRUCK OR OTHER VEHICLE PARKING.

No vehicle of an overall length of more than 20 feet or of an overall width of more than 7 feet, 6 inches shall park or be allowed to remain parked in, on or along any alleys, streets or highways within the Town of Ossian unless the driver of the vehicle is actually engaged in delivering or unloading an item from the truck, in which case the truck shall be allowed to remain parked in a manner so as to pose the least impediment to the free flow of traffic in the street or alley and, if so parked, may remain parked for a period not exceeding 1 hour. In addition, a vehicle as described above, may be allowed to stop for a 2-hour period for purposes of rest, relaxation or limited commerce. The time limitation contained herein shall not apply to private commercial trucks involved in loading or unloading items of personal property in connection with the relocation of a family or individual residence. (Ord. 85-7-1, passed 7-9-1985) Penalty, see § 70.99

§ 70.02 “NO PARKING” SIGNS.

(A) *Adoption.* The Town of Ossian, in addition to the existing traffic signs and devices, hereby adopts a traffic sign known and designated as a "No Parking" sign, and authorizes the use thereof at certain areas as may be designated by resolution of the Town Council of the Town of Ossian, from time to time.

(B) *Alley parking.* No person shall park any vehicle in any alley unless the driver of the vehicle is actually engaged in delivering or unloading an item from the vehicle, in which case the vehicle shall be allowed to remain parked in a manner so as to pose the least impediment to the free flow of traffic in the street or alley and, if so parked, may remain parked for period not exceeding 1 hour.

(C) *Parking position.* Except where angle parking is permitted, a vehicle stopped or parked upon a roadway shall be stopped or parked with the curb-side wheels of the vehicle parallel with and within 12 inches of the curb or edge of the roadway.

(D) *Limited parking zones.* When appropriate signs conforming to the requirements of this section are erected no person shall park a vehicle on the side of the street or for any continuous period of time longer than the designated posted sign.

(E) *Private parking signs.* No person shall place any sign along or on any street or alley or designate any place thereon with the intent to regulate or prevent the parking of vehicles on any street or alley.

(F) *Restricted parking.* When appropriate signs conforming to the requirements of this section are erected no person shall stop, stand or park a vehicle other than as specified.

(G) *Parking restrictions generally and for stated periods of time.* The Town Council may, by resolution or ordinance, designate additional restrictions or areas as to parking, including the prohibition of parking in designated areas for certain periods of time. Additional restrictions shall be in full force and effect from the time of the erection of appropriate signs.

(H) *Section supplementary.* This section shall be deemed to be supplementary and in addition to, and not a repeal of, any existing ordinance of this Town of Ossian.
(Ord. 04-6-3, passed 8-9-2004) Penalty, see § 70.99

§ 70.03 RESTRICTIONS.

(A) The Town Council authorizes the erection and use of “No Parking” signs on East Mill Street on the south side of the street from the corner of Maxine Street and East Mill Street to 6 feet east of the existing drive of the property located at 604 East Mill Street.
(Ord. 2009-2-4, passed 2-23-2009)

(B) The Town Council authorizes the erection and use of “No Parking” signs on West Woodcreek on the south side of the street from the east side of the driveway located on 403 West Woodcreek east 34 feet to the corner and on Woodcreek on the east side of the street from the corner of West Woodcreek and Woodcreek south 91 feet to the north side of the driveway at 408 Woodcreek.
(Ord. 17-5-1, passed 5-8-2017)

VEHICLES INCLUDING RECREATIONAL VEHICLES, CAMPERS, AND BOATS**§ 70.31 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Except where the context indicates otherwise, the singular includes the plural, and the masculine gender includes the feminine, and the following mean:

BOAT. Any watercraft used or capable of being used as a means of transportation on the water.

CAMPER. A structure designed to be mounted upon a motor vehicle, and is not permanently attached thereto, and is designed to provide facilities for human habitation, or for camping.

COMMERCIAL VEHICLE. Any vehicle having more than two axles, or any single commercial vehicle or combination of vehicles which exceed 22 feet in length, any single commercial vehicle or combination of vehicles 84 inches or more in width, or any single commercial vehicle or combination vehicles having a manufacturer's gross vehicle weight rating of 15,000 pounds or more. ***COMMERCIAL VEHICLE*** does not include a large motor vehicle as defined herein.

LARGE MOTOR VEHICLE. Pickup trucks with camper or other vehicle that measures 84 inches or more in width and more than 84 inches in height or more than 22 feet in length. ***LARGE MOTOR VEHICLE*** does not include a commercial vehicle or non-motorized vehicle as defined herein.

PERSON. Every natural person, firm, partnership, association, or corporation, whether he or it is acting for himself, herself, itself, or as the clerk, servant, employee, or agent of another.

RECREATIONAL VEHICLE. A vehicle with or without motive power, which is designed for human occupancy and to be used temporarily for recreational, seasonal, or emergency purposes, including any camper mounted upon a motor vehicle.

TOWN. The town of Ossian.

TOWN COUNCIL. The governing body of the town.

TRAILER. Any piece of machinery designed to be towed by a vehicle.

VEHICLE. Any wheeled conveyance, whether motor powered or animal drawn, but excluding human propelled. The term includes any trailer in tow in any size, kind, or description. Exception is made for vehicles in the service of the town.

(Ord. 2009-4-4, passed 4-27-2009)

§ 70.32 OFFENSES; VIOLATIONS.

(A) It shall be unlawful for any person to commit, or allow to be committed, with any vehicle including recreational vehicles, campers and boats under their control any of the following:

(1) Parking of any vehicle, including recreational vehicles, trailer and boats, on or across any portion of a sidewalk, except as expressly allowed for by ordinance.

(2) Parking of a recreational vehicle, camper, trailer, or boat on a town street.

(3) Parking of a wrecked, inoperative, or not currently licensed vehicle, including recreational vehicles and boats on any town street at any time.

(4) Parking within 10 feet of a fire hydrant.

(5) Parking in a "NO PARKING" zone that has been designated by the town and posted as prescribed by the town.

(6) Parking of a vehicle of an overall length of more than 20 feet or of an overall width of more than 7 feet, 6 inches, shall park or be allowed to remain parked in, on, or along any alleys, streets, or highways within the town unless the driver of the vehicle is actually engaged in delivering or unloading from the truck, in which case such truck shall be allowed to remain parked in such a manner as to pose the least impediment to the free flow of traffic in the street or alley and, if so parked, may remain parked for a period not exceeding 1 hour. In addition, a vehicle as described above may be allowed to stop for a 2-hour period for purposes of rest, relaxation, or limited commerce. The time limitation contained herein shall not apply to private commercial trucks involved in loading or unloading items of personal property in connection with relocation of a family or individual residence.

(7) Parking of a vehicle, recreational vehicle, camper, boat, or trailer on a town street to make any mechanical repairs.

(8) Parking of an unattended vehicle, boat, trailer, recreational vehicle, or camper on a town street, or public property, that has any part thereof suspended by a vehicle jack, or any unstable device.

(9) Placing a camper or boat on a town street at any time, when not mounted on a motor vehicle.

(10) Parking a recreational vehicle on a town street.

(B) No person in a park shall:

(1) Drive any vehicle on any area except gravel or paved park roads, parking areas, or other such areas as may on occasion be specifically designated as temporary parking by an elected official, Town Manager, or designee.

(2) Park a vehicle in other than an established parking area or other such areas as may on occasion be specifically designated as temporary parking by an elected official, Town Manager, or designee.

(3) Double park any vehicle on any road or parkway unless directed by an elected official, Town Manager, traffic officer, or designee.

(Ord. 2009-4-4, passed 4-27-2009) Penalty, see § 70.34

§ 70.33 EXCEPTIONS.

The town recognizes that the strict enforcement of this subchapter may place an undue hardship on some residents. Therefore, the Council authorizes the Town Manager or the designee of the Town Manager to review any requests to park an RV for a period of no more than 5 days in a 30-day period. Such requests will be accompanied by a written request from the owner of the RV identifying the license and VIN of the RV, the reason for the extended parking requests, and the dates requested for the extended parking. The RV must also be parked on the street area within the confines of the requesting RV owner's lot on which that owner resides. The street area available for parking of the RV shall be defined as the side lot lines being extended into the street right-of-way in the same bearing and direction. In no case shall an RV be parked on the street in excess of 5 days in a 30-day period. RVs parked on the street beyond the 5-day period shall again be subject to this subchapter.

(Ord. 2009-4-4, passed 4-27-2009) Penalty, see § 70.34

§ 70.34 FINES.

Any person that violates any provisions of this subchapter shall be fined in accordance with Chapter 35 of this code not less than \$25.00 for the first offense, not less than \$50.00 for the second offense, and not less than \$100.00 for all subsequent violations. Each day the violation is allowed to exist constitutes a separate chargeable violation.

(Ord. 2009-4-4, passed 4-27-2009)

§ 70.35 REMOVAL OF VEHICLE.

In addition to the foregoing penalty, any police officer, upon discovering any vehicles parked or stopped, in violation of this subchapter, may remove the vehicle or cause the same to be removed to any garage where such vehicle shall be released only upon payment for the cost of towing such vehicle away from the place where it was illegally parked or stopped, together with costs of storage.

(Ord. 2009-4-4, passed 4-27-2009)

§ 70.36 SEVERABILITY.

If any section, provision, clause, sentence, or paragraph of this subchapter or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other sections, provisions, clauses, or paragraphs of this subchapter which can be given effect without the invalid provision or application, and to this end the provisions of this subchapter are declared to be severable.

(Ord. 2009-4-4, passed 4-27-2009)

§ 70.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Any person, firm or corporation violating any of the provisions of § 70.01, upon conviction thereof, shall be fined for each violation any sum not exceeding \$300. In addition to the foregoing penalty, any police officer, upon discovering any vehicles parked or stopped, in violation of § 70.01, may remove the vehicle or cause the same to be removed to any garage where the vehicle shall be released only upon payment for the cost of towing the vehicle away from the place where it was illegally parked or stopped, together with costs of storage.

(Ord. 85-7-1, passed 7-9-1985)

(C) Any person who shall violate any of the provisions of § 70.02 shall be fined as a class D infraction, and this section is to be enforced under the terms of I.C. 34-28-5-1.

(Ord. 04-6-3, passed 8-9-2004)

(D) Any person who shall violate any of the provisions of §§ 70.31 through 70.36 shall be fined as set forth in § 70.34.

CHAPTER 71: TRAFFIC SCHEDULES

Schedule

- Sch I. Stop signs
- Sch II. One-way alleys

SCHEDULE I. STOP SIGNS.

The town, in addition to the existing traffic signs and devices, hereby adopts a traffic sign known and designated as a "stop" sign, and authorizes the use thereof at intersections as may be designated by resolution of the Town Council, from time to time. Each of the signs shall be erected as near as practicable to the nearest line of the cross-walk on the nearest side of the intersection, or if there is no cross-walk, then as near as practicable to the nearest line of the intersecting roadway, and shall be of sufficient height so as to be readily visible to motorists approaching the controlled intersection. The driver of a vehicle approaching a stop sign shall stop before entering the cross-walk on the near side of the intersection, or, in the event there is no cross-walk at a clearly marked stop line, at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. Any person who shall violate any of the provisions of this schedule shall be subject to the provisions of violations of the state statutes, I.C. 9-21-8-32 and 34-28.

<i>Sign On</i>	<i>At Intersection Of</i>
Blakewood Court	Maxine Drive
Brook Court	Eagle Court
Crestview Drive	Diane Drive
Dehner Drive	Parking lot of Ossian Plaza
Evergreen Court	Brook Court
Heatherwood Lane	Davis Road
Homestead Avenue	Bittersweet Lane
Morton Lane	Maxine Drive
Ridge Court	Brook Court

<i>Sign On</i>	<i>At Intersection Of</i>
Ridge Court	Diane Drive
Shady Lane	Highland
Siebold Street	Lafever Street

(Ord. 96-8-1, passed 8-13-1996; Res. 96-8-2, passed 8-13-1996; Res. 98-4-3, passed 4-13-1998; Res. 2000-9-8, passed 9-11-2000; Res. 03-6-1, passed 6-9-2003; Am. Res. 03-11-3, passed 11-10-2003; Am. Res. 05-8-1, passed 9-12-2005; Am. Res. 10-1-1, passed 1-25-2010; Am. Res. 12-10-1, passed 10-8-2012)

SCHEDULE II. ONE-WAY ALLEYS

<i>Location of One-Way Alley</i>	<i>Traffic Direction of One-Way Alley</i>	<i>Ord. No.</i>	<i>Date Passed</i>
South of 106 S. Ogden Street (Post Office) between Norwalt and Ogden Streets	East	17-10-1	10-9-2017

Any person who violates any provisions of this schedule shall be subject to applicable state and local fines and penalties.

CHAPTER 72: RESERVED

2010 S-1

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CHAPTER 73: OPERATION OF GOLF CARTS AND UTILITY TASK VEHICLES

Section

- 73.01 Definitions
- 73.02 Unlawful operation of golf carts or utility task vehicles
- 73.03 Requirement of local registration
- 73.04 Requirement of driver's license
- 73.05 Requirement of financial responsibility
- 73.06 Time of operation and nighttime restrictions
- 73.07 Slow moving vehicle reflective sign
- 73.08 Place of operation
- 73.09 Traffic laws and ordinances
- 73.10 Occupants
- 73.11 No towing
- 73.12 Exceptions
- 73.13 Revocation of registration and eligibility to operate golf cart or utility task vehicle

- 73.99 Penalty

§ 73.01 DEFINITIONS.

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

FINANCIAL RESPONSIBILITY. The meaning given in I.C. 9-25-4-1 *et seq.* as it now reads or is subsequently amended.

GOLF CART. A 4-wheeled motor vehicle originally and specifically designed and intended to transport 1 or more individuals and golf clubs for the purpose of playing the game of golf on a golf course.

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

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

STATE HIGHWAY. Any street under the control of and maintained by the state and shall include but not be limited to State Road 1.

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

UTILITY TASK VEHICLE (UTV). A small, 2- to 6-person, 4-wheel, off-road vehicle with a steering wheel as opposed to handle bars, sometimes referred to as a **SIDE BY SIDE; UTILITY TERRAIN VEHICLE;** or **RECREATIONAL OFF-HIGHWAY VEHICLE**. Examples include Polaris and Gator. It does not include a farm vehicle being used for farming, including, but not limited to, a farm wagon; a vehicle used for military or law enforcement purposes; a construction, mining, or other industrial related vehicle used in the performance of the vehicle's common function, including, but not limited to, a farm wagon; a snowmobile; a registered aircraft; any other vehicle property registered by the Bureau of Motor Vehicles; and any watercraft that is registered under Indiana statutes.
(Ord. 17-8-2, passed 9-11-2017)

§ 73.02 UNLAWFUL OPERATION OF GOLF CARTS OR UTILITY TASK VEHICLES.

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

(Ord. 17-8-2, passed 9-11-2017) Penalty, see § 73.99

§ 73.03 REQUIREMENT OF LOCAL REGISTRATION.

(A) *Local registration required.*

(1) Any golf cart or UTV operated on a town street must be registered at the town Police Department.

(2) The annual registration certificate will be valid from January 1 until December 31 of the year in which it is issued.

(3) The then current registration certificate shall be maintained on or about the golf cart or UTV at all times that it is in operation.

(B) *Registration fee.*

(1) Each registrant shall provide the vehicle identification number and proof of financial responsibility and shall pay a registration fee of \$25 for each golf cart or UTV to be registered for that year or the remaining portion thereof; or

(2) A temporary registration may be purchased for a period of time not to exceed 5 consecutive days for a fee of \$10.

(Ord. 17-8-2, passed 9-11-2017) Penalty, see § 73.99

§ 73.04 REQUIREMENT OF DRIVER'S LICENSE.

The operator of a golf cart or UTV on a town street must have a valid driver's license issued by the state or any other state and must possess that license while operating the golf cart or UTV.

(Ord. 17-8-2, passed 9-11-2017) Penalty, see § 73.99

§ 73.05 REQUIREMENT OF FINANCIAL RESPONSIBILITY.

No person may operate a golf cart or UTV on any town street unless financial responsibility is in effect with respect to the golf cart or UTV as provided under IC 9-25-4-4, as it now reads or is subsequently amended.

(Ord. 17-8-2, passed 9-11-2017) Penalty, see § 73.99

§ 73.06 TIME OF OPERATION AND NIGHTTIME RESTRICTIONS.

No golf cart or UTV shall be operated on a town street between the time of 1/2 hour after sunset and 1/2 hour before sunrise unless the golf cart or UTV is registered under this chapter and equipped with 2 headlamps, 2 tail lamps, front and rear turn lamps, and rear brake lamps, all of which must be visible from a distance of at least 500 feet.

(Ord. 17-8-2, passed 9-11-2017) Penalty, see § 73.99

§ 73.07 REQUIREMENT OF SLOW MOVING VEHICLE SIGN.

No golf cart or UTV shall be operated on a town street unless the golf cart or UTV is equipped with a properly displayed slow moving vehicle reflective sign clearly visible from behind.

(Ord. 17-8-2, passed 9-11-2017) Penalty, see § 73.99

§ 73.08 PLACE OF OPERATION.

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

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

(B) Any town street designated as a state highway (Jefferson Street), except to cross any state highway at intersections perpendicular to the state highway.

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

(Ord. 17-8-2, passed 9-11-2017) Penalty, see § 73.99

§ 73.09 TRAFFIC LAWS AND ORDINANCES.

The operator of a golf cart or UTV on a town street shall comply with all then effective traffic laws, ordinances, rules, and regulations adopted by the state and the town.

(Ord. 17-8-2, passed 9-11-2017) Penalty, see § 73.99

§ 73.10 OCCUPANTS.

(A) *Number and placement.* The number of occupants of a golf cart or UTV shall be limited to the lesser of 6 persons or the number of persons for whom factory seating is installed on the golf cart or UTV. The operator and occupants shall be properly seated at all times, and no part of the body of the operator or occupants shall extend outside the perimeter of the golf cart or UTV while the golf cart or UTV is in operation, except that the operator shall use proper traffic hand signals when required.

(B) *Minor as operator.* If the operator of a golf cart or UTV is under 18 years of age, no more than 2 additional persons under the age of 18 are permitted to occupy that golf cart or UTV.

(C) *Infants prohibited.* No one under the age of 2 years shall be permitted as an occupant of a golf cart or UTV on a town street.

(Ord. 17-8-2, passed 9-11-2017) Penalty, see § 73.99

§ 73.11 NO TOWING.

No golf cart or UTV shall be used to tow any type of trailer or other vehicle.

(Ord. 17-8-2, passed 9-11-2017) Penalty, see § 73.99

§ 73.12 EXCEPTIONS.

(A) Upon receipt of written authorization from the Ossian Days Board, golf carts or UTVs operated in connection with the town's annual Ossian Days street fair shall be exempted from specifically specified requirements of this chapter for operation within the confines of that portion of the downtown in which fair activity is taking place, except that the operator of such golf carts or UTVs must still be a licensed driver and financial responsibility must be in effect with respect to the golf carts or UTVs.

(B) The town Police Department shall have the authority to specifically permit the use of golf carts or UTVs by identified persons at other special events without compliance with specifically specified provisions of this chapter, provided, however, that the permission must be written, the operator of a golf cart or UTV must be a licensed driver, and financial responsibility must be in effect with respect to the golf cart or UTV.

(Ord. 17-8-2, passed 9-11-2017) Penalty, see § 73.99

§ 73.13 REVOCATION OF REGISTRATION AND ELIGIBILITY TO OPERATE GOLF CART OR UTILITY TASK VEHICLE.

Any unsafe operation, multiple violations, failure to maintain financial responsibility, or failure to pay fines in accordance to this chapter may, as reasonably determined by the Police Chief or the Police Chief's authorized designee, result in the revocation of a golf cart or UTV registration and the violator's eligibility to operate a golf cart or UTV on town streets for up to 1 calendar year.

(Ord. 17-8-2, passed 9-11-2017)

§ 73.99 PENALTY.

(A) Failure to comply with this chapter will result in fines and penalties as follows: first offense, \$25 fine; second offense, \$50 fine; and each additional offense, \$100 fine.

(B) An offense is defined as each separate violation of this chapter which occurs while operating a golf cart or UTV.

(Ord. 17-8-21, passed 9-11-2017)

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. PARKS AND RECREATION**
- 91. NUISANCES; PUBLIC HEALTH AND SAFETY**
- 92. FIRE PREVENTION AND PROTECTION**
- 93. FAIR HOUSING**
- 94. ANIMALS**
- 95. STREETS AND SIDEWALKS**
- 96. STRUCTURE ADDRESS NUMBERING**

CHAPTER 90: PARKS AND RECREATION

Section

General Provisions

- 90.01 Department of Parks and Recreation
- 90.02 Adoption of Parks and Recreation Master Plan
- 90.03 Fees and charges

Rules and Regulations for Parks and Other Recreational Areas

- 90.10 Purpose
- 90.11 Parks and other recreation areas defined
- 90.12 Park hours
- 90.13 Vehicles left in parks after closing hours
- 90.14 Disposal of rubbish, refuse, and garbage
- 90.15 Altering or removing signs, structures, fixtures, and other improvements
- 90.16 Disturbing, injuring, or removing wildlife and vegetation prohibited
- 90.17 Swimming prohibited
- 90.18 Pet supervision required
- 90.19 Camping prohibited
- 90.20 Fires prohibited
- 90.21 Solicitations, commercial sales, and commercial photography prohibited
- 90.22 Speed limits
- 90.23 Pedestrian walking trail restrictions; other prohibited activities
- 90.24 Possession, consumption, and sale of alcohol beverages prohibited
- 90.25 Possession or use of weapons prohibited
- 90.26 Prohibited persons
- 90.27 Removal or exclusion from a park or other recreational areas

- 90.99 Penalty

GENERAL PROVISIONS**§ 90.01 DEPARTMENT OF PARKS AND RECREATION.****(A) Establishment.**

(1) Under the provisions of I.C. 36-10-3-1 *et seq.*, commonly referred to as “The Park and Recreation Law,” there is hereby established a Department of Parks and Recreation composed of a Board of Parks and Recreation (hereinafter called the “Board”) and other personnel as the Board shall determine, and the provisions of the statutes are hereby adopted in their entirety.

(2) The Board shall be composed of 4 members. The Town Council shall select the regular members on the basis of their interest in and knowledge of parks and recreation but not more than 2 members shall be of the same political party.

(3) Upon the establishment of a Board, the terms of the members initially appointed shall be 1, 2, 3 and 4 years. Thereafter, as a term expires, each new appointment shall be for a 4-year term. All terms shall expire on the first Monday of January, but an appointee shall continue in office until his or her successor is appointed.

(4) At its first regular meeting in each year the Board shall elect a President and a Vice President. The Vice President shall have authority to act as the President of the Board during the absence or disability of the President.

(5) The Board shall have the general power to perform all acts necessary to acquire and develop sites and facilities to conduct programs as are generally understood to be park and recreation functions, including powers and duties listed in the Park and Recreation Law, and all acts amendatory thereof and supplemental thereto.

(6) The Board may create an advisory council and special committees composed of citizens interested in the problem of parks and recreation in accordance with I.C. 36-10-3-17 of the Park and Recreation Law, and all acts amendatory thereof and supplemental thereto.

(7) The Board shall prepare and submit an annual budget in the same manner as other departments of the city government. The Board may accept gifts, donations and subsidies for park and recreation purposes.

(8) The Board shall have the powers and shall exercise the functions given to it by law as the same now exist, and may hereafter be enacted, but subject to limitations and restrictions as the Town Council may, from time to time, by ordinance establish.

(B) State law applicable. The Board shall have the powers and duties mandated by state law as that law now exists and is hereafter amended, and specifically those now set out in I.C. 36-10-3-10.

(C) *Authority conditional.* Hereafter the Board may do the following, only upon application to and express approval from the Council in each specific circumstance, to the extent then permitted by other applicable authority:

- (1) Enter into contracts and leases for facilities and services;
- (2) Contract with persons for joint use of facilities for the operation of park and recreation programs and related services;
- (3) Contract with another board, a unit of government, or a school corporation for the use of park and recreation facilities or services;
- (4) Acquire and dispose of real and personal property;
- (5) Exercise the power of eminent domain under statutes available to municipalities;
- (6) Sell, lease, or enter into a royalty contract for the natural or mineral resources of land;
- (7) Engage in self-supporting activities as prescribed by I.C. 36-10-3-22 as it now exists or is hereafter amended;
- (8) Contract for special and temporary services and for professional assistance;
- (9) Delegate authority to perform ministerial acts in all cases except where final action of the Board is necessary;
- (10) Prepare, publish, distribute reports and other materials relating to department activities;
- (11) Sue collectively by its legal name, as the "Ossian Park and Recreation Board";
- (12) Invoke any legal, equitable, or special remedy for the enforcement of state law, a park or recreation ordinance, or the Board's own action taken under either;
- (13) Release and transfer, by resolution, a part of the area over which it has jurisdiction for park and recreational purposes to park authorities or another governmental unit for park and recreational purposes;
- (14) Lease any buildings or grounds belonging to the town and located within a park to a person for a period not to exceed 50 years.

(D) *Oversight.* Except as limited by the provisions of division (C) of this section, and the other requirements of applicable authority, the Board shall oversee the establishment and implementation of the operations of the Department.

(E) *Extended area of service.* Under the provision of Indiana law (I.C. 36-10-3-1 *et seq.*) the Ossian Department of Parks and Recreation has received a petition signed by more than 24 persons who reside in Jefferson Township outside of the boundaries of the Town of Ossian requesting the Ossian Department of Parks and Recreation to extend park and recreation services to benefit all residents of Jefferson Township. The Ossian Department of Parks and Recreation held a public hearing on May 11, 1992, at 7:00 p.m. at the Ossian Town Hall and approved the petition and recommends to the Ossian Town Council that it adopt this division. The Ossian Department of Parks and Recreation shall extend its parks and recreation services to include all of Jefferson Township as of January 1, 1993, if the same is approved by the eligible voters as part of the general election on November 3, 1992.

(Ord. 91-3-1, passed 5-14-1991; Am. Ord 95-5-2, passed 7-14-1992; Am. Ord. 91-3-1, passed 5-22-2006)

§ 90.02 ADOPTION OF PARKS AND RECREATION MASTER PLAN.

The Ossian Parks and Recreation Board, by unanimous declaration, does adopt the Ossian Parks and Recreation Master Plan 2005-2009 as its official plan for the growth and development of parks and recreation opportunities in Ossian, Indiana over the next 5 years. The Ossian Parks and Recreation Board is committed to an annual review and update of the goal and objectives of this Master Plan.

(Res. 2004, passed 12-6-2004)

§ 90.03 FEES AND CHARGES.

(A) Melching Park Pavilion rental:

(1) Four hours: \$25;

(2) All day: \$40.

(3) Rental of the Melching Park Pavilion does not include exclusive use of the restrooms. The restrooms shall remain open to the public.

(B) Deposit for Melching Park accessories: \$50 (refunded if returned in working order).

(C) Dog park annual access:

(1) Town resident: \$15;

(2) Wells County resident: \$20;

(3) All others: \$25.

(D) Tennis court reservation: \$25 per day.

(E) Baseball diamond reservation: \$100 per day.

(F) Concession stand: \$5 per day.

(G) Temporary electric hookup: \$5 per day.

(Ord. 17-8-1, passed 9-11-2017)

RULES AND REGULATIONS FOR PARKS AND OTHER RECREATIONAL AREAS

§ 90.10 PURPOSE.

The purpose of this subchapter is to establish reasonable and responsible rules for those individuals who use the parks and other recreational areas owned and operated by the town. This subchapter is necessary to insure that residents fully enjoy leisure and recreational activities available in town parks and other recreational areas and to protect the health and safety of persons using the parks and other recreational areas.

(Ord. 12-6-3, passed 6-25-2012)

§ 90.11 PARKS AND OTHER RECREATION AREAS DEFINED.

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

PARKS AND OTHER RECREATION AREAS. Includes but is be limited to any lands, buildings, structures, waters, parks, walking trails, drives, and roadways within all designated parks in the town that are under the jurisdiction and control of the town and the town Parks and Recreation Department. (Ord. 12-6-3, passed 6-25-2012)

§ 90.12 PARK HOURS.

No person shall enter or remain in any park or other recreational area in the town after the park or recreational area is closed to the public. Parks and other recreational areas in the town open to the public at dawn and close at dusk or at the conclusion of park approved activities, whichever is later. (Ord. 12-6-3, passed 6-25-2012) Penalty, see § 90.99

§ 90.13 VEHICLES LEFT IN PARKS AFTER CLOSING HOURS.

No person shall leave a vehicle within any park or other recreation area in the town after the location has closed to the public, except in cases of an emergency or with consent of the Town Manager or the town Police Department. The registered owner of a vehicle shall be responsible for the vehicle being within any park or other recreational area after the location has closed to the public. (Ord. 12-6-3, passed 6-25-2012) Penalty, see § 90.99

§ 90.14 DISPOSAL OF RUBBISH, REFUSE, AND GARBAGE.

No person shall take into, carry through, or put into any park or other recreation area any rubbish, refuse, garbage, or other material, except that any refuse or garbage resulting from properly using the parks and recreation areas shall be deposited in receptacles provided. Where receptacles or adequate receptacles are not provided, all such rubbish or waste shall be carried away from the park or recreation area by the person responsible for its presence and disposed of elsewhere. (Ord. 12-6-3, passed 6-25-2012) Penalty, see § 90.99

§ 90.15 ALTERING OR REMOVING SIGNS, STRUCTURES, FIXTURES, AND OTHER IMPROVEMENTS.

No person shall damage, deface, remove, or otherwise alter any sign, structure, fixture, or other improvement in any park or other recreational area in the town. The signs, structures, fixtures, or other improvements shall include but not be limited to any drive, roadway, walk, path, trail, wall, monument, statue, fountain, grill, table, bench, fence, gate, building, splash pad, and recreational equipment. (Ord. 12-6-3, passed 6-25-2012) Penalty, see § 90.99

§ 90.16 DISTURBING, INJURING, OR REMOVING WILDLIFE AND VEGETATION PROHIBITED.

(A) No person shall harass, hurt, trap, injure, remove, or otherwise disturb any wildlife located in any park or other recreational area in the town without the express written permission of the Town Council. Fishing must be catch and release only; all barbs must be removed from fishing hooks prior to using them. The term **WILDLIFE** shall mean any wild mammal, bird, fish, reptile, amphibian, mollusk, crustacean, or other wild animal or any part, product, egg, offspring, or the dead body or parts of the wild animal.

(B) No person shall harvest, cut, break, set afire, injure, remove, or otherwise disturb or damage any plant, flower, bush, tree, or other vegetation growing in any park or other recreational area in the town. No person shall attach any rope or cable or other contrivance to any tree, fence, railing, bridge, bench, or other structure.

(Ord. 12-6-3, passed 6-25-2012) Penalty, see § 90.99

§ 90.17 SWIMMING PROHIBITED.

No person shall swim or bathe in any waters or splash pads that are within any park or other recreational area.

(Ord. 12-6-3, passed 6-25-2012) Penalty, see § 90.99

§ 90.18 PET SUPERVISION REQUIRED.

No person shall bring any pet into a park or other recreational area in the town unless the person shall continuously supervise such pet, including preventing or promptly repairing any damages caused by the pet and picking-up and disposing of any excrement dropped by the pet upon any park property. All pets are to be kept on short leashes at all times.

(Ord. 12-6-3, passed 6-25-2012) Penalty, see § 90.99

§ 90.19 CAMPING PROHIBITED.

No person shall erect or maintain a tent or other shelter, or otherwise camp within any park or other recreational area in the town, without express written permission of the Town Council or the Town Manager.

(Ord. 12-6-3, passed 6-25-2012) Penalty, see § 90.99

§ 90.20 FIRES PROHIBITED.

No person shall build, kindle, maintain, or use a fire within any park or other recreational area in the town that is not utilizing a grill. Any fire shall be continuously monitored and under the care and direction of a competent person from the time it is kindled until it is extinguished.

(Ord. 12-6-3, passed 6-25-2012) Penalty, see § 90.99

§ 90.21 SOLICITATIONS, COMMERCIAL SALES, AND COMMERCIAL PHOTOGRAPHY PROHIBITED.

No person shall solicit, advertise, sell, photograph, or promote for sale any commercial product or event within any park or other recreational area in the town without the express written permission of the Town Manager. The person must conspicuously post such permission at the site of such activity. Distribution or posting of flyers, brochures, or other written material is prohibited in parks and other recreational areas within the town.

(Ord. 12-6-3, passed 6-25-2012) Penalty, see § 90.99

§ 90.22 SPEED LIMITS.

No person shall operate any vehicle or bicycle upon roadways within a park or other recreational area in the town in excess of the speed limit as posted, which in any event, is not to exceed 15 miles per hour, whichever is less.

(Ord. 12-6-3, passed 6-25-2012) Penalty, see § 90.99

§ 90.23 PEDESTRIAN WALKING TRAIL RESTRICTIONS; OTHER PROHIBITED ACTIVITIES.

(A) No person shall operate any motorized vehicle, motorized bicycle, motorized skateboard, or other similar device upon any walking trail designed for pedestrian use in the town, except that a person with a disability, as defined by the American With Disabilities Act, may operate the device specialized motorized equipment designed for their transportation. Motorized vehicles owned and operated by the town and/or its contractors and subcontractors are permitted on any walking trail designed for pedestrian use within town when doing work for the town or providing a service for the town.

(B) No person shall ride or allow any horse on any walking trail designed for pedestrian use or in any park or other recreational area in the town.

(C) No person shall ride a bicycle at an excessive speed or engage in any racing activity upon any walking trail designed for pedestrian use in the town.

(D) The following activities are prohibited within any parks or other recreational areas in the town:

- (1) Littering.
 - (2) Children under the age of 10 not accompanied by an adult.
 - (3) Use of park equipment, apparatus, structures, and buildings in any manner inconsistent with their intended purposes.
 - (4) Swimming in ponds, retention ponds, or other similar bodies of water.
 - (5) Enter an area posted as closed to the public.
 - (6) Engage in threatening, abusive, insulting, or indecent language or engage in any conduct or behavior tending to breach the public peace.
- (Ord. 12-6-3, passed 6-25-2012) Penalty, see § 90.99

§ 90.24 POSSESSION, CONSUMPTION, AND SALE OF ALCOHOL BEVERAGES PROHIBITED.

No person shall possess, consume, sell, offer for sale, barter, or exchange any alcoholic beverage in any park or other recreational area in the town. The term **ALCOHOLIC BEVERAGE** means a liquid or solid that is or contains one-half percent (0.5%) or more alcohol by volume, is fit for human consumption, and is reasonably likely or intended to be used as a beverage.

(Ord. 12-6-3, passed 6-25-2012) Penalty, see § 90.99

§ 90.25 POSSESSION OR USE OF WEAPONS PROHIBITED.

No person shall possess or use a weapon in any park or other recreational area in the town. The term **WEAPON** means any device, firearm, equipment, or other material that in the manner that it is used or is ordinarily used is readily capable of causing serious bodily injury. The term **FIREARM** means any weapon that is capable of or designed to or that may readily be converted to expel a projectile by means of an explosion. This prohibition excludes duly sworn town police officers or duly sworn police officers located in the state.

(Ord. 12-6-3, passed 6-25-2012) Penalty, see § 90.99

§ 90.26 PROHIBITED PERSONS.

No person who is required to register as a sexual offender by the state or any other state or who is listed on the state sex offender registry shall be permitted to enter or remain in any park or other recreational area as defined in § 90.11 of this subchapter.

(Ord. 12-6-3, passed 6-25-2012) Penalty, see § 90.99

§ 90.27 REMOVAL OR EXCLUSION FROM A PARK OR OTHER RECREATIONAL AREAS.

The Department of Park and Recreation, or its agent or designee (specifically including but not necessarily limited to any member of the town Police Department), shall have the right to remove and excluded from a park or other recreational area any person whom the Department, or its agent or designee, believes in its sole discretion to be acting in such a way as to endanger the health or safety of any other park user or to be acting in such a way as to prevent the use and enjoyment of the park by another park user. No person who is removed or excluded from the park shall reenter the park within 24 hours after the original removal or exclusion.

(Ord. 12-6-3, passed 6-25-2012) Penalty, see § 90.99

§ 90.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) (1) Any person who violates §§ 90.12 through and including § 90.23 or § 90.26 of this subchapter shall be fined \$25 for the first offense and \$50 for each offense thereafter. A separate offense shall be deemed committed for each day during which or on which a violation occurs or continues to occur.

(2) Any person who violates § 90.24 and 90.25 of this subchapter shall be fined \$100 for the first offense and \$200 for each offense thereafter. A separate offense shall be deemed committed for each day during which or on which a violation occurs or continues to occur.

(3) In addition to penalties contained herein, any person who damages park property is subject to payment of restitution in an amount equal to the town's cost to repair said damage.

(Ord. 12-6-3, passed 6-25-2012)

CHAPTER 91: NUISANCES; PUBLIC HEALTH AND SAFETY

Section

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- 91.01 Adoption of County Health Ordinance

Specific Town Provisions

- 91.15 Removal and disposal of abandoned, salvage and scrap vehicles
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Nuisances

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GENERAL PROVISIONS

§ 91.01 ADOPTION OF COUNTY HEALTH ORDINANCE.

The Wells County Health Ordinance is adopted and incorporated as part of this code of ordinances as fully as if set out at length herein.

SPECIFIC TOWN PROVISIONS**§ 91.15 REMOVAL AND DISPOSAL OF ABANDONED, SALVAGE AND SCRAP VEHICLES.**

(A) The chapter of Indiana Statutes entitled “Abandoned Motor Vehicles” (I.C. 9-22-1-1 *et seq.* and as it may hereafter be amended), is hereby adopted for application in the Town of Ossian.

(B) The charges for the towing of abandoned vehicles in the Town of Ossian shall be not more than \$50 per tow.

(C) The storage charge for abandoned vehicles in the Town of Ossian shall be not more than \$5 per day.

(D) The Town Council shall have the authority to amend the towing and storage charges from time to time and shall notify the Bureau of Motor Vehicles of amendments.

(E) The Town of Ossian may dispose of the abandoned vehicles or parts pursuant to the provisions of I.C. 9-22-1-1 *et seq.*

(F) An account to be known as the “Abandoned Vehicle Fund” is hereby established in accordance with I.C. 9-22-1-1 *et seq.*, to be funded and used according to that section.
(Ord. 92-1-2, passed 2-11-1992)

§ 91.16 WRECKED, NON-OPERATING OR ABANDONED VEHICLES.

(A) *Short Title.* This section shall hereafter be known and cited as the “Abandoned Vehicle Ordinance.”

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

ABANDONED. When used in conjunction with the term vehicle, means:

(a) Any vehicle located on public premises which does not have lawfully affixed thereto, or displayed thereon, a valid unexpired license plate permitting its operation upon the highways of the State of Indiana;

(b) Any vehicle which is parked or located on public premises continuously without being moved for a period of 7 days, except before the legal or temporary residence of the owner;

(c) Any vehicle parked or located on public premises illegally or in a manner so as to constitute a hazard or obstruction to the movement of pedestrians or other vehicle traffic on a public right-of-way, street or highway;

(d) Any vehicle that is over 5 years old and mechanically inoperable, and is left unattended on private premises in a location which is visible from public premises for more than 30 days;

(e) Any vehicle that has remained on private premises without the consent of the owner or person in control of the premises, for more than 48 hours;

(f) Any vehicle from which there has been removed the engine or transmission or differential or which is otherwise partially dismantled or inoperable and left unattended on private premises in a location visible from public premises or left unattended on public premises; and/or

(g) Any vehicle which has historical value is excluded from that part of this section relating to junked or inoperable vehicles.

BUREAU. The Bureau of Motor Vehicles of the State of Indiana.

COMMISSIONER. The commissioner of the Bureau.

DISPOSAL AGENT. Any firm or individual engaged in the business of converting vehicles and parts of vehicles into processed scrap or scrap metal.

OFFICER. Any regular member of the Indiana State Police, any Town Marshal or Town Marshal Deputy, or any regular member of the County Sheriff's Department.

OWNER. The last known record title holder to a vehicle according to the records of the Bureau under the provisions of I.C. 9-13-2.

PARTS. All component parts of a vehicle which are in a state of disassembly, or are assembled with other vehicle component parts, but which, in their state of assembly, do not constitute a complete vehicle.

PERSON. All natural persons, firms, partnerships and corporations.

PRIVATE PREMISES. All privately-owned property which is not classified within the definition of public premises.

PUBLIC AGENCY. The department of local government which is denominated the local responsibility for removal, storage and disposal of abandoned vehicles by ordinances of the Common Council, Town Council or County Commissioners.

PUBLIC PREMISES. Any public right-of-way, street, highway, alley, park or other state, county or municipally-owned property.

VEHICLE. Any motor vehicle, automobile, motorcycle, truck, semitrailer, truck tractor, bus, school bus, house car or motor bicycle.

(C) *Prohibition.* No person shall abandon his or her vehicle on any public premises or private premises in a location which is visible from public premises.

(D) *Removal and disposal.* The Wells County Police is the authorized agency assigned the responsibility for removing vehicles defined as abandoned under the provisions of this section and of I.C. 9-22.

(1) Any vehicle which under the standards established by I.C. 9-22 has an appraised value of less than \$200 shall be subject to removal, impoundment and sale by the public agency.

(2) After making a reasonable effort to ascertain the owner or persons who may be in control of the abandoned vehicle by inquiring of other persons in the neighborhood where the abandoned vehicle is located, the vehicles shall be tagged by a police officer with a notice affixed in a prominent place on the vehicle and the tag which shall be prepared by the Police Department shall contain the following information:

(a) That the vehicle or parts are considered abandoned;

(b) That the vehicle or parts will be removed 7 days thereafter, impounded and subsequently disposed of;

(c) That the owner will be held responsible for all costs incidental to the removal, storage and disposal, and if not paid, the owner's registration privileges will be suspended;

(d) That the owner may avoid costs or suspension of registration privileges by removal of the vehicle or parts within 7 days; and

(e) The date, officer's name and the address and telephone number of the public agency to contact for information.

(3) No impounded vehicle shall be sold by the public agency prior to the expiration of 15 days from the date the public agency mails a written notice to the owner advising him or her that his or her vehicle has been impounded and must be removed from the impounding facility by the owner within 15 days of the date of mailing the notice or the public agency will proceed to dispose of the vehicle by sale to a disposal agent.

(4) Any vehicle which under the standards established by I.C. 9-22 has an appraised value of more than \$200 shall be subject to removal, impoundment and sale by the public agency.

(5) After making a reasonable effort to ascertain the owner or persons who may be in control of the abandoned vehicle by inquiring of other persons in the neighborhood where the abandoned vehicle is located, vehicles shall be tagged by a police officer with a notice affixed in a prominent place on the vehicle and the tag which shall be prepared by the Police Department shall contain the following information:

(a) That the vehicle or parts are considered abandoned;

(b) That the vehicle or parts will be removed 7 days thereafter, impounded and subsequently disposed of;

(c) That the owner will be held responsible for all costs incidental to the removal, storage and disposal, and if not paid, the owner's registration privileges will be suspended;

(d) That the owner may avoid costs or suspension of registration privileges by removal of the vehicle or parts within 7 days; and

(e) The date, officer's name and the address and telephone number of the public agency to contact for information.

(6) No impounded vehicle shall be sold by the public agency prior to the expiration of 30 days from the date the public agency mails a written notice by certified mail to the owner advising him or her that his or her vehicle has been impounded and must be removed from the impounding facility by the owner within 30 days of the date of mailing the notice or the public agency will proceed to dispose of the vehicle by sale to a disposal agent.

(E) *Appraisal*. Within 5 days after removal of an abandoned vehicle to a storage area, the vehicle shall be appraised by an Appraisal Board which shall be composed of persons appointed by the County Commissioners.

(F) *Final disposal*. The final disposal of vehicles valued at either over \$200 or under \$200 shall be in accordance with the provisions of I.C. 9-13-2, 9-22, which statute shall be appended hereto and made a part of this section.

(G) *Limitation on cost and repayment to owner of excess proceeds of sale over all costs incident to removal*. In no event shall the owner of the motor vehicle be charged for towing or removing the vehicle a sum in excess of \$15, nor shall the cost of storage exceed the sum of \$1 per day. The storage charges shall be limited to the actual number of days of storage, not to exceed 15 days. If the proceeds of sale exceed all costs incident to removal, storage and disposal of the vehicle, the Chief Fiscal Officer of the county shall repay the excess to the owner upon his or her demand from the Junk Vehicle Fund established under division (H) below.

(H) *Junk Vehicle Fund*. There is hereby created the County Junk Vehicle Fund which shall be a revolving fund, and all monies paid to the county for the cost of removal, storage and disposal of abandoned vehicles shall be placed in the fund and in no other place. The fund shall also have added to it monies as may be appropriated by the County Commissioners, and the monies shall not revert, but shall remain in the Junk Vehicle Fund.

(Ord. 1-1974, passed 4-17-1974)

§ 91.17 LOUD NOISE.

(A) This section shall be known and designated as the Noise Ordinance.

(B) It shall be a violation of this section to produce or cause to be produced any noise that by the manner of its productions or its volume disturbs the peace or quiet enjoyment of any person and is audible at a distance of 30 feet or greater.

(C) The following shall be exempted from the prohibitions set forth in this section:

(1) Sounds produced by sirens of authorized emergency vehicles;

(2) Sounds produced by lawn mowers, garden tractors and similar home power tools when properly muffled and produced between the hours of 7:00 a.m. and 10:30 p.m.;

(3) Sounds produced by burglar alarms or other warning devices when properly installed on publicly or privately owned property, provided that the cause of alarm or warning device sound is investigated and turned off within a reasonable period of time;

(4) Sounds produced in connection with celebrations on legal holidays;

(5) Sounds produced in connection with permitted parades, festivals or concerts between the hours of 7:00 a.m. and 12:00 a.m.;

(6) Sounds produced in connection with the actual performance of athletic events and practices related to them;

(7) Sounds produced in connection with the performance or practice of a band, orchestra or choir organized and maintained as part of the curriculum of a publicly or privately operated educational institution;

(8) Sounds produced for the purpose of alerting persons to the existence of an emergency, or for the performance of emergency work;

(9) Sounds produced in connection with normal conduction of a legally established non-transient business when sounds are customary, incidental and within the normal range appropriate for that use; and

(10) Sounds produced in connection with religious practice, function or celebration.

(Ord. 98-9-1, passed 11-9-1998)

Cross-reference:

Violation of this section subject to fine by the Ordinance Violation Bureau, see § 35.04

§ 91.18 DISCHARGE OF GUNS.

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

FIREARM. Any weapon which can expel a projectile with deadly force by means of an explosion.

(B) It shall be unlawful for any person to discharge or assist in discharging any firearm within the corporate limits of the Town of Ossian, Wells County, Indiana.

(C) This section shall not apply to the discharge of firearms by proper officials engaged in their official duties, or by members of the armed forces of the United States or the State of Indiana; or by persons on the premises of a licensed shooting gallery or any firearms dealer having a regular place of business and facilities for the testing and sighting in of guns, nor any shooting or gun club using facilities for either indoor or outdoor shooting; or any private individual using facilities for indoor shooting on his or her property or the discharge of firearms or cannon with the permission of the Police Chief, in commemoration of an important event, or in the salute of any deceased person, or any duly organized veterans groups in conducting any portion of a deceased veteran's funeral. An individual acting in self-defense does not violate this section.

(D) This section may be prosecuted by the prosecutor of Wells County or by the Town of Ossian Attorney.

(Ord. 03-5-1, passed 7-14-2003)

NUISANCES**§ 91.35 PURPOSE; ADMINISTRATION.**

It is the purpose of this subchapter to protect the public safety, health and welfare and enhance the environment of the people of the town by making it unlawful to allow any material growth of weeds, grass or other rank vegetation to exist and that it is further unlawful to maintain a public nuisance. This subchapter is to be administered by the Council's duly authorized representative. It is not Council's intent to include within its definition of public nuisance land that is left mostly in its natural condition or farm fields.

(Ord. 2007-8-3, passed 9-10-2007)

Cross-reference:

Violation of this subchapter subject to fine by the Ordinance Violation Bureau, see § 35.04

§ 91.36 INCORPORATION OF STATE LAW.

This subchapter, adopted in accordance with I.C. 36-7-10.1, incorporates the provisions of I.C. 36-7-10.1 as they now exist and are hereafter amended. This subchapter further incorporates the requirements of I.C. 36-1-6-2 as it now exists and is hereafter amended.
(Ord. 2007-8-3, passed 9-10-2007)

§ 91.37 AUTHORITY TO MAKE INSPECTIONS.

All officers and employees of the town shall report the existence of nuisances to the town's duly authorized representative. For this purpose, the representative designated by the Council shall have the authority to visit, enter into or upon any property or premises within the limits of the town in accordance with the requirements of other applicable law to ascertain and discover any nuisance and to make examination thereof.
(Ord. 2007-8-3, passed 9-10-2007)

§ 91.38 DEFINITIONS.

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

NUISANCE. In addition to what is declared in this subchapter to be a public nuisance, those offenses which are known to the common law and the state statutes as a public nuisance. Whenever the word **NUISANCE** is used in this subchapter, it refers to a public nuisance.

OWNER. The record owner and any of record contract purchaser of the real estate, all as shown by the records in the County Courthouse.

RANK VEGETATION. Plant life which grows excessively and unmanageably upon the land.

WEED. A plant held to have little or no material public value, which tends to overgrow or choke out more desirable plants, and is usually growing, or has the potential to grow, plentifully and detrimentally upon the land.
(Ord. 2007-8-3, passed 9-10-2007)

§ 91.39 CONDITIONS CONSTITUTING PUBLIC NUISANCE.

(A) In addition to what is declared in this subchapter to be a public nuisance, those offenses which are known to the common law and the statutes of Indiana as a public nuisance may, when found to exist within the town limits, be treated as such and be proceeded against as provided in this town's ordinances, or in accordance with any other provisions of law.

(B) No owner, occupant, tenant, or any other person having a substantial interest in any improved or unimproved real property within the town, or any agent thereof, shall permit or allow to remain on or within that property or upon abutting public ways any materials, trash, garbage, debris, or any other matter which is detrimental to the public health, comfort, safety, or the aesthetic well-being of the community.

(C) The following conditions, but not limited only to those, shall constitute public nuisances for the purpose of this subchapter:

- (1) Litter.
- (2) Fallen trees, stumps, or dead trees.
- (3) Boxes, appliances, furniture, household items, tires, tools, fixtures, and long term storage of construction material.
- (4) Demolition remains.
- (5) Open excavations, uncovered or improperly covered holes, whether lined or unlined, and dirt piles on any open or unfenced real property, including open foundations.
- (6) Dressing of poultry or rabbits.
- (7) Structure defaced with paint or wording.
- (8) Any wastewater, filth, offal, garbage, trash, rubbish, animal waste, or human excrement which is deposited, allowed, or caused to be upon any property.
- (9) Any substance which is caused or permitted to flow onto or be deposited upon any public property or public way, except natural surface water drainage.
- (10) The erection of a dam or any other obstruction by a private party which prevents the flow of water and causes it to collect or pool upon any public property.
- (11) Any dead animal.
- (12) Any real or personal property which is infected with contagious disease and is likely to cause an imminent health hazard.
- (13) The placing or accumulation on or within any real or personal property, or the permitting of same, of any matter which attracts or may attract rodents, insects, or animals in such a manner as to create a health hazard or unsanitary or dangerous condition.

(14) Any real or personal property used as a place of residence or habitation for sleeping that is maintained in such a way as to be dangerous or detrimental to life or health due to the lack of or defects in water, drainage, heating, plumbing, or ventilation.

(15) Any dilapidated or condemned building, structure, or dwelling, or remains thereof, so out of repair that it constitutes a fire hazard liable to catch on fire or communicate fire to surrounding properties.

(16) Any noxious or repugnant odor, smoke, dust, or noise that emits from the premises into the surrounding atmosphere which created an uncomfortable condition to surrounding properties.

(17) The storage of explosive, combustible, or other flammable material which creates a safety or health risk.

(18) Any trees, shrubbery, weeds, snow, fences, or other material which obstruct public ways or cause a visual barrier for vehicular traffic.

(19) Any junk automobiles, broken concrete, scrap metal, or automobile parts.

(20) Any growth of weeds, grass, or other rank vegetation which is either:

(a) Neglected, disregarded or not adequately managed or controlled, cut, mown, or removed;

(b) Has attained a height of 8 inches or more; or

(c) Is actually or imminently detrimental to the public health, safety, or welfare.

(Ord. 2007-8-3, passed 9-10-2007) Penalty, see § 10.99

§ 91.40 NOTICE OF VIOLATION.

Violations of the requirements of this subchapter shall be addressed through the town's duly authorized representative as follows:

(A) Weeds and rank vegetation.

(1) When a violation of the requirements of § 91.39(C)(20) is found to exist, the town's representative shall serve written notice to abate upon owner at the last address of the owner for the property as indicated in the records of the County Auditor on the date of the notice, granting a minimum of 5 calendar days to abate the nuisance, by:

- (a) First class mail; or
- (b) Certified mail, return receipt requested, together with a copy via first class mail;
- (c) Utilizing an equivalent service permitted under I.C. 1-1-7-1, to:
 - 1. The owner of record of real property with a single owner; or
 - 2. At least 1 of the owners of real property with multiple owners.

(2) That notice shall contain:

- (a) The address and telephone number of the Clerk-Treasurer;
- (b) The penalty for failure to abate the nuisance;
- (c) A conspicuous notification that if the weeds, grass or rank vegetation are not abated within 5 calendar days of that notice, the town may abate the nuisance and seek recovery of its costs; and
- (d) A conspicuous statement advising the owner of her appeal rights pursuant to § 91.45(A).

(B) *All other public nuisances.*

(1) When any other public nuisance, as defined in § 91.39, excluding those public nuisances addressed in division (A) above, is found to exist, the town's representative shall notify the owner and persons known to have a substantial interest in the property by certified mail, return receipt requested, together with a copy sent via first class mail, to abate the public nuisance.

(2) The notice shall state the following:

- (a) The address and telephone number of the Clerk-Treasurer;
- (b) The nature of the nuisance;
- (c) The penalty for failure to abate;
- (d) The period of time allowed to abate, which, pursuant to I.C. 36-1-6-2, which shall not be less than 10 days nor more than 60 days; and
- (e) A conspicuous statement advising the owner of her appeal rights pursuant to § 91.45(A).

(C) *Emergency exception.* When a public nuisance is found to exist which consists of the following, then the notice requirements of division (B) above need not be followed and the town may abate the nuisance immediately (§ 91.42) and issue a citation (§ 91.41):

(1) Solid waste which could spread if not removed; or

(2) Dangerous items which pose a harm to the public.

(Ord. 18-9-2, passed 9-24-2018)

§ 91.41 CITATION FOR FAILURE TO ABATE NUISANCE AND HABITUAL VIOLATIONS.

(A) *Weeds and rank vegetation.* The town's representative may cause to be issued a citation together with a penalty pursuant to division (D) if, after the expiration of the time period provided in the notice specified in § 91.40(A), it determines that the owner has failed to abate the nuisance.

(B) *All other public nuisances.* The town's representative may cause to be issued a citation together with a penalty pursuant to division (D) if, after the expiration of the time period provided in the notice specified in § 91.40(B), it determines that the owner has failed to abate the nuisance.

(C) *Emergency exception.* A nuisance exists which creates a safety or health hazard requiring immediate abatement in order to protect public safety or health pursuant to § 91.40(C); the town, in its sole discretion, may act to abate that nuisance. The town may abate the nuisance in addition to the issuance of a citation.

(D) *Civil penalties.* Anyone violating any provision of this subchapter shall be penalized \$25 for the first offense, \$50 for the second offense, and \$100 for all subsequent offenses. Each subsequent day of violation shall be considered a separate and chargeable offense.

(E) *Habitual violations.* Whenever the town representative determines that the owner has committed a habitual offense (§ 91.38) a citation may be issued to that owner assessing a penalty of \$250 for each habitual offense in addition to the notice of violation. The citation for a habitual violation shall not alter the time afforded the owner to abate the nuisance prior to the town abating the nuisance conditions pursuant to § 91.42 and assessing the costs pursuant to § 91.44.

(Ord. 18-9-2, passed 9-24-2018)

§ 91.42 ABATEMENT OF NUISANCE BY TOWN.

(A) Upon failure, neglect, or refusal of any party to comply with the notice to abate, in addition to the issuance of a citation under § 91.41, the town's representative in the name of the Council may cause the town to abate by any reasonable means the public nuisance.

(B) *Continuous abatement notice—weeds and rank vegetation.* If the initial notice required under § 91.40(A) was provided by first class mail; certified mail, return receipt requested; or an equivalent service permitted under I.C. 1-1-7-1, at the last address of the owner for the property as indicated in the records of the County Auditor on the date of the notice, then a continuous abatement notice may be posted at the property at the time of abatement. The continuous abatement notice shall serve as notice to the owner that each subsequent violation during the same calendar year for which the initial notice of violation was provided may be abated by the Town without any additional notice to the owner, or at least 1 of the owners of real property with multiple owners, at the owner's expense, as provided in § 91.44.

(Ord. 18-9-2, passed 9-24-2018)

§ 91.43 INSTITUTION OF ENFORCEMENT ACTION.

An action for appropriate relief may be brought against an alleged violator in the County Superior Court.

(Ord. 2007-8-3, passed 9-10-2007)

§ 91.44 PROCEDURE FOR COLLECTION OF ABATEMENT AND ADMINISTRATIVE COSTS.

(A) *Notice of costs.* Upon completion of abatement by the town, its agents or contractors, a statement of costs shall be furnished to the Council. Thereafter, the town representative shall issue a bill to each person required to be provided a notice under § 91.40 for such abatement costs, including any administrative costs. That bill shall be delivered by certified mail, return receipt requested, together with a copy sent via first class mail, both sent to the owner's address as it appears in the records of the County Auditor. The owner shall pay the amount of the bill to the Clerk-Treasurer within 30 days of the date of that notice, unless within that 30-day period the owner notifies the town in writing of any objection to that bill (§ 91.45(C)).

(B) *Lien for unpaid abatement costs.*

(1) If that 30-day period has expired and either: (a) no timely objection to the bill has been made, or (b) the Council has disallowed any timely objection, and the bill is not paid in full; the town's representative shall prepare an instrument for each lot or parcel of real property on which the costs are delinquent. Said instrument shall specify the following:

(a) The name or names of the owner or owners of each lot or parcel of real property on which fees are delinquent;

(b) A description of the premises, as shown in the records of the County Auditor; and

(c) The amount of the delinquent abatement costs and the administrative fee.

(2) The town's representative shall record a copy of each list or each instrument with the County Recorder, who shall charge a fee for recording the list or instrument under the fee schedule established in I.C. 36-2-7-10 and the amount of a lien shall be placed on the tax duplicate by the County Auditor. The total amount, including any accrued interest, shall be collected in the same manner as delinquent taxes are collected and shall be disbursed to the general fund of the town.

(C) *Lien unavailable.* Abatement costs shall not be enforceable as a lien against a subsequent owner of property unless the lien for the delinquent costs and penalty was recorded with the County Recorder before conveyance to the subsequent owner. If the property is conveyed before the lien is recorded, the town shall notify the person who owned the property at the time the fee became payable. The notice must inform the person that payment, including penalty fees for delinquencies, is due not later than 15 days after the date of the notice. If payment is not received within 180 days after the date of the notice, the amount due may be considered a bad debt loss.

(Ord. 18-9-2, passed 9-24-2018)

§ 91.45 APPEAL OF NOTICE OF VIOLATION, CITATION OR ABATEMENT COSTS.

(A) *Appeal of notice of violation.* Within the time period specified for the notice provided pursuant to § 91.40, an owner or persons known to have a substantial interest in the property may notify the town in writing of any specific objection to that notice. No further abatement action shall be taken by the town until the Council acts on the timely filed objection.

(B) *Appeal of emergency exception citation.* In the event that the town abates a nuisance pursuant to § 91.40(C) and § 91.41(C), an owner or persons known to have a substantial interest in the property affected by the town's action may appeal the citation and abatement costs to the town within 30 days of the date of the citation.

(C) *Abatement costs.* Within the 30-day period specified in the notice of costs provided pursuant to § 91.44(A), the owner and/or persons known to have a substantial interest in the property may notify the town in writing of any objection to that bill. No further abatement action shall be taken by the town until the Council acts on the timely filed objection.

(Ord. 18-9-2, passed 9-24-2018)

CHAPTER 92: FIRE PREVENTION AND PROTECTION

Section

92.01 Burning of leaves

§ 92.01 BURNING OF LEAVES.

(A) No person, firm, corporation or other entities shall burn or cause to be burned any leaves within the Town of Ossian.

(B) Any person, firm, corporation or other entity violating the provision of this section shall, upon conviction, be fined in a sum not exceeding \$100, together with the court cost.

(C) Each day a violation is committed it shall be considered to be a separate offense and shall be punishable by the same fine for each day as set out above.

(D) This section shall not be considered to be a repeal of any existing section of the Town of Ossian.

(E) This section shall be in full force and effect after final adoption by the Town Council of the Town of Ossian, Indiana.

(F) The Prosecuting Attorney of Wells County is authorized to prosecute for violations of this section.

(Ord. 99-7-1, passed 7-12-1999)

CHAPTER 93: FAIR HOUSING

Section

- 93.01 Policy statement
- 93.02 Definitions
- 93.03 Unlawful practice
- 93.04 Discrimination in the sale or rental of housing
- 93.05 Residential real estate transactions
- 93.06 Provision of brokerage services
- 93.07 Interference, coercion or intimidation
- 93.08 Prevention of intimidation
- 93.09 Exemptions
- 93.10 Administrative enforcement of chapter

§ 93.01 POLICY STATEMENT.

It shall be the policy of the Town of Ossian to provide, within constitutional limitation, for fair housing throughout its corporate limits as provided for under the federal Civil Rights Act of 1968, as amended, the federal Housing and Community Development Act of 1974, as amended and I.C. 22-9.5-1 *et seq.*

(Ord. 8-2-01, passed 8-13-2001)

§ 93.02 DEFINITIONS.

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

AGGRIEVED PERSON. Includes any person who, according to I.C. 22-9.5-2-2:

- (1) Claims to have been injured by a discriminatory housing practice; or
- (2) Believes that the person will be injured by a discriminatory housing practice that is about to occur.

COMMISSION. According to I.C. 22-9.5-2-3, the Indiana Civil Rights Commission created pursuant to I.C. 22-9-1-4 *et seq.*

COMPLAINANT. According to I.C. 22-9.5-2-4, a person, including the Commission, who files a complaint under I.C. 22-9.5-6.

DISABILITY.

(1) With respect to a person:

(a) A physical or mental impairment which substantially limits 1 or more of a person's major life activities;

(b) A record of having an impairment;

(c) Being regarded as having an impairment;

(d) An impairment described or defined pursuant to the federal Americans with Disabilities Act of 1990; and/or

(e) Any other impairment defined under I.C. 22-9.5-2-10.

(2) The term shall not include current illegal use of or addictions to a controlled substance as defined in § 802 of Title 21 of the United States Code (I.C. 22-9.5-2-10(b)); nor does the term include an individual solely because that individual is a transvestite (I.C. 22-9.5-2-10(c)).

Statutory reference:

*The statute cited in the definition of **DISABILITY**, I.C. 22-9.5-2-10, has been repealed. The state legislature has not provided a replacement in the related statutes.*

DISCRIMINATORY HOUSING PRACTICE. An act that is unlawful under §§ 93.04 through 93.08 or I.C. 22-9.5-5.

DWELLING. Any building, structure or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by 1 or more families; or any vacant land which is offered for sale or lease for the construction or location of a building, structure or part of a building or structure that is occupied as, or designed or intended for occupancy as a residence by 1 or more families. (I.C. 22-9.5-2-8)

FAMILIAL STATUS. Discrimination on the basis of familial status means discrimination because the person is (1) pregnant; (2) domiciled with an individual under the age of 18 years of age in regard to whom the person is (a) the parent or legal custodian or (b) has the written permission of the parent or legal custodian for domicile with that person; or (3) in the process of obtaining legal custody of an individual younger than 18 years of age.

FAMILY. Includes a single individual (I.C. 22-9.5-2-9), with the status of a family being further defined in **FAMILIAL STATUS**.

PERSON. Includes 1 or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, non-incorporated organizations, trustees, trustees in cases under U.S.C. Title 11, receivers and fiduciaries (I.C. 22-9.5-2-11).

TO RENT. To lease, to sublease, to let and otherwise to grant for a consideration the right to occupy the premises not owned by the occupant (I.C. 22-9.5-2-13).
(Ord. 8-2-01, passed 8-13-2001)

§ 93.03 UNLAWFUL PRACTICE.

Subject to the provisions of division (A) below, § 93.09 and I.C. Title 22-9.5-3, the prohibitions against discrimination in the sale or rental of housing set forth in I.C. Title 22-9.5-5-1 and in § 93.04 shall apply to all dwellings except as exempted by division (A) below and I.C. Title 22-9.5-3.

(A) Other than the provisions of this section, nothing in § 93.04 shall apply to:

(1) Any single-family house sold or rented by an owner where the private individual owner does not own more than 3 single-family houses at any 1 time; provided that in the sale of a single-family house by a private individual owner not residing in the house at the time of sale or exemption shall apply only to 1 sale within any 24-month period. The private individual owner may not own any interest in, nor have owned or reserved on his or her behalf, title to or any right to all or a portion of the proceeds from the sale or rental of more than 3 single-family houses at any 1 time. The sale or rental of any single-family house shall be excepted from application of this section only if the house is sold or rented:

(a) Without the use in any manner of the sales or rental facilities or services of any real estate broker, agent or salesperson, or any person in the business of selling or renting dwellings, or of any employee or agent of any broker, agent or salesperson, or person; and

(b) Without the publication, posting or mailing, after notice of advertisement or written notice in violation of this chapter, but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstracters, title companies and other professional assistance as necessary to perfect or transfer this title; or

(2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than 4 families living independently of each other, if the owner actually maintains and occupies 1 of the living quarters as his or her residence.

(B) For the purposes of division (A) above, a person shall be deemed to be in the business of selling or renting dwellings if:

(1) He or she has, within the preceding 12 months, participated as principal in 3 or more transactions involving the sale or rental of any dwelling or any interest therein;

(2) He or she has, within the preceding 12 months, participated as agent, other than in the sale of his or her own personal residence, in providing sales or rental facilities or services in 2 or more transactions involving the sale or rental of any dwelling or any interest therein; or

(3) He or she is the owner of any dwelling unit designed or intended for occupancy by, or occupied by, 5 or more families.
(Ord. 8-2-01, passed 8-13-2001) Penalty, see § 10.99

§ 93.04 DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING.

As made applicable by § 93.03 and except as exempted by §§ 93.03(A) and 93.09, it shall be unlawful:

(A) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, disability, familial status or national origin;

(B) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, disability, familial status or national origin;

(C) To make, print or publish, or cause to be made, printed or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, sex, disability, familial status or national origin, or an intention to make any preference, limitation or discrimination;

(D) To represent to any person because of race, color, religion, sex, disability, familial status or national origin that any dwelling is not available for inspection, sale or rental when the dwelling is in fact so available;

(E) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or perspective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, disability, familial status or national origin;

(F) (1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of:

(a) That buyer or renter;

(b) A person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or

(c) Any person associated with that person.

(2) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with a dwelling, because of a disability of:

(a) That person;

(b) A person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or

(c) Any person associated with that person.

(3) For purposes of this section, **DISCRIMINATION** includes:

(a) A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by a person if modifications may be necessary, to afford that person full enjoyment of the premises except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modifications, reasonable wear and tear excepted;

(b) A refusal to make reasonable accommodations in rules, policies, practices or services when accommodations may be necessary to afford the person equal opportunity to use and enjoy a dwelling; or

(c) In connection with the design and construction of covered multi-family dwellings for first occupancy after the date that is 30 months after September 13, 1998, a failure to design and construct those dwellings in a manner so that:

1. The public use and common use portions of dwellings are readily accessible to and usable by disabled persons;

2. All the doors designed to allow passage into and within all premises within dwellings are sufficiently wide to allow passage by disabled persons in wheelchairs; and

3. All premises within dwellings contain the following features of adaptive design:

a. An accessible route into and through the dwelling;

b. Light switches, electrical outlets, thermostats and other environmental controls in accessible locations; and

c. Reinforcements in bathrooms so that an individual in a wheelchair can maneuver about the space.

(4) Compliance with the appropriate requirement Americans with Disabilities Act of 1990 and of the American National Standard for Buildings and Facilities providing accessibility and usability for physically disabled people (commonly cited as AANSI A117.1) suffices to satisfy the requirements of division (F)(3)(c)3.

(5) Nothing in this section requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals of whose tenancy would result in substantial physical damage to the property of others.

(Ord. 8-2-01, passed 8-13-2001) Penalty, see § 10.99

§ 93.05 RESIDENTIAL REAL ESTATE TRANSACTIONS.

(A) It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available a like transaction, or in the terms or conditions of a transaction, because of race, color, religion, sex, disability, familial status or national origin.

(B) As used in this section, the term **RESIDENTIAL REAL ESTATE-RELATED TRANSACTION** means any of the following:

(1) The making or purchasing of loans or providing other financial assistance:

(a) For purchasing, constructing, improving, repairing or maintaining a dwelling; or

(b) Secured by residential real estate; and/or

(2) The selling, brokering or appraising of residential real property.

(C) Nothing in this chapter prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, disability or familial status.

(Ord. 8-2-01, passed 8-13-2001) Penalty, see § 10.99

§ 93.06 PROVISION OF BROKERAGE SERVICES.

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers organization or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against him or her in the terms or conditions of access, membership or participation, on account of race, color, religion, sex, disability, familial status or national origin.

(Ord. 8-2-01, passed 8-13-2001) Penalty, see § 10.99

§ 93.07 INTERFERENCE, COERCION OR INTIMIDATION.

It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having

aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by §§ 93.03 through 94.06 above.
(Ord. 8-2-01, passed 8-13-2001)

§ 93.08 PREVENTION OF INTIMIDATION.

Whoever, whether or not acting under color or law, by force or threat of force willfully injures, intimidates or interferes with, or attempt to injure, intimidate or interfere with:

(A) Any person because of his or her race, color, religion, sex, disability, familial status or national origin and because he or she is or has been selling, purchasing, renting, financing, occupying or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization or facility relating to the business of selling or renting dwellings; or

(B) Any person because he or she is or has been, or in order to intimidate a person or any other person or any class of persons from:

(1) Participating, without discrimination on account of race, color, religion, sex, disability, familial status or national origin, in any of the activities, services, organizations or facilities described in division (A) above; or

(2) Affording another person or class of persons opportunity or protection so to participate;
or

(C) Any citizen because he is or has been, or in order to discourage a like citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, disability, familial status or national origin, in any of the activities, services, organizations or facilities described in division (A), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to participate shall be fined according to local, state and federal law; and if bodily injury results shall be fined not more than \$10,000 or imprisoned not more than 10 years, or both; and if death results shall be subject to imprisonment for any term of years or for life.

(Ord. 8-2-01, passed 8-13-2001)

§ 93.09 EXEMPTIONS.

(A) Exemptions defined or set forth under I.C. Title 22-9.5-3 *et seq.* shall be exempt from the provisions of this chapter to include those activities or organizations set forth under divisions (B) and (C) below.

(B) Nothing in this chapter shall prohibit a religious organization, association or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a

religious organization, association or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to those persons, unless membership in the religion is restricted on account of race, color or national origin. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which owns or operates for other than a commercial purpose, from limiting the rental or occupancy of lodging to its members or from giving preference to its members.

(C) (1) Nothing in this chapter regarding familial status shall apply with respect to housing for older persons.

(2) As used in this section, ***HOUSING FOR OLDER PERSONS*** means housing:

(a) Provided under any state or federal program that the Secretary of the Federal Department of Housing and Urban Development or the State Civil Rights Commission determines is specifically designed and operated to assist elderly persons (as defined in the state or federal program);

(b) Intended for, and solely occupied by, person 62 years of age or older; or

(c) Intended and operated for occupancy by at least 1 person 55 years of age or older per unit.

(Ord. 8-2-01, passed 8-13-2001)

§ 93.10 ADMINISTRATIVE ENFORCEMENT OF CHAPTER.

(A) The authority and responsibility for properly administering this chapter and referral of complaints hereunder to the Commissioner as set forth in division (B) below shall be vested in the Chief Elected Official of the Town of Ossian, Indiana.

(B) Notwithstanding the provisions of I.C. 22-9.5-4-8, the Town of Ossian, Indiana, because of lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under this chapter, herein elects to refer all formal complaints of violation of the sections of this chapter by complainants to the Indiana Civil Rights Commission for administrative enforcement actions pursuant to I.C. Title 22-9.5-6 and the Chief Elected Official of the Town of Ossian, Indiana, shall refer all complaints to the Commission as provided for under division (A) above to the Commission for purposes of investigation, resolution and appropriate relief as provided for under I.C. Title 22-9.5-6.

(C) All executive departments and agencies of the Town of Ossian, Indiana shall administer their departments, programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this chapter and shall cooperate with the Chief Elected Official and the Commission to further those purposes.

(D) The Chief Elected Official of the Town of Ossian, Indiana, or the Chief Elected Official's designee, shall provide information on remedies available to any aggrieved person or complainant requesting information.

(Ord. 8-2-01, passed 8-13-2001)

CHAPTER 94: ANIMALS

Section

- 94.01 Horses prohibited within town
- 94.02 Keeping and harboring animals

§ 94.01 HORSES PROHIBITED WITHIN TOWN.

(A) No person shall keep or maintain any horse, pony, mule or donkey of any kind within the town, except those presently legally maintained at this date.

(B) This section shall be deemed to be supplementary and in addition to, and not a repeal of, any existing ordinance of this Town of Ossian.

(Ord. 96-8-3, passed 8-13-1996) Penalty, see § 10.99

§ 94.02 KEEPING AND HARBORING ANIMALS.

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

AT LARGE. Off the premises of the owner and not under the control of the owner or some member of his or her immediate family or other authorized person either by leash or other means of control or containment.

OWNER. Any person, firm or corporation owning harboring or keeping an animal.

(B) No person shall keep or maintain any pig, hog, swine, cattle, sheep, fowl, llama or goat of any kind within the town.

(C) No person shall keep or maintain any horse, pony, mule or donkey of any kind within the town, except on property presently having an animal of this kind legally maintained at this date.

(D) No person shall keep within the town any pig sty, kennel, stable or other animal pen or shelter in a manner so as to create or cause any offensive or noxious smell or condition, or maintain or use any animal pen or shelter constructed in a manner so as to permit the contents of filth therein to run or wash upon the premises owned or occupied by another or upon any street or other public place.

(E) Any person who becomes apprised of the death of any animal owned by him or her within the town shall, within 6 hours thereafter, cause the same to be removed outside the limits of the town and buried, or disposed of so as not to become a nuisance. When an animal is killed by any other person than its owner, if the person so killing it is known, the owner shall not be compelled to remove it as provided above, but it shall be removed by the person killing it.

(F) (1) It shall be unlawful for any person to sell or offer for sale, raffle, offer or give as a prize, premium or advertising device, or display in any store, shop, carnival or other place, any chick, duckling, gosling or rabbit that has been dyed or otherwise colored artificially.

(2) It shall be unlawful for any person to sell or offer for sale, raffle or offer or give as a prize, premium or advertising device, any chicks, ducklings or goslings younger than 4 weeks of age in quantities of less than 12 birds to each individual person.

(3) All stores, shops, vendors and others offering chicks, ducklings or goslings for sale, or raffle, or as a prize, premium or advertising device, or displaying chicks, ducklings or goslings to the public, shall provide and operate brooders or other heating devices that may be necessary to maintain the chicks, ducklings or goslings in good health, and shall keep adequate food and water available to the birds at all times.

(G) The following conditions are hereby declared to be nuisances within the meaning of this section, and no person having ownership or custody of any animal or described herein shall:

(1) Keep any dog or other animal which by barking, howling, yelping or making any other noise disturbs the peace and quiet of any neighborhood;

(2) Allow any dog to chase, or keep any dog which chases automobiles or bicycles on streets or sidewalks;

(3) Allow or keep any dog, cat or other animal which destroys, defaces or damages shrubbery, lawns, flowers, gardens or other property;

(4) Allow or keep any dog or other animal which kills or injures sheep, cattle or any other domestic animal;

(5) Fail to confine any female dog or cat in heat in a closed building so that the animal cannot come into contact with another animal except for planned and supervised breeding; or

(6) Allow any animal under that person's control or authority to run at large in the town.

(H) The police or animal control personnel shall impound any animal found running at large and transfer the animal to the Bluffton/Wells County Animal Shelter and shall keep it until redeemed or otherwise disposed. The police or animal control personnel shall have the right to go upon private property to carry out the purpose of this chapter and to deputize others to assist them.

(I) Any animal which has bitten or attacked any person or any other domestic animal while at large shall be considered vicious and shall be impounded by the police and/or animal control personnel. No person shall keep or permit any vicious animal within the town unless the animal is secured by chain on the person's premises or muzzled to prevent it from biting. Any vicious animal found running at large may be destroyed without attempting to impound the same.

(1) Any animal owner whose animal has attacked a person or another domestic animal shall take precautions as may be necessary to ensure that the animal does not roam off the owner's premises and attack persons or animals. If a vicious animal continues to stray from its owner's premises and control, thereby causing a risk to persons and animals, any town police officer or animal control officer may, by petition to a court of appropriate jurisdiction, request that the animal be taken into custody, following which the court shall determine whether the animal is vicious and whether its owner's refusal or inability to restrain it constitutes a threat to the health, safety and welfare of the general public.

(2) If the court determines that a threat exists, it may make orders as may be necessary to alleviate the danger, including the destruction of the animal in question. In the case of destruction ordered by the court, the owner shall be not be entitled to any compensation for the taking of the animal.

(J) If any division, sentence, clause, phrase or portion of this section shall for any reason be held invalid or unconstitutional, by any court of competent jurisdiction, that portion shall be deemed a separate, distinct and independent provision, and the holding shall not affect the validity of the remaining portions thereunder.

(K) This section shall be deemed to be supplementary and in addition to, and not a repeal of, any existing ordinance of this Town of Ossian.

(L) Any action under this section may be commenced by the Town Attorney or the Wells County Prosecutor's Office.

(Ord. 96-11-3, passed 1-9-2006) Penalty, see § 10.99

Cross-reference:

Violation of this section subject to fine by the Ordinance Violation Bureau, see § 35.04

CHAPTER 95: STREETS AND SIDEWALKS

Section

- 95.01 Maintenance of trees in walkways and street rights-of-way
- 95.02 Replacement and maintenance of sidewalks
- 95.03 Obstructions interfering with traffic safety

- 95.99 Penalty

Cross-reference:

Special ordinances affecting streets, alleys and public ways, see Table of Special Ordinances I

§ 95.01 MAINTENANCE OF TREES IN WALKWAYS AND STREET RIGHTS-OF-WAY.

(A) The owner of property on which a public street is located is ultimately responsible for the removal of trees and other vegetation in that public right-of-way and for the maintenance of trees and vegetation in a condition that does not pose a hazard to the public health and safety or inhibit passage along the public right-of-way.

(B) At any time, an owner may be called upon by the Ossian Town Council or an agent of the Ossian Town Council to carry out these responsibilities of removal and/or maintenance.

(C) This resolution is an extension of the Town of Ossian's previous policy of trees, vegetation and landscaping located in the street rights-of-way and the utility easements are the property owners' responsibilities approved by unanimous Council vote at the August 9, 1999, public Council meeting. (Res. 03-11-1, passed 11-10-2003)

§ 95.02 REPLACEMENT AND MAINTENANCE OF SIDEWALKS.

(A) The responsibility for care, maintenance and repairs of sidewalks located within the town is hereby deemed that of property owners abutting any sidewalk.

(B) Property owners whose land abuts any sidewalk shall keep the sidewalk in reasonably safe condition, and shall maintain and repair the sidewalk at their own expense as and when needed, and also with 30 days after being notified by the Town of Ossian that the sidewalk is in need of repairs.

(C) Property owners whose land abuts any sidewalk and that sidewalk has been removed shall replace that sidewalk with concrete of a size no less than the removed sidewalk.

(D) At any time, property owners whose land abuts any sidewalk may be called upon by the Ossian Town Council or an agent of the Town of Ossian to carry out these responsibilities. If so notified, the property owners shall have 30 days from the time of receiving the notice to complete the required work.

(E) This section shall be deemed to be supplementary and in addition to, and not a repeal of, any existing ordinance of this Town of Ossian.

(Res. 03-11-2, passed 11-10-2003)

§ 95.03 OBSTRUCTIONS INTERFERING WITH TRAFFIC SAFETY.

(A) It shall be unlawful to construct, maintain or permit to remain any obstruction on a street right-of-way.

(B) No tree shall be planted in a location so that it will at any time block the view of drivers of vehicles approaching an intersection.

(C) Trees and shrubs which have branches projecting into the public right-of-way, including public sidewalks, public places or public highways, shall be kept trimmed to prevent interference with any person or vehicle lawfully using the right-of-way.

(D) No person shall fail, neglect or refuse to properly remove an obstruction so owned or occupied by him or her within 5 days after receiving notice in writing from the Clerk-Treasurer that the obstruction exists and that he or she is ordered to remove the obstruction. Notice as herein provided for shall be served by a law enforcement officer upon the landowner, lessee or occupant of the real estate if the person is a resident, or registered mail addressed to his or her last known address if the person is a non-resident. In the event that the law enforcement officer is unable to locate an owner who is known to be a resident, service shall be made in a manner which is most likely to bring to the attention of the landowner that he or she is being required to take action under the terms of this section. Service in these cases shall include, but shall not be limited to, the posting of a copy of the notice on the premises affected thereby.

(E) (1) If a landowner, lessee or occupant fails to remove the obstruction within the time prescribed, the Town of Ossian may hire independent labor or employ its own agents to remove the obstruction.

(2) The Clerk-Treasurer shall make a certified statement of the actual cost incurred by the town in the removal of the obstruction. The statement of costs shall be delivered to the owner of the property by a law enforcement officer of the Town of Ossian (or by registered mail in the case of a non-resident owner), and the owner shall pay the amount to the Clerk Treasurer within 10 days after receiving the statement.

(3) In the event of the failure of a landowner to pay the amount within the prescribed time, a certified copy of the statement of costs shall be filed in the office of the Auditor of Wells County.

(4) The Auditor of Wells County shall then place the amount claimed by the Town of Ossian on the tax duplicate against the property affected by the work, and the amount shall be collected as taxes and shall be disbursed to the General Fund of the Town of Ossian.

(F) This section may be enforced by either the Wells County Prosecutor's office or the Town of Ossian's Attorney.

(G) It shall be the duty of the Town Council to establish policies and regulations concerning the enforcement of this section, including, but not limited to, the methods and rates of pay to be allowed to those individuals who perform services on behalf of the Town of Ossian under the terms of this section.

(Ord. 03-5-2, passed 6-9-2003)

§ 95.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject § 10.99.

(B) Any person, firm or corporation who, upon receipt of the notice referred to in § 95.03(D) above, fails, refuses or neglects to cut or remove the obstruction from the roadway or the premises under his or her control within 5 days from the receipt of the notice shall be subject to a civil fine of not less than \$5 nor more than \$200 for each violation; and a separate violation shall be deemed committed on each day during or on which any obstruction to the view is permitted to remain after notice from the Police Department, or any official of the Town of Ossian, to remove the same. The civil fine provided for by this division shall be in addition to any liability imposed under § 95.03(E), and the prosecution of anyone under the terms of this section shall in no way affect the right of the Town of Ossian to remove the obstruction and make the cost of removal, a lien upon the real estate as provided for by § 95.03(E).
(Ord. 03-5-2, passed 6-9-2003)

CHAPTER 96: STRUCTURE ADDRESS NUMBERING

Section

- 96.01 Uniform system for structure address numbering
- 96.02 Structure address numbering responsibility
- 96.03 Enforcement

- 96.99 Penalty

§ 96.01 UNIFORM SYSTEM FOR STRUCTURE ADDRESS NUMBERING.

All structures, new and existing, fronting public streets within the town shall be numbered in accordance with the regulations and plans of the Wells County Area Plan Commission. Structure address numbers shall be a minimum of four inches in height and shall be located near the structure's main entrance, above a garage door, or on a surface that is plainly visible from the public street. The numbers shall be displayed with Arabic numerals in a color which contrasts with their background. Where access is by means of a private road and the address number cannot be viewed from the public street, a monument, pole or other sign or means shall be used to identify the structure.
(Ord. 15-12-1, passed 12-14-2015)

§ 96.02 STRUCTURE ADDRESS NUMBERING RESPONSIBILITY.

The owner of the new or existing structure and its occupant shall be jointly and severally responsible for the address numbers being displayed in accordance with this chapter.
(Ord. 15-12-1, passed 12-14-2015)

§ 96.03 ENFORCEMENT.

When a violation of this chapter is found to exist, the town's representative shall notify the property owner and occupant on appropriate ordinance enforcement forms as follows:

(A) A written notice of violation shall be served upon the owner and occupant by personal service or by certified mail with a copy of the notice being sent by regular first class U.S. mail, postage prepaid. The notice shall grant a minimum of ten calendar days to cure the violation and state the penalty for neglect or refusal to cure the violation.

(B) Whenever the town's representative, after the expiration of the notice time period, determines that the property owner and occupant have neglected or refused to cure the violation, the town's representative may cause a citation to be issued against the owner and occupant.
(Ord. 15-12-1, passed 12-14-2015)

§ 96.99 PENALTY.

Any person or entity violating this chapter shall be penalized in accordance with Chapter 35 of the Town Code, as amended. Each subsequent day of violation shall be considered a separate and chargeable offense.
(Ord. 15-12-1, passed 12-14-2015)

Cross-reference:

Structure address numbering fines, see also § 35.04

TITLE XI: BUSINESS REGULATIONS

Chapter

110. SOLICITORS AND TRANSIENT MERCHANTS

111. SEXUALLY ORIENTED BUSINESSES

CHAPTER 110: SOLICITORS AND TRANSIENT MERCHANTS

Section

- 110.01 Definitions
- 110.02 Registration
- 110.03 Issuance of permit
- 110.04 Use and inspection of permit
- 110.05 Exemptions
- 110.06 Permit; validity from date of issuance
- 110.07 Acts not permitted

- 110.99 Penalty

§ 110.01 DEFINITIONS.

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

PERSON. Any individual, firm, co-partnership, corporation, company, association or joint stock association, church, religious sect, religious receiver, assignee, agent or other similar representative word.

PRINCIPAL AGENT. The employee or agent of the transient merchant is who is responsible for the day-to-day operations of the business within the town.

SOLICIT or SOLICITATION. Includes requesting, directly or indirectly, money, credit, property, financial assistance or other thing of value or selling, offering to sell, taking orders for sale of goods or services to be rendered at any place other than from a fixed place of business.

SOLICITOR. Includes any person, firm, limited liability company or corporation, both as principal and agent, who sells, offers to sell or takes orders for goods at any place other than a fixed place of business for future delivery or for services to be performed.

TRANSIENT MERCHANT. Includes all persons, firms, limited liability companies and corporations, both as principals and agents, who engage in, do or transact any temporary or transient business in this state, either in 1 locality or in traveling from place to place in this state, offering for sale or selling goods, wares or merchandise, and those who, for the purpose of carrying on a business, hire,

lease or occupy any permanent or mobile building, structure or real estate for the exhibition by means of samples, catalogues, photographs and price lists or sale of goods, wares or merchandise. The term shall not include any of the following:

- (1) Any person, individual, copartner, limited liability company or corporation which grows the goods, wares or merchandise that is sold or offered for sale;
- (2) A person who makes crafts or items by hand and sells them or offers them for sale;
- (3) An auctioneer who is licensed under I.C. 26-6.1-3;
- (4) A resident of the county in which the sale takes place who conducts a sale of tangible personal property for no more than 4 days per calendar year;
- (5) An organization that is exempt from the Indiana Gross Retail Tax under I.C. 6-2.5-5-26;
- (6) A person who sells merchandise; offers to sell merchandise; and provides proof that the sale is being conducted as part of an activity sponsored by an organization described in division (5) above;
- (7) A person who organizes; sells merchandise at; offers to sell merchandise at; or exhibits at a trade show or convention; or
- (8) A person who holds a registered retail merchant's certificate under I.C. 6-2.5-8.
(Ord. 98-4-4, passed 4-13-1998)

§ 110.02 REGISTRATION.

(A) Any solicitor or transient merchant desiring to conduct business within the Town of Ossian shall first register at the office of the Ossian Police Department; as a part of the registration process shall:

- (1) Provide a valid driver's license, identification card or other verifiable form of picture identification which contains the applicant's name, address, social security or driver's license number and physical description of the solicitor and permit an employee of the Police Department to copy the same;
- (2) Provide a brief description of the nature of the solicitation and the dates during which the solicitor expects to be soliciting within the town;
- (3) Provide the name, address and telephone number of the company for whom the solicitor is employed or whom the solicitor represents;
- (4) Provide a recent photograph of the solicitor; if no photograph is available, the solicitor shall permit the Department to photograph the solicitor at the time of the application;

(5) Provide the license place number of any vehicle to be used in the solicitation;

(6) Sign a statement as to whether the solicitor has been convicted of any felony or been found to have violated any misdemeanor or ordinance related to solicitation or the sale of goods and to describe the nature of the conviction or violation; and

(7) Sign a statement that the permit to be issued will not be used or represented in any way as an endorsement of the solicitor by the town or Ossian Police Department.

(B) Any transient merchant desiring to transact business within the Town of Ossian shall first register at the office of the Ossian Police Department. The transient merchant shall:

(1) Provide the name, address and telephone number of the company for whom the transient merchant is employed or whom the transient merchant represents;

(2) Provide a brief description of the nature of the business and the dates during which the transient merchant expects to be conducting business within the town;

(3) Provide a valid driver's license, identification card or other verifiable form of picture identification which contains the name, address, social security or driver's license number and physical description of the principal agent of the transient merchant and permit an employee of the Police Department to copy the same;

(4) Provide the license plate number of any vehicle to be used in the business;

(5) Sign a statement as to whether the principal agent has been convicted of any felony or been found to have violated any misdemeanor or ordinance related to solicitation or the sale of goods and to describe the nature of the conviction or violation; and

(6) Sign a statement that the permit to be issued will not be used or represented in any way as an endorsement of the transient merchant by the town or Ossian Police Department.

(Ord. 98-4-4, passed 4-13-1998) Penalty, see § 110.99

§ 110.03 ISSUANCE OF PERMIT.

As evidence of registration, the Police Department shall issue to each solicitor or transient merchant who has complied with the previous section, a permit which shall include the solicitor's or transient merchant's name and address and the name of the company represented and the kind of goods to be sold or offered.

(Ord. 98-4-4, passed 4-13-1998)

§ 110.04 USE AND INSPECTION OF PERMIT.

The permit issued under this chapter shall be maintained by a solicitor or transient merchant upon his or her immediate person or premises and, upon the request of any member of the Ossian Police Department or person with whom he or she is transacting or attempting to transact business, the solicitor or transient merchant shall produce the permit for inspection.

(Ord. 98-4-4, passed 4-13-1998) Penalty, see § 110.99

§ 110.05 EXEMPTIONS.

The following shall be exempt from the requirements:

(A) An organization that is exempt from the Indiana Gross Retail Tax under I.C. 6-2.5-5-26; and

(B) A person who provides proof that the business or activity is being conducted as part of an activity sponsored by an organization exempt under division (A) of this section.

(Ord. 98-4-4, passed 4-13-1998)

§ 110.06 PERMIT; VALIDITY FROM DATE OF ISSUANCE.

A permit issued under this chapter shall be valid for 6 months from the date of issue.

(Ord. 98-4-4, passed 4-13-1998)

§ 110.07 ACTS NOT PERMITTED.

The following acts shall not be permitted:

(A) Soliciting or engaging in business as a transient merchant without a permit as provided in this section;

(B) Soliciting prior to 9:00 a.m. or after dusk; and

(C) Soliciting at a residence or business displaying a sign which indicates that solicitors are not to call on the residence or business.

(Ord. 98-4-4, passed 4-13-1998) Penalty, see § 110.99

§ 110.99 PENALTY.

Any person found to have violated any provision of this chapter shall be fined a sum not less than \$10 nor more than \$500 with each day during which the violation occurs constituting a separate offense. (Ord. 98-4-4, passed 4-13-1998)

CHAPTER 111: SEXUALLY ORIENTED BUSINESSES

Section

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§ 111.01 PURPOSE AND FINDINGS.

(A) Purpose.

(1) The purpose of this chapter is to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the town and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the corporate boundaries of the town.

(2) The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of or reasonable access to any communicative materials, including sexually oriented materials.

(3) Similarly, it is neither the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the first amendment to the United States Constitution or Article I, § 9, of the Indiana Constitution, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.

(4) Adoption of this chapter will allow the town to obtain the identity of persons licensed and to be licensed for the operation of sexually oriented businesses to ensure proper identification of those persons responsible for the operation of the businesses so as to assist in the proper enforcement of this chapter.

(5) It is an important public purpose to protect children and the family environment from the deleterious and harmful secondary effects of sexually oriented businesses.

(6) It is not the purpose of this chapter to establish community standards on obscenity nor to permit persons to engage in any activity which is in violation of law, including but not limited to state laws pertaining to the advertising, promotion, distribution, or sale of obscene matter or matters portraying a sexual performance by a minor, or state laws pertaining to the use of a minor in a sexual performance or promotion of sexual performance by a minor, or the use of a minor to distribute material portraying sexual performance by a minor.

(7) Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.

(B) *Findings.*

(1) Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the Town Council, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, LLC*, 124 S.Ct. 2219 (June 7, 2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *Pap's A.M. v. City of Erie*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theatres*, 426 U.S. 50 (1976), *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1993); *California v. LaRue*, 409 U.S. 109 (1972); and *Schultz v. City of Cumberland*, 26 F.Supp.2d 1128 (W.D. Wisc. 1998), *aff'd in part, rev'd in part*, 228 F.3d 831 (7th Cir. 2000); *Blue Canary Corp. v. City of Milwaukee*, 270 F.3d 1156 (7th Cir. 2001); *Matney v. County of Kenosha*, 86 F.3d 692 (7th Cir. 1996); *Berg v. Health & Hospital Corp.*, 865 F.2d 797 (1989); *DiMa Corp. v. Town of Hallie*, 185 F.3d 823 (1999); *Graff v. City of Chicago*, 9 F.3d 1309(1993); *North Avenue Novelties, Inc. v. City of Chicago*, 88 F.3d 441 (1996); *Chulchian v. City of Indianapolis*, 633 F.2d 27 (7th Cir. 1980); *Bigg Wolf Discount Video v. Montgomery County*, 256 F.Supp.2d 385 (D.Md. 2003); *County of Cook v. Renaissance Arcade and Bookstore*, 122 Ill.2d 123 (1988) (including cases cited therein); *World Wide Video of Washington*,

Inc., v. City of Spokane, 368 F.3d 1186 (9th Cir. 2004); *Ben's Bar, Inc., v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *People ex rel Deters v. Effingham Retail 27, Inc.*, No. 04-CH-26 (4th Judicial Circuit, Effingham County, Ill., June 13, 2005); *Annex Books, Inc., v. City of Indianapolis*, No. 1:03-CV-918, Summary Judgment Order, Aug. 27, 2004, and Order Denying Motion to Alter or Amend, Mar. 31, 2005 (S.D. Ind.); *Andy's Lounge et al v. City of Gary*, No. 2:01-CV-327, Order Granting Summary Judgment, Mar. 31, 2005 (N.D. Ind.); *LLEH, Inc., v. Wichita County*, 289 F3d 358 (5th Cir. 2002); and based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including but not limited to Austin, Texas, 1986; Indianapolis, Indiana, 1984; Garden Grove, California, 1991; Houston, Texas, 1983,1997; Phoenix, Arizona, 1979, 1995-98; Chattanooga, Tennessee, 1999-2003; Los Angeles, California, 1977; Whittier, California, 1978; Spokane, Washington,2001; St. Cloud, Minnesota, 1994; Littleton, Colorado, 2004; Oklahoma City, Oklahoma, 1986; Dallas, Texas, 1997; Greensboro, North Carolina, 2003; Amarillo, Texas, 1977; New York, New York Times Square, 1994; Kennedale, Texas, 2005; and the Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), the Common Council finds:

(a) Sexually oriented businesses should be regulated and should be segregated from one another and from religious institutions, schools, boys' clubs, girls' clubs, parks, residences, and residential neighborhoods to protect the public health, welfare, and safety because sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects, including but not limited to personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation; and

(b) Each of the foregoing negative secondary effects constitutes a harm which the town has a substantial governmental interest in abating and/or preventing in the future, and this substantial government interest exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses.

(Ord. 12-5-1, passed 5-14-2012)

§ 111.02 DEFINITIONS.

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

ADULT ARCADE. A commercial establishment where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines or other image producing machines, for viewing by five or fewer persons each, are regularly used to show films, motion pictures, video cassettes, digital video disks (e.g. DVDs), slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT BOOK STORE or ADULT VIDEO STORE. A commercial establishment which has a significant or substantial portion (25% or more) of its stock-in-trade or interior business space allocated to, or derives 25% or more of its revenues from, the sale or rental for any form of consideration of any one or more of the following: books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, digital video disks (e.g. DVDs), slides, or other visual representations which are characterized by the depiction or display of specified sexual activities or specified anatomical areas.

ADULT CABARET. A nightclub, bar, restaurant, bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features:

- (1) Persons who appear semi-nude or in a state of semi-nudity; or
- (2) Live performances which are characterized by the exposure of specified anatomical areas or by pictures, video cassettes, digital video disks (e.g. DVDs), slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT MOTEL. A motel, hotel, or similar commercial establishment which:

- (1) Offers public accommodations, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, digital video disks (e.g. DVDs), slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising, including but not limited to newspapers, magazines, pamphlets or leaflets, radio, or television; and
- (2) Offers a sleeping room for rent for a period of time less than ten hours; or
- (3) Allows a tenant or occupant to sub-rent the sleeping room for a time period of less than ten hours.

ADULT MOTION PICTURE THEATER. A commercial establishment where films, motion pictures, video cassettes, digital video disks (e.g. DVDs), slides, or similar photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas are regularly shown for any form of consideration.

ADULT THEATER. A theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features persons who appear in a state of semi-nudity or live performances which are characterized by exposure of specified anatomical areas or by specified sexual activities.

CHARACTERIZED BY. Refers to the essential character or quality of an item. As applied in this chapter, no business shall be classified as a sexually oriented business by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

COMMERCIAL SEXUAL ENTERTAINMENT CENTER. Any commercial establishment not otherwise described herein which as one of its principal uses regularly offers matter, services, or entertainment appealing to adult sexual interests if the establishment or its entertainment, services, or goods are advertised by or on behalf of the establishment in a manner patently designed to appeal to the adult sexual interests.

EMPLOYEE. Any person hired by or suffered or permitted to work in a sexually oriented business establishment whether that person receives remuneration or compensation directly from the operator or owner of the establishment, from patrons of the establishment, or from any other source whether by contract of employment or otherwise, for work or services performed for the benefit of the sexually oriented business establishment. It shall not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods, such as foods, to the premises.

ESCORT. A person who, for any form of consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY. A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

ESTABLISH or ESTABLISHMENT. Includes any of the following:

- (1) The opening or commencement of any type of sexually oriented business as a new business after the adoption of this chapter;
- (2) The conversion of an existing business, if not a sexually oriented business, to any of the sexually oriented businesses defined in this chapter;
- (3) The addition of any of the sexually oriented businesses defined in this chapter to any other existing sexually oriented business; or
- (4) The relocation of any sexually oriented business.

KNOWINGLY. A person engages in conduct **KNOWINGLY** if, when he or she engages in the conduct, he or she is aware of a high probability that he or she is doing so.

LICENSEE. A person in whose name a license to operate a sexually oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for a sexually oriented business license.

MASSAGE PARLOR. Any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment manipulation of the human body occurs as a part of or in connection with specified sexual activities, or where any person providing this treatment, manipulation, or service related thereto, exposes his or her specified anatomical areas. The definition of sexually oriented businesses shall not include the practice of massage in any licensed hospital, nor by a licensed hospital, nor by a licensed physician, surgeon, chiropractor, osteopath, or certified massage therapist, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor, osteopath, or certified massage therapist, nor by trainers of any amateur, semi-professional, or professional athlete or athletic team or school athletic program.

NUDITY or STATE OF NUDITY. Any of the following:

- (1) The showing of the human male or female genitals, pubic area, anus, or anal cleft with less than a fully opaque covering;
- (2) The showing of the female breast with less than a fully opaque covering of any part of the nipple; or
- (3) The showing of the covered male genitals in a discernibly turgid state.

OPERATE or CAUSE TO OPERATE. To cause to function or to put or keep in a state of doing business.

OPERATOR. Any person on the premises of a sexually oriented business who operates or manages the business or exercises overall control of the business premises. A person may be found to be operating or causing to be operated a sexually oriented business regardless of whether that person is an owner, part owner, or licensee of the business.

PERMITTED or LICENSED PREMISES. Any premises that requires a license or permit and that is classified as a sexually oriented business.

PERMITTEE. Is synonymous with **LICENSEE**.

PLAN DIRECTOR. The Area Plan Commission Director of the county.

PERSON. An individual, proprietorship, partnership, corporation, association, or other legal entity.

PRINCIPAL USE. A substantial or significant use, but not necessarily a majority of the business activity or stock in trade. The fact that a business may have one or more other principal uses unrelated to sexually oriented business shall not relieve the business from the provisions of this chapter applicable to sexually oriented business establishments. **PRINCIPAL USE** shall exist in the following circumstances:

(1) Where a business establishment dedicates or permits the use of at least 25% of the utilized square footage of its premises for sexually oriented business activity or activities; or

(2) Where at least 25% of the gross receipts of a business establishment, excluding food and beverage receipts, result from sexually oriented business activity or activities.

PUBLIC BUILDING. Any building owned, leased, or held by the United States, the state, the county, a city, town, township, any special district, school district, or any other agency or political subdivision of the state or the United States, which building is used for government purposes.

PUBLIC PARK or RECREATION AREA. Public land which has been designated for park or recreational activities, including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian or bicycle paths, open space, wilderness areas, or similar public land within the town which is under the control, operation, or management of the United States, the state, the county, a city, town, township, any special district, school district, or any other agency or political subdivision of the state or the United States.

RECKLESSLY. A person engages in conduct **RECKLESSLY** if he or she engages in the conduct in plain, conscious, and unjustifiable disregard of harm that might result, and the disregard involves a substantial deviation from acceptable standards of conduct.

REGULARLY. A consistent and repeated course of conduct engaged in or permitted by the operator of the business.

RELIGIOUS INSTITUTION. Any church, synagogue, mosque, temple, or building which is used primarily for religious worship and related religious activities.

RESIDENCE. Any structure, manufactured home, or mobile home used by one or more persons as a dwelling.

RESIDENTIAL DISTRICT USE. A single-family, duplex, townhouse, multiple-family, or mobile home park or subdivision and campground as defined in the county zoning ordinance.

SCHOOL. Any public or private educational facility, including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities. It shall include the school grounds but does not include the facilities used primarily for another purpose and only incidentally as a school.

SELF-DESIGNATED SEXUALLY ORIENTED BUSINESS CENTER. Any establishment which designates all or a portion of its premises as for adults only and has a policy of excluding minors from its premises or from a portion of its premises and which advertises so as to convey the impression that

the services, entertainment, matter, or goods available at the premises or at the portion of the premises designated for adults only are characterized or distinguished by displays of human genitals or specified sexual activities.

SEMI-NUDE. A state of dress which shows the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the male or female buttocks. This definition shall include the lower portion of the human female breast but shall not include any portion of the cleavage of the human female breasts exhibited by a dress, blouse, shirt, leotard, or similar wearing apparel, provided the areola is not exposed in whole or in part.

SEMI-NUDE MODEL STUDIO. Any place where a person who regularly appears in a state of semi-nudity is provided money or any form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

SEX CLUB or SWINGERS CLUB. An establishment which provides patrons the opportunity to voluntarily engage in and/or view live consensual sexual activity and which collects remuneration of any kind, including entrance fees, facility use fees, gratuities, fees for goods provided far in excess of their value, and/or donations. Such clubs are not permitted under this chapter.

SEXUAL DEVICE. Any three-dimensional object designed and marketed for stimulation of the male or female human genital organ or anus, or for sadomasochistic use, or abuse of oneself or others, and shall include devices such as dildos, vibrators, and penis pumps and shall also include other devices with non-sex related utility, such as leather whips, straps, and ligatures, when the devices are marketed in a context suggesting sexual or sadomasochistic purposes. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy. Nothing in this definition shall be construed to restrict sales by any pharmacy, drug store, medical provider, or any establishment primarily dedicated to providing medical or healthcare products or services.

SEXUAL DEVICE SHOP. A commercial establishment that regularly features sexual devices. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic, or any establishment primarily dedicated to providing medical or health care products or services.

SEXUAL ENCOUNTER ESTABLISHMENT. A business or commercial establishment that, as one of its primary business purposes, offers for any form of consideration a place where two or more persons may congregate, associate, or consort for the purposes of specified sexual activities. The definition of sexually oriented businesses shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy. A sexual encounter establishment shall not be permitted under this chapter.

SEXUALLY ORIENTED BUSINESS. Any of the following businesses, as defined herein: **ADULT ARCADE, ADULT BOOKSTORE, ADULT NOVELTY STORE, ADULT VIDEO STORE, ADULT CABARET, ADULT MOTEL, ADULT MOTION PICTURE THEATER, ADULT THEATER, ESCORT, ESCORT AGENCY, MASSAGE PARLOR, SELF-DESIGNATED SEXUALLY ORIENTED BUSINESS CENTER, SEMI-NUDE MODEL STUDIO, SEX CLUB, SEXUAL DEVICE SHOP, or SEXUAL ENCOUNTER ESTABLISHMENT.**

SPECIFIED ANATOMICAL AREAS. Any of the following:

- (1) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areola; or
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES. Masturbation, intercourse, oral copulation, or sodomy, or excretory functions as a part of or in connection with any of these activities.

SUBSTANTIAL ENLARGEMENT OF SEXUALLY ORIENTED BUSINESS. An increase in the floor areas occupied by the business by more than 15%, as the floor areas exist on February 21, 2012.

TRANSFER OF OWNERSHIP OR CONTROL OF A SEXUALLY ORIENTED BUSINESS. Any of the following:

- (1) The sale, lease, or sublease of the business;
- (2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
- (3) The establishment of a trust, gift, or other similar legal device which transfers ownership or control of the business, except for transfer by bequest or other operation of law upon the death of a person possessing the ownership or control.
(Ord. 12-5-1, passed 5-14-2012)

§ 111.03 LOCATION RESTRICTIONS.

No person shall cause or permit the establishment of any sexually oriented business, as defined above, within the corporate boundaries of the town, within 2,640 feet of another sexually oriented business or within 2,640 feet of any religious institution, school, boys' club, girls' club, or public park, or within 1,000 feet of any residence or property zoned for residential use.

(Ord. 12-5-1, passed 5-14-2012) Penalty, see § 10.99

§ 111.04 MEASUREMENT OF DISTANCE.

As regarding § 111.03 above, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each business. The distance between any sexually oriented business and any religious institution, school, boys' club, girls' club, public park, or any residence or property zoned for residential use shall be measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where the sexually oriented business is conducted, to the nearest property line of the premises of a religious institution, school, boys' club, girls' club, public park, or any residence or property zoned for residential use. (Ord. 12-5-1, passed 5-14-2012)

§ 111.05 EXEMPTIONS AND DEFENSES.

The following shall be defenses to an action for any violation under this chapter:

(A) That the person appearing in a state of nudity did so for a modeling class operated:

(1) By a proprietary school licensed by the state, a college, junior college, or university supported entirely or partly by taxation;

(2) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

(3) In a structure:

(a) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing;

(b) Where, in order to participate in a class, a student must enroll at least three days in advance of the class; and

(c) Where no more than one nude model is on the premises at any one time.

(B) That an employee of a sexually oriented business, regardless of whether or not it is permitted under this chapter, exposed any specified anatomical area during the employee's bona fide use of a restroom, or during the employee's bona fide use of a dressing room which is accessible only to employees.

(Ord. 12-5-1, passed 5-14-2012)

§ 111.06 EXISTING BUSINESSES.

(A) A sexually oriented business, existing and operating lawfully in all respects prior to the date of the adoption of this chapter that is in a location that does not comply with § 111.03 above may continue to operate for one year following the date of the adoption of this chapter in order to make a reasonable recoupment of its investment in its current location. At the conclusion of the one year, the sexually oriented business will no longer be allowed to operate at any location that does not comply with § 111.03. The sexually oriented business may seek one or more six-month extension(s) of the original one-year period upon a showing of financial hardship. An application for an initial extension based upon financial hardship shall be made at least 60 days before the conclusion of the aforementioned one-year period. If a hardship extension is granted, subsequent applications for hardship extensions shall be made at least 60 days before the conclusion of the sexually oriented business's then-current extension period.

(B) An application for a hardship extension shall be filed in writing with the Clerk-Treasurer of the town and shall include evidence of purchase and improvement costs, income earned and lost, depreciation, and costs of relocation and evidence of compliance with the county zoning and town ordinances applicable to the business. The Clerk-Treasurer shall schedule the matter for a public hearing at the next regularly scheduled meeting of the Town Council. The Council shall issue a written decision within ten days after the public hearing on the application for a hardship extension.

(C) A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of a sexually oriented business permit or license, of a religious institution, school, boy's club, girl's club, or public park within 2,640 feet or residential district or residence within 1,000 feet of the sexually oriented business. This provision applies only to the renewal of a valid permit or license and does not apply when an application for a permit or license is submitted after a permit or license has expired or has been revoked.

(D) A sexually oriented business existing and operating lawfully in all respects prior to the date of the adoption of this chapter shall apply for the permit provided for by § 111.07 below within 30 days of the effective date of this chapter.

(Ord. 12-5-1, passed 5-14-2012)

§ 111.07 APPLICATION PROCEDURE.

(A) (1) No person shall maintain, operate, conduct, or cause to be conducted any sexually oriented business within the corporate limits of the town without first obtaining a permit under this section.

(2) An applicant for a sexually oriented business permit shall file with the Area Plan Commission a completed application made on a form prescribed and provided by the Area Plan Commission.

(3) The application shall include the following:

(a) The full true name of the applicant, and any other names or aliases used in the preceding five years;

(b) The applicant's current business or mailing address;

(c) Proof that the applicant is at least 18 years of age, consisting of either:

1. A copy of the applicant's birth certificate and current photo;
2. A copy of the applicant's driver's license with picture; or
3. Another picture identification document issued by a government agency.

(d) The name of the business, the business location and legal description of the property, and a description of the type of sexually oriented business;

(e) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches;

(f) A signed statement stating the following:

1. That the business is authorized by the state to conduct business within the state;
2. That the site being applied for meets the requirements of 111.03 above; and
3. The name and address of the statutory agent or other agent authorized to receive service of process.

(g) If a person wishing to operate a sexually oriented business is an individual, he or she shall sign the application for a permit as applicant. If an entity (partnership, corporation, limited liability company, and the like) or group of individuals seeks to obtain a permit, each individual with 30% or greater ownership interest must sign as an applicant under oath and provide the information required in this division.

(h) The tender of a non-refundable application fee as set forth in below.

(B) The information provided by an applicant in connection with the application for a permit under this chapter shall be maintained by the Area Plan Commission on a confidential basis and may be disclosed only:

(1) To other governmental agencies in connection with a bona fide law enforcement or public safety function; or

(2) As may otherwise be required by law or a court order.

(C) Applicants for a permit under this section shall have a continuing duty to promptly supplement application information required by this section in the event that the information changes in any way from what is stated on the application. The failure to comply with this continuing duty within 30 days from the date of the change by supplementing the application on file with the Area Plan Commission shall be grounds for suspension of a permit.

(D) In the event that the Area Plan Commission Director or its designee determines or learns at any time that the applicant has improperly completed the application for a proposed sexually oriented business, the Area Plan Commission Director shall promptly notify the applicant of that fact and allow the applicant ten days to properly complete the application. The time period for granting or denying a permit shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application.

(Ord. 12-5-1, passed 5-14-2012) Penalty, see § 10.99

§ 111.08 INVESTIGATION.

(A) Upon receipt of an application properly filed with the Plan Commission and upon payment of the non-refundable application fee, the Area Plan Commission Director or its designee shall immediately stamp the application as received and shall immediately thereafter send photocopies of the application to the county and/or town agencies responsible for enforcement of this chapter. Each department or agency shall promptly conduct an investigation of the applicant, application, and the proposed sexually oriented business in accordance with its responsibilities under law and as set forth in this chapter. The investigation shall be completed within 20 days of receipt of the application by the Area Plan Commission Director or its designee. At the conclusion of its investigation, each department or agency shall indicate on the photocopy of the application its approval or disapproval of the application, date it, sign it and, in the event it disapproves, state the reasons therefor.

(B) After its indication of approval or disapproval, each department or agency shall immediately return the photocopy of the application to the Area Plan Commission Director or its designee.

(Ord. 12-5-1, passed 5-14-2012)

§ 111.09 ISSUANCE OR DENIAL.

(A) Within 30 days after the receipt of a completed application, the Area Plan Commission Director shall either issue a permit or issue a written denial of a permit to the applicant.

(B) The Area Plan Commission Director shall approve the application and grant a sexually oriented business unless one or more of the following is true:

(1) An applicant is less than 18 years of age;

(2) An applicant has failed to provide information required by 111.08 above or has provided false information on the application;

(3) The premises to be used for the sexually oriented business are not in compliance with the location requirements of § 111.03 above;

(4) The applicant failed to pay the non-refundable permit application fee; and/or

(5) The applicant has a permit under this chapter that has been revoked within the previous year.

(C) The granting of a permit to a permittee for a sexually oriented business shall be for one year and is nontransferable to any other person other than the applicant(s) listed on the application and is valid only for the location listed on the application.

(Ord. 12-5-1, passed 5-14-2012)

§ 111.10 FEES.

The application fee for a sexually oriented business permit shall be \$100.

(Ord. 12-5-1, passed 5-14-2012)

§ 111.11 INSPECTION OF PREMISES.

Sexually oriented business permittees and their employees shall permit officers or agents of the town or the Area Plan Commission to inspect, from time to time, the portions of the sexually oriented businesses premises where patrons are permitted for the purpose of ensuring compliance with the specific regulations of this chapter, during those times when the sexually oriented business is occupied by patrons or is open for business. This section shall be narrowly construed by the town and Area Plan Commission to authorize reasonable inspections of the permitted premises pursuant to this chapter, but not to authorize a harassing or excessive pattern of inspections.

(Ord. 12-5-1, passed 5-14-2012) Penalty, see § 10.99

§ 111.12 PERMIT EXPIRATION.

(A) Each permit shall expire one year from the date of issuance and may be renewed only by making application as provided herein; for renewals, filing of the original survey, if applicable, shall be sufficient.

(B) Application for renewal shall be made not more than 120 days and not fewer than 90 days before the expiration date, and when made fewer than 90 days before the expiration date, the expiration of the permit will not be affected.

(Ord. 12-5-1, passed 5-14-2012)

§ 111.13 SUSPENSION OF PERMIT.

(A) If the Area Plan Commission Director has reason to believe that a permittee has knowingly violated any section of this chapter or has knowingly allowed an employee of the sexually oriented business to violate any section of this chapter, it shall issue a written notice of intent to suspend a permit for a period not to exceed 30 days.

(B) The issuance of a written notice of intent to suspend shall not be a prerequisite to the issuance of a written notice of intent to revoke a permit as set forth herein.

(Ord. 12-5-1, passed 5-14-2012)

§ 111.14 REVOCATION OF PERMIT.

(A) The Area Plan Commission Director shall issue written notice of intent to revoke a permit if a cause of suspension occurs and the permit has been suspended for any reason within the preceding 12 months.

(B) The Director shall issue written notice to revoke a permit for any of the following violations:

(1) A permittee gave false information in the material submitted during the application process;

(2) A permittee has knowingly or recklessly allowed possession, use, or sale of controlled substances in or on the premises;

(3) A permittee has knowingly or recklessly allowed prostitution on the premises;

(4) A permittee has knowingly or recklessly operated the sexually oriented business during a period of time when the permittee's permit was suspended; or

(5) A permittee has knowingly or recklessly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or any other specified sexual activities to occur in or on the permitted premises.

(C) The revocation of a permit shall continue for one year and the permittee shall not be issued a sexually oriented business permit for one year from the date revocation became effective.

(Ord. 12-5-1, passed 5-14-2012)

§ 111.15 ADMINISTRATIVE AND JUDICIAL REVIEW.

(A) If facts exist for denial, suspension, or revocation of a permit under this chapter, the Area Plan Commission Director shall notify the applicant or permittee (respondent) in writing of the intent to deny, suspend, or revoke the permit, including the grounds therefor, by personal delivery or by certified mail. The notification shall be directed to the most current business address on file with the Area Plan Commission. Within five working days of receipt of the notice, the respondent may provide to the Area Plan Commission, in writing, a response that shall include a statement of reasons why the permit should not be denied, suspended, or revoked and request for administrative review. Within three business days of the receipt of respondent's written response, the Area Plan Commission Director shall notify respondent in writing of the hearing date on respondent's denial, suspension, or revocation proceeding.

(B) Within ten working days of the receipt of respondent's written response by the Area Plan Commission, the Town Council shall conduct a hearing at which respondent shall have the opportunity to be represented by counsel and present evidence and witnesses on his or her behalf. The Town Council shall issue a written opinion and decision within five days of the hearing. If a response is not received by the Area Plan Commission Director in the time provided or, if after a hearing, the Town Council finds that grounds as specified in this chapter exist for denial, suspension, or revocation, then the denial, suspension, or revocation shall become final five days after the Town Council sends, by certified mail to respondent, written notice that the permit has been denied, suspended, or revoked. The notice shall include a statement advising the applicant or permittee of the right to appeal the decision to a court of competent jurisdiction.

(C) If the Town Council finds that no grounds exist for denial, suspension, or revocation of a permit, then within five days after the hearing, the Town Council shall withdraw the intent to deny, suspend, or revoke the permit and shall so notify the respondent in writing by certified mail of the action and, in the case of an application for a permit, shall contemporaneously issue the permit.

(D) When a decision to deny, suspend, or revoke a permit becomes final, the applicant or permittee (aggrieved party) whose application for a permit has been denied, or whose permit has been suspended or revoked, shall have the right to appeal the action to a court of competent jurisdiction.

(E) If a business with an existing permit has had its permit revoked or denied, upon the filing of any court action to appeal, challenge, restrain, or otherwise enjoin the enforcement of the denial, suspension, or revocation, the town shall immediately issue the aggrieved party a provisional permit. The provisional permit shall allow the aggrieved party to continue operation of the sexually oriented business and will expire upon the court's entry of a judgment on the aggrieved party's action to appeal, challenge, restrain, or otherwise enjoin the town's enforcement.

(Ord. 12-5-1, passed 5-14-2012)

§ 111.16 PERMIT TRANSFER RESTRICTED.

A permittee shall not operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application for permit.

(Ord. 12-5-1, passed 5-14-2012) Penalty, see § 10.99

§ 111.17 MINORS ON PREMISES PROHIBITED.

A person is in violation of this chapter if he or she operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for that business under this chapter, and knowingly or with reasonable cause to know, permits, suffers, or allows:

(A) Admittance of a person under 18 years of age to the business premises;

(B) A person under 18 years of age to remain at the business premises;

(C) A person under 18 years of age to purchase goods or services at the business premises; or

(D) A person who is under 18 years of age to work at the business premises as an employee.

(Ord. 12-5-1, passed 5-14-2012) Penalty, see § 10.99

§ 111.18 ADVERTISING AND DISPLAY; LIGHTING.

(A) All off-street parking areas and premises and entries of the sexually oriented business shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one foot-candle of light on the parking surface and walkways. This required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the sexually oriented business for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the required sketch or diagram of the premises.

(B) Nothing contained in this section shall relieve the operator(s) of a sexually oriented business from complying with the requirements of the town in this chapter, commonly known as the sexually oriented business ordinance, as it may be amended from time to time, or any subsequently enacted town ordinance or regulations.

(C) All signage and displays visible from the outside of sexually oriented businesses shall not include any photographs, silhouettes, drawings, or pictorial representations of nudity, semi-nudity, or sexual activity.

(Ord. 12-5-1, passed 5-14-2012) Penalty, see § 10.99

§ 111.19 HOURS OF OPERATION.

(A) It shall be unlawful and a person is in violation of this chapter if he or she operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for that business under this chapter, between the hours of 11:00 p.m. and 7:00 a.m. of any particular day.

(B) This section shall not apply to prohibit the operation of businesses licensed by the State Alcoholic Beverage Commissioner during the lawful hours of operation as provided by the State Alcoholic Beverage Commission.

(Ord. 12-5-1, passed 5-14-2012) Penalty, see § 10.99

§ 111.20 PUBLIC NUDITY PROHIBITED.

Public nudity is prohibited within the town, including any sexually oriented business. Any sexually oriented business which is found in violation of this section shall have its permit suspended pursuant to the provisions of this chapter.

(Ord. 12-5-1, passed 5-14-2012) Penalty, see § 10.99

§ 111.21 CONDUCT REGULATIONS FOR A STRIP CLUB.

(A) No patron, employee, or any other person shall knowingly or intentionally, in a sexually oriented business, appear in a state of nudity or engage in a specified sexual activity.

(B) No person shall knowingly or intentionally, in a sexually oriented business, appear in a semi-nude condition unless the person is an employee who, while semi-nude, remains at least six feet from all patrons and on a stage at least 18 inches from the floor in a room of at least 600 square feet.

(C) No employee who regularly appears semi-nude in a sexually oriented business shall knowingly or intentionally touch a customer or the clothing of a customer on the premises of a sexually oriented business.

(D) No person shall possess, use, or consume alcoholic beverages on the premises of a sexually oriented business.

(E) No person shall knowingly or recklessly allow a person under the age of 18 years to be or remain on the premises of a sexually oriented business.

(F) No operator or licensee of a sexually oriented business shall knowingly violate the regulations in this section or knowingly allow an employee or any other person to violate the regulations in this section.

(Ord. 12-5-1, passed 5-14-2012) Penalty, see § 10.99

§ 111.22 OPERATING WITHOUT VALID PERMIT PROHIBITED.

A person is in violation of this chapter if he or she operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for that business under this chapter, and that person knows or should know that:

(A) The business does not have a sexually oriented business permit under this chapter for any applicable classification;

(B) The business has a permit which is under suspension;

(C) The business has a permit which has been revoked; or

(D) The business has a permit which has expired.

(Ord. 12-5-1, passed 5-14-2012) Penalty, see § 10.99

§ 111.23 CULPABLE MENTAL STATE REQUIRED TO ESTABLISH LIABILITY.

Where any provision or offense herein fails to state a necessary level of culpability to establish a violation or liability, the offense shall be established upon a showing that the person acted knowingly or recklessly with regard to the predicate act. Notwithstanding anything to the contrary, for the purposes of this chapter, an act by an employee shall be imputed to the sexually oriented business permittee for the purpose of establishing a violation of this chapter, or for purposes of license denial, suspension, or revocation only if a permittee allowed, either knowingly or recklessly, a violation of this chapter to occur. It shall be a defense to liability that the sexually oriented business permittee was powerless to prevent the violation.

(Ord. 12-5-1, passed 5-14-2012)

§ 111.24 INJUNCTION.

A person who operates or causes to be operated a sexually oriented business in violation of this chapter is subject to a suit for injunction. If any injunction must be sought, attorney's fees and costs will be assessed at the discretion of the court against the violator.

(Ord. 12-5-1, passed 5-14-2012)

TITLE XIII: GENERAL OFFENSES

130.GENERAL PROVISIONS

CHAPTER 130: GENERAL PROVISIONS

Section

Curfew

- 130.01 Definitions
- 130.02 Violation for juvenile age 15, 16 or 17
- 130.03 Violation for juvenile less than 15 years of age
- 130.04 Exceptions
- 130.05 Enforcement

Utilities

- 130.15 Attachments to utility poles prohibited
- 130.99 Penalty

CURFEW

§ 130.01 DEFINITIONS.

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

DIRECT ROUTE. The shortest reasonable path of travel or a commonly used route to reach a final destination without any detour or stop along the way.

EMERGENCY. An unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious property damage, bodily injury or death. This term also shall include any action that is reasonably necessary in order to respond to the medical needs of a family member of the juvenile regardless of whether the juvenile's action is taken in order to prevent death or serious injury.

JUVENILE. Any person under the age of 18 years of age.

PARENT. A person who is a natural parent, adoptive parent, foster parent or stepparent of another person, or a person to whom legal custody has been given by court order.

PUBLIC PLACE. Any place that is generally open to and used by the public or a substantial group of the public, whether it be publicly or privately owned, including but not limited to streets, sidewalks, highways, alleys, rights of way, public vehicular areas or parking lots, transportation facilities, theaters, restaurants, shops, bowling alleys, schools and school grounds, places of business and amusement, playgrounds, parks, similar areas that are open to or accessible to the public.

REMAIN. To linger or stay in a public place, or to fail to leave the premises when requested to do so by a police officer.

(Ord. 2007-8-2, passed 9-10-2007)

§ 130.02 VIOLATION FOR JUVENILE AGE 15, 16 OR 17 .

It is a curfew violation for a juvenile 15, 16, or 17 years of age to be in or remain in a public place:

(A) Between 12:00 a.m. and 6:00 a.m. on Saturday or Sunday;

(B) After 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday, or Thursday; or

(C) Before 6:00 a.m. on Monday, Tuesday, Wednesday, Thursday, or Friday.

(Ord. 2007-8-2, passed 9-10-2007) Penalty, see § 130.99

Cross-reference:

Violation of this section subject to fine by the Ordinance Violation Bureau, see § 35.04

§ 130.03 VIOLATION FOR JUVENILE LESS THAN 15 YEARS OF AGE.

It is a curfew violation for a juvenile less than 15 years of age to be in or remain in a public place after 10:00 p.m. or before 6:00 a.m. on any day.

(Ord. 2007-8-2, passed 9-10-2007) Penalty, see § 130.99

Cross-reference:

Violation of this section subject to fine by the Ordinance Violation Bureau, see § 35.04

§ 130.04 EXCEPTIONS:.

It is a defense to a violation under this subchapter that the juvenile is:

(A) Accompanied by his/her parent;

(B) Accompanied by an adult 18 years of age or older authorized by the parent of the juvenile in writing to take the parent's place in accompanying the juvenile for a designated period of time and purpose within a specified area.

(C) Going to or returning from, using a direct route, and/or participating in:

(1) Lawful employment;

(2) A school sanctioned activity;

(3) A religious event;

(4) An emergency involving the protection of a person or property from an imminent threat of serious bodily injury or substantial damage;

(5) An activity involving the exercise of the juvenile's rights protected under the First Amendment to the United State Constitution or Article 1, Section 31 of the Constitution of the State of Indiana, or both, such as freedom of speech and the right of assembly; or

(6) An activity conducted by a nonprofit or governmental entity that provides recreation, education, training, or other care under the supervision of 1 or more persons over the age of 18;

(D) Participating in an activity undertaken at the prior written direction of the juvenile's parent;

(E) Engaged in interstate or international travel from a location outside Indiana to another location outside the state; and

(F) Married or emancipated under I.C. 31-37-19-27.

(Ord. 2007-8-2, passed 9-10-2007)

§ 130.05 ENFORCEMENT.

(A) At such a time a law enforcement officer believes a violation of this subchapter has occurred, the law enforcement officer shall first ask the apparent offender's age and reason for being in the public place in violation of this subchapter.

(B) Before taking material enforcement action against a juvenile under this subchapter, such as issuing a citation, the law enforcement officer must make a reasonable determination, considering the facts and surrounding circumstances, that he/she reasonably believes the juvenile has violated this subchapter and that no exceptions apply.

(Ord. 2007-8-2, passed 9-10-2007)

UTILITIES**§ 130.15 ATTACHMENTS TO UTILITY POLES PROHIBITED.**

(A) Without express written permission of the town, no person shall attach or permit to be attached any item, including but not limited to temporary signs or flyers, to any downtown streetlight pole, its cross arm, or other part of the electric utility distribution system owned by the town, or any pole to which any part of the distribution system is attached.

(B) This section shall not apply to employees of the town engaged in work on any part of the distribution system.

(C) Any designated agent of the town shall have authority to remove from any utility pole or any part of the electric utility distribution system any item attached thereto without the permission of the town.

(D) Any violation of the prohibitions set forth in this section shall be subject to penalty as set forth in §130.99 of this code of ordinances.

(Ord. 10-11-1, passed 11-8-2010) Penalty, see § 130.99

§ 130.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) (1) Anyone who violates any provisions of §§ 130.01 through 130.05 shall be fined not less than \$25 for the first offense, and not less than \$50 for each subsequent violation of §§ 130.01 through 130.05 which occurs within 90 days of any other admitted violation or conviction of a violation under this §§ 130.01 through 130.05.

(2) Upon admission or conviction, the matter and circumstances shall be referred by the Police Department to the appropriate juvenile authorities of the county for such additional attention as is warranted under applicable authority.

(Ord. 2007-8-2, passed 9-10-2007)

Cross-reference:

Violation of §§ 130.02 and 130.03 subject to fine by the Ordinance Violation Bureau, see § 35.04

TITLE XV: LAND USAGE

Chapter

150. SUBDIVISIONS

151. UNSAFE BUILDINGS

152. ZONING

CHAPTER 150: SUBDIVISIONS

Section

150.01 Adoption of the Wells County Subdivision Control Ordinance

§ 150.01 ADOPTION OF THE WELLS COUNTY SUBDIVISION CONTROL ORDINANCE.

(A) The Board of Trustees of the Town of Ossian, Indiana, does hereby adopt as and for an ordinance to be effective in Ossian, Indiana, the Wells County Subdivision Control Ordinance as amended; and the Board of Trustees of the town elects to be subject to all provisions of the ordinance as amended and the enforcement thereof, the same as if fully adopted, enacted and ordained by this Board of Trustees; and the Clerk-Treasurer of the town is directed to furnish certified copies of the resolution to the Auditor of Wells County, Indiana, and to the Secretary of the Area Plan Commission of Wells County, Indiana.

(B) There is hereby adopted and enacted into law each and every provision of the Subdivision Control Ordinance recommended to the Board of Trustees of the Town of Ossian under the certification of the Area Plan Commission of Wells County, dated November 9, 1970.

(Ord. 29, passed 4-1-1971; Res. 6-13-89, passed 6-13-1989)

CHAPTER 151: UNSAFE BUILDINGS

Section

151.01 Inspection, repair or removal

§ 151.01 INSPECTION, REPAIR OR REMOVAL.

(A) Under the provisions of I.C. 36-7-9 *et seq.*, the Town of Ossian establishes the Ossian Unsafe Building Ordinance.

(B) (1) I.C. 36-7-9-1 through 36-7-9-28 as amended, are hereby incorporated by reference into this section. All proceedings within the Town of Ossian for the inspection, repair and removal of unsafe buildings shall be governed by the law and the provisions of this section.

(2) In the event the provisions of this section conflict with the provisions of the I.C. 36-7-9-1 through 36-7-9-28, as amended, then the provisions of the Indiana Code shall control.

(C) The Town of Ossian or its Town Council-approved representative is hereby authorized to administer the provisions of the Ossian Unsafe Building Ordinance, subject to I.C. 36-7-9-1 *et seq.*

(D) The "enforcement authority" of the Ossian Unsafe Building Ordinance, as defined by I.C. 36-7-9-2, as amended, shall be the town's inspector.

(E) The "hearing authority" of the Ossian Unsafe Building Ordinance, as defined by I.C. 36-7-9-2, as amended, shall be the Town Council of the Town of Ossian, wherein the hearing authority, subject to the provisions of I.C. 36-7-9-1 *et seq.*, is authorized to review any orders issued by the enforcement authority.

(F) (1) The provisions of the Ossian Unsafe Building Ordinance shall apply to any individual or entity holding a "substantial property interest" within the borders of the Town of Ossian.

(2) "Substantial property interest" as defined by I.C. 36-7-9-2, as amended, is hereby incorporated by reference into the Town of Ossian's Unsafe Building Ordinance.

(G) (1) The enforcement authority may issue orders subject to I.C. 36-7-9-5, as amended.

(2) All orders issued by the enforcement authority must be reasonably related to the condition of the unsafe premises and the nature and use of nearby properties.

(3) The order of the enforcement authority supersedes any permit relating to building or land use, whether that permit is obtained before or after the order is issued.

(H) Orders and notices issued by the enforcement authority must meet the notice requirements of I.C. 36-7-9-25, as amended, and must be sent to those parties having a substantial interest as defined in I.C. 36-7-9-2.

(I) Hearings shall be conducted by the hearing authority subject to the provisions of I.C. 36-7-9-7, as amended. Except in limited circumstances enumerated in I.C. 36-7-9-5(a,2); 5(a,3); 5(a,4); a hearing must be held by the hearing authority relative to each order issued by the enforcement authority. Parties subject to an order under I.C. 36-7-9-5(a,2); 5(a,3); or 5(a,4) may request a hearing in writing within 10 days of issuance of the order.

(J) Appeals of decisions of the hearing authority are subject to the provisions of I.C. 36-7-9-8, as amended.

(K) Should any section, division, sentence, clause or phrase of this section be declared unconstitutional or invalid for any reasons, the remainder of the section shall not be affected thereby.

(L) This section shall take effect and be in full force upon adoption and publication according to the laws of the State of Indiana. All former ordinances which conflict with this section are hereby repealed.

(M) (1) In addition to all other remedies a judgment under I.C. 36-7-9-13 to the extent that it is not satisfied under I.C. 27-2-15, is a debt and a lien on all the real and personal property of the person named or a joint and several debt and lien on the real and personal property of the persons named.

(2) The lien on real property is perfected against all creditors and purchasers when the judgment is entered on the judgment docket of the court. The lien on personal property is perfected by filing a lis pendens notice in the appropriate filing office, as prescribed by the Indiana Rules of Trial Procedure.

(N) Pursuant to I.C. 36-7-9-28 each day of violation of this section shall constitute a separate offense. A person who:

(1) Remains in, uses or enters a building in violation of an order made under this chapter;

(2) Knowingly interferes with or delays the carrying out of an made under this chapter;

(3) Knowingly obstructs, damages or interferes with persons engaged or property used in performing any work or duty under this chapter; or

(4) Fails to comply with I.C. 36-7-9-27; commits a class C infraction. Each day that the violation continues constitutes a separate offense.

(Ord. 03-3-1, passed 3-8-2004; Am. Ord. 15-9-1, passed 9-14-2015)

CHAPTER 152: ZONING

Section

152.01 Wells County Zoning Ordinance adopted by reference

§ 152.01 WELLS COUNTY ZONING ORDINANCE ADOPTED BY REFERENCE.

The Wells County Zoning Ordinance is adopted and incorporated as part of this code of ordinances as fully as if set out at length herein.

TABLE OF SPECIAL ORDINANCES

Table

- I. STREETS, ALLEYS AND PUBLIC WAYS**
- II. ANNEXATIONS**
- III. FUNDS**
- IV. ZONING MAP CHANGES**
- V. DEEDS AND EASEMENTS**
- VI. AGREEMENTS**

TABLE I: STREETS, ALLEYS AND PUBLIC WAYS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
92-8-6	- -	Curb cut on Baker Drive in Ossian Industrial Park
81-12-1	12-8-1981	Vacating alley which runs between Depot Street and Barnett Street; vacates alley which runs between Egber and Lafever Streets
86-12-1	12-9-1986	Vacating street between Lot 7 and Lot 8
87-12-1	12-8-1987	Vacating an alley 15 feet wide immediately south and adjacent to Lot 16 in Craig's South Addition
1-89	3-14-1989	Vacating a portion of a street commencing at the southwest corner of Lot 13
93-5-1	5-11-1993	Vacating a portion of Craig Street between Ogden Street on the east and Norwalt Street on the west
93-7-1	7-15-1993	Vacating all that part of the alley right-of-way, 15 feet wide, contiguous with Lots 5, 6, 7 and 8
93-8-1	8-10-1993	Vacating the north/south alley situated in the first block east of North Jefferson Street between the south line of East Mill Street and the north line of East Craig Street
94-2-1	2-8-1994	Vacating real estate beginning at the northeast corner of a tract in deed record 121, page 206

Ossian - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
02-4-2	4-8-2002	Designating names of streets; Clover Meadow Court, Meadow View Court, Country Meadows Drive, Oak Meadow Drive and Shady Meadow Drive
04-8-2	8-9-2004	Vacating portion of platted public way in the original plat, commencing at the southwest corner of Lot 7
Res. 09-2-5	2-23-2009	Designating a slum and blighted area in need of redevelopment as defined by I.C. 36-7-14 Jefferson Street (State Road 1) between Mill Street and Lafever Street, and Craig Street between Ogden Street and Metts Street.
Res. 09-2-6	2-23-2009	Authorizing the submittal of CFF application to the state Office of Community and Rural Affairs for grant funding to address revitalization needs of the Craig Street and Jefferson Street redevelopment area
2013-1-3	1-14-2013	Vacating an alley, beginning at the southeast corner of Lot No. 5, to R. and D. Resler
13-7-1	6-6-2013	Vacating a 15-foot wide easement for utility on property owned by DK Development, LLC
2013-10-1	10-28-2013	Vacating a 15-foot wide easement for utility on property in Rose Ann Heights, Second Addition, owned by L. and C. Yager
17-3-1	3-13-2017	Vacating a certain street located in the northwest quarter of Section 15, Township 28 north, Range 12 east

TABLE II: ANNEXATIONS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
58-1	9-2-1958	Annexes the Albert A. Melching

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3	10-6-1959	Annexes a part of the northeast quarter of section 16 in Township 28 north, range 2 east
8	5-3-1966	Annexes a part of the west half of section 15, township 28 north, range 12 east
13	9-2-1969	Annexes a tract of land part of N/2 of section 16, township 28 north, range 12 east, starting at the northeast corner of section 16
75-10-1	10-14-1975	Annexes the northeast quarter of section 21 in township 28 north; a part of the south half of the southeast quarter of section 16 in township 28 north, range 12 east; part of south half of section 16, township 28 north, range 12 east; and several strips of land
-	2-3-1976	Annexes the south 467.5 feet of the east 813.3 feet of the northwest quarter and the north 509 feet of the east 812.5 feet of the southwest quarter

Ossian - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
77-1	4-5-1977	Annexes a part of the north half of section 16, township 28 north, range 12 east, commencing on the east line of the northeast quarter of section 16, 381.6 feet south
82-1	2-9-1982	Annexes a part of the northeast quarter beginning at a point on the section line a distance of 1,181.5 feet north of the southeast corner of the northeast quarter
87-8-3	8-11-1987	Annexes land starting at the southeast corner of the southeast quarter
862	8-13-1991	Annexes land commencing at the intersection of the south line of the north half of section 21, township 28 north, range 12 east
93-3-2	3-10-1993	Annexes part of the northwest quarter of section 22, township 28 north, range 12 east of the second principle meridian in Jefferson Civil Township
95-3-1	3-21-1995	Annexes land commencing at a 5/8 inch rebar at the southeast corner of the northwest quarter of section 22, thence north 00 degrees 20 minutes, 13 seconds east
96-10-1	10-8-1996	Annexes land commencing at the southeast corner of the northwest quarter of section 22, thence south 89 degrees, 39 minutes, 42 seconds east

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
96-10-4	10-22-1996	Annexes 2 tracts of land; part of the southeast quarter and the southwest quarter of section 21, township 28 north, range 12 east, Jefferson Township; beginning at the northeast corner of the southeast quarter; thence southerly, 811.10 feet along the east line of the southeast quarter
96-11-2	11-12-1996	Annexes land beginning at the northeast corner of the southeast quarter thence southerly, 811.10 feet along the east line, thence westerly, deflecting right 90 degrees 25 minutes 40 seconds
97-4-1	4-14-1997	Annexes land commencing at the southwest corner of the northwest quarter of section 22, thence south 89 degrees, 39 minutes, 42 seconds east
98-4-1	4-13-1998	Annexes land commencing at a point on the south line of the northwest quarter of section 21, thence northerly parallel with the west line 940 feet
98-7-1	7-13-1998	Annexes land starting at the southwest corner of the southwest quarter thence north 00 degrees 00 minutes 00 seconds, east 453 feet along the west line
98-7-2	7-13-1998	Annexes part of Lot 3, starting at the northeast corner of the northwest quarter, thence southerly, 1,557.80 feet
98-10-1	10-30-1998	Annexes land beginning at the north quarter corner of section 15

Ossian - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
87-8-2	8-11-1999	Annexes part of the southwest quarter of section 10, township 28 north, range 12 east, commencing at the southwest corner of the southwest quarter marked by a P.K. nail
99-12-3	12-13-1999	Annexes a part of the northwest quarter of section 15, starting at the northeast corner marked by an iron stake
02-4-1	4-8-2002	Annexes a portion of the lands of Dale and Carol Gerber commencing at a 5/8-inch by 30-inch rebar in concrete
02-9-9	9-9-2002	Annexes a portion of lands of Dale and Carol Gerber beginning at a 5/8-inch by 30-inch rebar in concrete; southeast corner of Lot 67 within Brook Ridge Estates, section 4, thence north west along the boundary of section 4
15-1-1	2-23-2014	Annexing real estate located in Section 15, Township 28 north, Range 12 east, in an area south of Oakdale Drive and southeast of Bunn Street

TABLE III: FUNDS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	2-4-1974	Public Employees' Retirement Fund accepts the Town of Ossian as a participant
84-8-1	8-14-1984	Establishing a Cumulative Capital Development Fund
93-4-1	6-8-1993	Establishing a Cumulative Capital Development Fund and changing levy dollar amount
2000-4-1	4-10-2000	Electing to join the 1977 Police and Firefighters' Pension and Disability Fund as administered by the Public Employees' Retirement Fund
01-12-1	12-10-2001	Establishing a Rainy Day Fund
03-05-03	5-12-2003	Establishing a Police Court Cost Fund
03-8-1	8-18-2003	Establishing a Riverboat Wagering Fund
Res. 08-1-1	1-14-2008	Transferring funds from Classification II to Classification I in the Park Fund
Res. 08-1-2	1-14-2008	Transferring funds from Classification III to Classification I in the MVH Fund
Res. 08-12-1	12-8-2008	Authorizing borrowing funds from the Sewer Fund and Sewer Improvement Fund for payment of storm water improvement projects

Ossian - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
08-12-3	12-22-2008	Establishing a LOIT Public Safety Fund
Res. 09-2-7	2-23-2009	Transferring funds from Classifications I and IV to Classification III in the General Fund
Res. 09-2-8	2-23-2009	Transferring funds from Classification IV to Classification II in the Edit Fund
Res. 09-2-9	2-23-2009	Transferring funds from Classifications II and III to Classification I in the MVH Fund
Res. 09-2-10	2-23-2009	Transferring funds from Classification III to Classification IV in the Park Fund
Res. 10-2-1	2-8-2010	Transferring funds from Classification I to Classification II and III in the General Fire Fund
Res. 10-2-2	2-8-2010	Transferring funds from Classification I to Classification IV in the General Police Fund
Res. 10-2-3	2-8-2010	Transferring funds from Classification III to Classification IV in the MVH Fund
Res. 10-2-4	2-8-2010	Transferring funds from Classification IV to Classification II in the Edit Fund
17-7-1	7-10-2017	Establishing Cumulative Capital Development Fund
18-8-1	8-13-2018	Establishing TIF Fund 446
19-4-1	4-8-2019	Establishing Local Road & Bridge Matching Grant Fund

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
20-3-1	3-9-2020	Renaming LOIT Public Safety Fund as LIT Public Safety Fund

TABLE IV: ZONING MAP CHANGES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	5-10-1971	Rezoning two tracts of land rezoned; starting at the intersection of the half section line east and west through section 16, and starting 285 feet south of the southeast corner of Lot 16 of West Ossian and on the west line of the LE and W railroad; from R-3 District to I-2 District
-	6-3-1971	Rezoning Lots 14, 15, Craig's South Addition rezoned from a R-2 District to a B-1 District
7-2-79	7-2-1979	Rezoning part of the west half of section 15 and part of the east half of section 16 rezoned to R-1, R-2, B-2 and B-3 District
-	11-6-1979	Rezoning part of the NW/4 of section 15, Lot 3, starting at the southwest corner of Lot 84 rezoned to a B-2 District
-	10-7-1980	Rezoning land beginning on the north line of the northeast quarter of section 21, point being 446.32 feet east of the northwest corner, made into a R-1 District
85-1	3-12-1985	Rezoning part of the east half of the northwest quarter of section 21, starting at the southeast corner from an S-1 District to a I-1 District
-	8-13-1985	Rezoning Lot 16 in Craig's South Addition from a R-2 District to a B-1 District

Ossian - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	3-10-1987	Rezoning Lots 1 through 24 of Doan's Addition from R-2 District to a B-3 District
-	12-8-1987	Rezoning part of the south half of the southeast quarter of section 9 from R-1 to a B-3 District
-	4-7-1988	Rezoning real estate from R-2 to B-2 District
-	10-6-1988	Rezoning a part of the northwest quarter of section 15, commencing at a point in the west line in the center of Indiana State Highway No. 1 from a R-1 to a R-2
-	4-4-1991	Rezoning real estate at 806 Melching Drive to a R-2 District
-	8-11-1992	Rezoning Lot 15 as known and designated on the recorded plat of LZ Northdale, from R-1 District to B-2 District
-	3-3-1994	Rezoning a part of the northwest quarter of section 15 commencing at the northeast corner of Lot 2 to an R-3 District
98-11-1	11-9-1998	Rezoning 56 feet of even width off the west end of Lot 33 from R-1 to R-2
2009-2-3	2-9-2009	Rezoning, on request of Ossian Furniture Mart, Inc., certain real estate from B-2 to B-3
2009-3-1	3-9-2009	Rezoning, on request of Barkley Properties LLC, certain real estate from R-1 to R-3

Zoning Map Changes

12A

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
2009-4-3	4-27-2009	Rezoning property at 10018 N. SR 1 from B-2 to B-3
16-5-4	5-9-2016	Rezoning 4.576 acres in the southwest quarter of S10-28N-12E from R-1 to R-3
17-7-2	7-10-2017	Rezoning property at 102 S Metts from B-1 to R-2
19-12-2	12-9-2019	Rezoning property at 306 Davis Road from R-1 to R-2

TABLE V: DEEDS AND EASEMENTS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	- -	Deed record 97, page 103 and deed record 90, page 45
-	8-18-1865	John N. Reynolds warrants to the Trustee of Jefferson Township and his or her successor for \$50, real estate lying west of the cemetery in Lot 9, section 16; deed record 0, page 487
-	5-29-1929	Deed record 76, page 391; Albert and Carrie Melching
-	5-29-1929	Melchings warrant land for \$300; commencing at the northeast corner of the southwest quarter of section 15
-	9-5-1959	Melchings release to town for \$1 land starting at a point where the south line of the northwest quarter of section 15 intersects with the east line of Miller Street
-	9-5-1961	Melching Agency Inc. quit-claims to the town for \$1, 20 feet of even width off the entire north end of Lots 73, 74, 75 and 77; and land on Lot 76
-	9-8-1961	Max and Maxine Melching quit-claim land for \$1, Lot 35 situated in the northwest quarter of section 15; plat book 3, page 199

Ossian - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	5-25-1964	Deed to right-of-way; a strip of ground 21 feet of even width beginning at the intersection of the south line of the northwest quarter of section 15 and the east line of Miller Street
-	5-25-1970	George and Dorothy Clark warrant to the town for \$1 a part of the southeast quarter of section 16, commencing at the southwest corner of the old cemetery
-	6-15-1970	Imogene Davidson warrants land to the be used as a roadway to the sewage treatment plant
-	8-/1974	William and Elinor Rodda quit-claim to the town real estate commencing at a point 10 feet north of the northeast quarter of Lot 1
-	11-4-1975	H and L Distributors Inc. grants to the town a strip of land 10 feet wide running along the east bank of the 8-mile ditch
-	1-23-1980	An easement to the town for street and public utility construction
-	5-15-1981	Easement; portions of the south half of section 16, for a water line and access road
-	1-18-1982	Ossian Canning Co. Inc. grants to the town a portion of the southwest quarter of section 16; a square tract of land

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	1-18-1982	Easement for water pipe line from Ossian Canning Co. Inc.; the centerline of a water line easement 20 feet wide in the south half of section 16
-	1-18-1982	Ossian Canning Co. Inc grants a portion of the southwest quarter of section 16; a square tract of land whose center coincides with the center of an 8-inch water well
-	1-18-1982	Easement for private road from Ossian Canning Co. Inc.; portions of the south half of section 16, the centerline of an easement for ingress and egress
-	5-29-1982	Millside Inc. grants to the town a part of Millside Place, section "E," commencing at the southeast corner of Lot 55
-	10-11-1985	Biggs Inc. grants the town a right-of-way and easement with the right to install, lay, operate, repair and maintain mains, pipes, appliances, structures and appurtenances for the transportation of water, sanitary waste and/or surface water drainage
-	10-31-1985	Robert and Carol Baker grant a 15-foot wide sanitary sewer easement located in the northeast quarter of section 21

Ossian - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	12-19-1985	Robert and Carol Baker warrant a portion of the north half of section 21, commencing at the intersection of the south line of the north half of section 21, and the east right-of-way line of the Norfolk and Western Railroad
-	12-19-1985	Ossian Development Corporation quit-claims to Hoover Universal Inc. a portion of the north half of section 21
-	12-19-1985	Robert and Carol Baker grant to Hoover Universal Inc. land commencing at the intersection of the south line of the north half of section 21 and the east right-of-way line of the Norfolk and Western Railroad; thence easterly on the south line 660 feet
-	12-19-1985	Robert and Carol Baker warrant land to Hoover Universal Inc. in deed book 120 page 235
-	1-9-1986	Robert and Carol Baker warrant to Hoover Universal Inc. 1,220 feet off of the south end; a strip of land 40 feet wide and 2,640 feet long in the northwest quarter of section 21
-	3-2-1988	Easement for utility purposes commencing at the intersection of the south line of the north half of section 21
-	12-8-1989	First Presbyterian Church of Ossian warrants to the town a part of the northeast quarter of section 16

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
9095-1	5-15-1990	Vacates a platted public utility easement commencing at the southwest corner of Lot 3
-	8-12-1991	Hoover Universal Inc. warrants to the town a tract of land being 10 feet wide, the centerline of the 10 feet commencing at the intersection of the south line of the north half of section 21, and the east right-of-way line of the Norfolk and Western Railroad
-	8-19-1991	Fox and Parrish Farms Inc. grants to the town an easement to install and maintain a waterline over and across and/or under land
-	8-27-1992	Michiana Metronet Inc. quit-claims to the town a portion of the north half of section 21, commencing at the intersection of the south line of the north half of section 21 and the east right-of-way line of the Norfolk and Western Railroad; thence easterly
-	8-28-1992	Robert and Carol Baker warrant to the town a portion of the north half of section 21, commencing at the intersection of the south line of the north half of section 21 and the east right-of-way line of the Norfolk and Western Railroad, thence easterly on the south line 1,140 feet
-	9-15-1992	Ossian Community Care Center Inc. quit-claims to the town a permanent easement to construct, operate, control, maintain, reconstruct and remove a sewer line along a 25-foot wide utility easement consisting of the north 25 feet of the south 45 feet of a 4.576-acre tract of land

Ossian - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	7-13-1993	Northern Wells Community Schools quit-claims to the town a part of the southwest quarter of section 15
-	9-14-1994	Northern Wells Community Schools grants to the town an easement beginning at the northwest corner of section 4, township 27 north, range 12 east
-	10-13-1997	The town grants to the Walbro Corporation a non-exclusive easement for the construction, installation, maintenance and unrestricted use of a railroad spur
-	3-23-1998	Ossian Development Corporation grants to the town part of the southeast quarter of section 21, beginning at the northeast corner of the southeast quarter, thence southerly
-	10-15-1999	Lawyers Building Corporation grants to the town a right-of-way to install and maintain a sanitary sewer over and across and/or under a 10-foot wide strip type permanent easement consisting of the east 10 feet of property
-	10-28-1999	James Mahnensmith grants to the town a 10-foot wide strip recorded in deed record 129 page 731
-	10-28-1999	Kathryn Reppert grants to the town a 10-foot wide permanent utility easement and a 15-foot wide temporary construction easement and a blanket-type permanent easement

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	10-28-1999	Edwin and Maxine Peck grant to the town a 10-foot wide permanent utility easement commencing at a point beginning at the intersection of the east line of the "Peck Tract" and a point measured perpendicular of and south of an existing sanitary sewer that flows southeasterly
-	10-29-1999	Pieterella Geurs grants to the town a 10-foot wide strip type permanent utility easement consisting of the east 10 feet of property; deed record 126 page 962
-	10-29-1999	Vicki Byerly grants to the town a 10-foot wide strip type permanent easement consisting of the east 10 feet of property; deed record 132 page 899
-	10-29-1999	Charles Hissem grants to the town a 10-foot wide strip type permanent easement consisting of the east 10 feet of property; deed record 91 page 39
-	10-31-1999	Thomas and Mary Lou Woodward grant to the town a part of a 6.94-acre tract of land recorded in deed record 132 page 691
-	7-31-2000	Daniel and Frances Baumgardner grant to the town a 10-foot wide permanent strip type utility easement in the southeast quarter of section 16
-	8-8-2000	Steven and Paula White grant to the town a 15-foot wide permanent strip type utility easement in the southeast quarter of section 16

Ossian - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	8-8-2000	Julie Frauhiger grants to the town a 15-foot wide permanent strip type utility easement in the southeast quarter of section 16
-	8-9-2000	Martha Reinhard grants to the town a 10-foot wide permanent strip type utility easement in the southeast quarter of section 16
-	8-21-2000	Michael Dailey grants to the town a 10-foot wide permanent strip type utility easement in the southeast quarter of section 16
-	8-21-2000	Ossian School Building Corporation grants to the town a 20-foot wide temporary strip type utility construction easement in the southwest quarter of section 15
-	8-31-2000	Lex and Janice Hunter grant to the town a 15-foot wide permanent strip type utility easement in part of the southeast quarter of section 16
-	10-6-2000	Julie Dodane grants to the town a 15-foot wide permanent strip type utility easement in part of the southeast quarter of section 16
-	11-3-2000	Paula Crow and Paul and Bonnie Miller grant to the town a 10-foot wide permanent strip type utility easement in the southeast quarter of section 16
-	2-13-2001	Thornhill Real Estate LLC grants to the town a 7-1/2-foot wide permanent strip type utility easement in the southeast quarter of section 16

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	3-21-2001	Pearl-Dove Developments Inc. grants to the town a 7-1/2-foot wide permanent strip type utility easement in the southeast quarter of section 16
-	11-20-2001	Margery Droege grants to the town a 15-foot wide temporary construction utility easement consisting of the north 15 feet of Lot 8
-	11-20-2001	Calvin and Lois Smith grant to the Town of Ossian a 10-foot wide permanent utility easement consisting of the south 10 feet of Lot 9 in the Second Addition of Rose Ann Heights
-	10-14-2002	John and Karen Peck grant to the town a 10-foot wide permanent utility easement consisting of the east 10 feet and the south 10 feet of a 1.12-acre tract of land
-	11-18-2002	Ralph and Joyle Wilson grant to the town a 10-foot wide permanent utility easement located on a 20.758-acre tract of land
-	11-10-2004	Randall and Christina Melching grant to the town a 10-foot wide permanent utility easement consisting of the south 10 feet described in deed record 136 page 741
-	3-1-2012	Linder Oil Co., Inc., grants two temporary construction easements and a perpetual easement and right-of-way related to water lines
-	4--25-12	Hissem Properties, LLC, grants a perpetual easement and right-of-way related to water lines

Ossian - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	4-25-2012	L. and C. Curry grant a 15-foot wide temporary construction easement in Rose Ann Heights, First Addition, related to a storm water line
-	4-25-2012	R. Stine grants a 15-foot wide temporary construction easement in Rose Ann Heights, First Addition, related to a storm water line
-	4-25-2012	Dawn Food Products, Inc., grants a perpetual easement related to water lines
-	6-25-2012	H & N Properties, LLC, a limited liability company, grants a temporary construction easement and a perpetual easement and right-of-way related to water lines
-	9-6-2012	Wells County Revitalization, Inc., releases as a gift and without any consideration real estate in Jefferson Township
-	10-19-2012	Ossian Partners, LLC, grants a perpetual easement and right-of-way related to a sanitary sewer line
-	10-19-2012	DK Development, LLC, grants a perpetual easement and right-of-way related to a sanitary sewer line
-	4-8-2013	Fryback Property, LLC, grants a perpetual easement related to the erection of signs
-	4-18-2013	J. and J. Sargent grants a temporary construction easement and right-of-way related to a storm water line

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	5-10-2013	G. and S. Juillerat grants two temporary construction easements and right-of-way related to a storm water line
-	5-31-2013	The Brian G. Crowl Revocable Trust Agreement and D. Deutsch, as co-tenants in common, grant a perpetual easement related to the erection of signs
13-7-1	6-6-2013	Vacating a 15-foot wide easement for utility on property owned by DK Development, LLC
2013-10-1	10-28-2013	Vacating a 15-foot wide easement for utility on property in Rose Ann Heights, Second Addition, owned by L. and C. Yager
2017-10-3	10-23-2017	Vacating a 10-foot wide utility easement lying within Lot 214, Sandalwood South, Section B, owned by Ideal Suburban Homes, Inc.
2017-10-4	10-23-2017	Vacating a 10-foot wide utility easement lying within Lot 213, Sandalwood South, Section B, owned by Ideal Suburban Homes, Inc.

TABLE VI: AGREEMENTS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	10-22-1968	Partial release of land made by American Fletcher National Bank and Trust Company and U.S.A. to United Rural Electric Membership Corporation
3529	11-17-1977	Rose Ann Heights Inc. certifies that it is the owner of part of the north half of section 16, commencing at a point on the east line of the northeast quarter of section 16
-	1-2-1980	Agreement between Ossian Canning Company, Party of the First Part and the town, by and through its Water Department and Sewage Disposal Utility
81-2	6-9-1981	Grants a franchise to Citizens Cable South Inc. for coaxial cable in the town
-	7-15-1981	Agreement between First Presbyterian Church of Ossian Inc. and the town, where the town is the buyer of land
85-8-1	8-13-1985	Designates all areas zoned for industrial purposes by the provisions of the comprehensive zoning and subdivision control ordinance as Economic Revitalization Areas

Ossian - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
86-2-1	2-11-1986	Payment of sewer and water initial tap fee for Baker Industrial Park and reimbursement to Hoover Universal and the town of advanced sewer and water construction costs for Baker Industrial Park
-	8-25-1989	Sanitary sewer agreement by Hoover Universal Inc., the town and Robert and Kathy Boling
-	9-17-1991	Extends the designation of a portion of the north half of section 21 as an Economic Revitalization Area for tax abatement for new manufacturing equipment and property rehabilitation
92-7-1	7-14-1992	Extends all areas zoned for industrial purposes as Economic Revitalization Areas from December 31, 1991 to December 31, 1995
-	8-11-1992	Amended memorandum of understanding by the Ossian Development Corporation, Robert and Carol Baker and the town for purchase of land
-	8-25-1992	The Economic Development Commission ratifies the issuance of development revenue bonds in the amount of \$9,000,000
92-8-3	8-25-1992	Town Council again finds and determines that the issuance of and sale of economic development revenue bonds in an amount up to \$9,000,000

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	8-28-1992	Agreement between Ossian Development Corporation and Walbro Automotive Corporation to sell 19.48 acres of vacant real estate
92-10-1	10-13-1992	Town Council approves requests of Custom Precision Components Inc. and statement of benefits
93-6-1	6-8-1993	Town Council approves statement of benefits of Ted Melching and the deduction for the construction of the new manufacturing facility shall be allowed over a 10-year period
93-8-2	8-10-1993	Town Council finds that the deduction to which Custom Precision Components Inc. is entitled for the expansion shall be allowed over a 10-year period
94-4-1	1-4-1994	Approves property tax abatement for Walbro Automotive Corporation
94-1-2	1-11-1994	Clarifies property tax abatement for Walbro Automotive Corporation
94-2-2	2-8-1994	The Town Council has read Walbro Automotive Corporation's statement of benefits, and finds the estimates are reasonable, and the deduction to which the Corporation is entitled for the installation of the new manufacturing equipment shall be allowed over a 10-year period

Ossian - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
94-2-3	2-8-1994	The Town Council reviewed Milton and Patricia Gerber's statement of benefits and finds that the estimates are reasonable and the deduction to which they are entitled for the construction of the addition to the manufacturing facility shall be allowed over a 10-year period
94-2-4	2-8-1994	Town Council reviewed Melching Machine Inc.'s statement of benefits and finds the estimates are reasonable and the deduction to which it is entitled shall be allowed over a 10-year period
-	2-23-1994	Supplement to agreement between the town, Acme Waste Systems Inc. and Northern Wells Community School Corporation
-	4-12-1994	Agreement between the town and Kozy Kourt Inc. concerning a lift station and forced sewer main
94-4-1	4-12-1994	Authorizes the town to serve as escrow agent for all tap-in fees collected pursuant to the supplemental agreement dated March 8, 1994
94-4-2	4-12-1994	Town Council finds that the statement of benefits from Joan and Mark Perkins, J.R.P. Machine Products, is reasonable, and the deduction to which they are entitled shall be allowed over a 10-year period

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
94-4-3	4-12-1994	Town Council reviewed Hoover Universal Inc.'s statement of benefits and finds that the estimates are not unreasonable, and the deduction to which it is entitled shall be allowed over a 10-year period
-	5-10-1994	Covenants, restrictions and easements for Ossian Industrial Park
94-5-1	5-10-1994	The Town Council has reviewed Melching Rental Inc.'s statement of benefits and finds the estimates reasonable, and the deduction to which it is entitled shall be allowed over a 10-year period
94-6-1	6-14-1994	Approves and adopts an intergovernmental cooperation agreement for assistance in law enforcement
94-6-2	6-14-1994	The Town Council has read Walbro Automotive Corporation's statement of benefits, and finds the estimates are reasonable, and the deduction to which the Corporation is entitled for the installation of the new manufacturing equipment shall be allowed over a 10-year period
-	7-12-1994	Memorandum of agreement of Hillcrest Park Subdivision with the town of certain provisions of plans
94-7-1	7-12-1994	The Town Council has reviewed Melching Rental Inc.'s statement of benefits and finds the estimates reasonable, and the deduction to which it is entitled shall be allowed over a 10-year period

Ossian - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
94-9-1	9-13-1994	The Town Council has reviewed Melching Rental Inc.'s statement of benefits and finds the estimates reasonable, and the deduction to which it is entitled shall be allowed over a 10-year period
94-9-2	9-28-1994	Interest of town in purchasing part of the southwest quarter for section 15 for park land
94-12-2	12-13-1994	The Town Council has read Walbro Automotive Corporation's statement of benefits, and finds the estimates are reasonable, and the deduction to which the Corporation is entitled for the installation of the new manufacturing equipment shall be allowed over a 10-year period
95-1-1	1-10-1995	The Town Council has read Roembke Mfg. and Design Inc.'s statement of benefits, and finds the estimates are reasonable, and the deduction to which the Corporation is entitled for the installation of the new manufacturing equipment shall be allowed over a 10-year period
-	1-17-1995	Real estate lease for the EMS portion of the Ossian fire/EMS building situate on a part of the northeast quarter of section 16
95-4-1	4-11-1995	The Town Council has read John R. Perkins/Mark W. Perkins, d/b/a/ J.R.P. Machine Products' statement of benefits, and finds the estimates are reasonable, and the deduction to which the Corporation is entitled for the installation of the new manufacturing equipment shall be allowed over a 10-year period

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
95-6-1	6-13-1995	The Town Council has read Thermtron's statement of benefits, and finds the estimates are reasonable, and the deduction to which the Corporation is entitled for the installation of the new manufacturing equipment shall be allowed over a 10-year period
95-6-2	6-13-1995	The Town Council has read Walbro Automotive Corporation's statement of benefits, and finds the estimates are reasonable, and the deduction to which the Corporation is entitled for the installation of the new manufacturing equipment shall be allowed over a 10-year period
95-10-1	10-17-1995	The Town Council has read Roembke Mfg. and Design Inc.'s statement of benefits, and finds the estimates are reasonable, and the deduction to which the Corporation is entitled for the installation of the new manufacturing equipment shall be allowed over a 10-year period
96-5-3	5-5-1996	The Town Council has reviewed Melching Rental Inc.'s statement of benefits and finds the estimates reasonable, and the deduction to which it is entitled shall be allowed over a 10-year period
97-6-1	6-23-1997	The Town Council has reviewed Melching Rental Inc.'s statement of benefits and finds the estimates reasonable, and the deduction to which it is entitled shall be allowed over a 5-year period

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<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
97-7-1	7-14-1997	The Town Council has read Walbro Automotive Corporation's statement of benefits, and finds the estimates are reasonable, and the deduction to which the Corporation is entitled for the installation of the new manufacturing equipment shall be allowed over a 10-year period
97-7-2	7-14-1997	The Town Council has read Walbro Automotive Corporation's statement of benefits, and finds the estimates are reasonable, and the deduction to which the Corporation is entitled for the installation of the new manufacturing equipment shall be allowed over a 10-year period
97-12-1	12-8-1997	The Town Council resolves that the town water and sewer utilities will use the software and forms of Megasystems Inc. for the utility billing and accounting purposes
98-2-2	2-9-1998	Resolves that the Clerk-Treasurer is authorized to execute for and on behalf of this body a membership agreement in the Indiana Public Employers' Plan Inc.
98-3-1	3-9-1998	The Town Council has read John R. Perkins/Mark W. Perkins, d/b/a/ J.R.P. Machine Products' statement of benefits, and finds the estimates are reasonable, and the deduction to which the Corporation is entitled for the installation of the new manufacturing equipment shall be allowed over a 10-year period

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
98-7-3	7-13-1998	The Town Council has read John R. Perkins/Mark W. Perkins, d/b/a/ J.R.P. Machine Products' statement of benefits, and finds the estimates are reasonable, and the deduction to which the Corporation is entitled for the installation of the new manufacturing equipment shall be allowed over a 10-year period
99-5-1	5-4-1999	Approves and adopts the sanitary sewer separation preliminary engineering report, and that the plan be submitted to the Indiana Department of Environmental Management for review and approval
99-5-2	5-4-1999	Schnelker Engineering Inc. be authorized to make application for an SRF loan and the community agrees to comply with the Department of Environmental Management, State of Indiana and federal requirements as they pertain to the SRF
99-5-4	5-4-1999	Authorizes the submission of IDEM grant application
99-10-1	10-11-1999	Authorizes town to execute for a membership agreement in the Indiana Public Employers' Plan Inc.
2000-2-1	2-14-2000	Tentative contract for construction subject to the town completing all financial arrangements be awarded to the lowest, responsible, responsive bidder Dehner Construction Inc.

Ossian - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
2000-6-1	6-12-2000	The Town Council has read Roembke Mfg. and Design Inc.'s statement of benefits, and finds the estimates are reasonable, and the deduction to which the Corporation is entitled for the installation of the new manufacturing equipment shall be allowed over a 10-year period
2003-10-1	6-12-2000	The Town Council has read Roembke Mfg. and Design Inc.'s statement of benefits, and finds the estimates are reasonable, and the deduction to which the Corporation is entitled for the installation of the new manufacturing equipment shall be allowed over a 10-year period
00-12-2	12-11-2000	The Town Council has read Thermtron's statement of benefits, and finds the estimates are reasonable, and the deduction to which the Corporation is entitled for the installation of the new manufacturing equipment shall be allowed over a 10-year period
6-1-01	6-11-2001	Designates Jefferson Street from the north side of Mill Street to the south side of Lafever Street; Mill Street from Ogden Street to Metts Street; Craig Street from Ogden Street to Metts Street; and Lafever Street from Ogden, as economically depressed and blighted
6-2-01	6-20-2001	Approves a tax abatement for Visentin USA for a period of 10 years

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	7-9-2001	Encroachment agreement between the town and Diana K. Smith, the owner of the east 2/3 of Lot 4
8-1-01	8-13-2001	Authorizes application submission and local match commitment (\$3,900)
8-1-01	10-26-2001	Amends the matching funds to \$5,000
02-5-1	5-13-2002	Approves a tax abatement for B and D Real Estate Development LLC
-	9-9-2002	Guaranteed agreement for the construction of subdivision improvement for Pebble Brook Villas Subdivision
-	12-9-2002	Construction contract between the town and Geiger Excavating Inc. Fort Wayne, Indiana
-	1-13-2003	Agreement for consulting engineering services, between the town and Schnelker Engineering Inc. Consulting Engineers, Fort Wayne, Indiana
-	3-10-2003	Contract for collection, transportation and disposal of solid wastes and recyclable in corporate limits of the town between the town and National Serv-All
-	8-18-2003	Accounting services agreement between the town and H.J. Umbaugh and Associates, Certified Public Accountants, LLP, Plymouth, Indiana

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<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	2-9-2004	Agreement for consulting engineering services with Schnelker Engineering Inc. Consulting Engineers, Fort Wayne, Indiana
04-2-1	2-9-2004	Approves and adopts the Premium Only-125 Plan effective February 9, 2004
04-3-1	3-8-2004	Authorizes and approves the filing of a consolidated compliance statement by J.R.P. Machine Products
04-4-1	4-12-2004	The Town Council has read Perma-Column Inc.'s statement of benefits, and finds the estimates are reasonable, and the deduction to which the Corporation is entitled for the installation of the new manufacturing equipment shall be allowed over a 10-year period
04-5-1	5-10-2004	The Town Council has read TI Group Automotive Systems' statement of benefits, and finds the estimates are reasonable, and the deduction to which the Corporation is entitled for the installation of the new manufacturing equipment shall be allowed over a 10-year period, beginning with the 2001 tax year
04-5-2	5-10-2004	The Town Council has read TI Group Automotive Systems' statement of benefits, and finds the estimates are reasonable, and the deduction to which the Corporation is entitled for the installation of the new manufacturing equipment shall be allowed over a 10-year period

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
04-5-3	5-10-2004	The Town Council has read TI Group Automotive Systems' statement of benefits, and finds the estimates are reasonable, and the deduction to which the Corporation is entitled for the installation of the new manufacturing equipment shall be allowed over a 10-year period, beginning with the 2003 tax year
-	7-1-2004	Real estate lease between the town and Ted Martz for a part of the southwest quarter of section 16
05-1-1	1-24-2005	Approves plan of project of Schnelker Engineering, and directs the company to prepare final drawings and specifications
Res. 08-7-1	7-28-2008	Economic Revitalization Area tax deduction for Michael and Cheryl Business Investment, LLC, in Ossian Industrial Park
Res. 08-8-1	8-25-2008	Economic Revitalization Area tax deduction for Trusted Manufacturing, Inc., in Ossian Industrial Park
Res. 09-2-1	2-9-2009	Economic Revitalization Area tax deduction for JRP Machine Products, LLP, in Ossian Industrial Park
-	4-19-2009	Lease agreement between the town and OnlyInternet Broadband & Wireless, Inc., concerning two water towers or rooftops and a transmitter building
Res. 10-3-2	3-8-2010	Economic Revitalization Area tax deduction for H&N Properties, LLC, in Ossian Industrial Park

Ossian - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
Res. 10-3-3	3-8-2010	Economic Revitalization Area tax deduction for Berne Apparel Company in Ossian Industrial Park
Res. 11-5-1	5-23-2011	Transfer of automobile for compensation to County Community Corrections
-	10-26-2012	Construction and maintenance of a sanitary sewer line extension with Ossian Partners, LLC
-	11-1-2012	Creating Archbold-Wilson Park with Wells County Revitalization
-	5-15-2013	Installing underground fiberoptic cable within town rights-of-way with MCC Telephony
-	7-1-2013	Lease of a portion of town hall to Wells County EMS, Inc.
-	8-12-2013	Regarding the painting of various structural steel stair structures in the town waste water treatment facility
-	9- -2013	Consulting services on the water storage tank with Nelson Tank Engineering and Consulting, Inc.
-	11-21-2013	Town assuming street sweeping services from state Department of Transportation on SR 2
Res. 17-4-1	4-10-2017	Economic Revitalization Area tax deduction for Roembke Mfg. & Design, Inc. in Ossian Industrial Park
Res. 17-8-3	8-21-2017	Economic Revitalization Area tax deduction for Trusted Supply Chain Partners, LLC in Ossian Industrial Park

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
Res. 17-12-3	12-11-2017	Economic Revitalization Area tax deduction for H & N Properties, LLC in Ossian Industrial Park
Res. 17-12-4	12-11-2017	Economic Revitalization Area tax deduction for Rethceif Properties, LLC in Ossian Industrial Park
Res. 18-4-2	4-9-2018	Economic Revitalization Area tax deduction for Trusted Supply Chain Partners, LLC in Ossian Industrial Park
Res. 18-5-01	5-14-2018	Economic Revitalization Area tax deduction for TI Group Automotive Systems, LLC in Ossian Industrial Park
Res. 18-5-02	5-14-2018	Economic Revitalization Area tax deduction for TI Group Automotive Systems in Ossian Industrial Park
Res. 18-5-3	5-14-2018	Authorizing acquisition, construction and installation of improvements and extensions to sewage works and the issuance of up to \$2,5000,000 revenue bonds to provide funds for same
18-5-4	5-14-2018	Authorizing acquisition, construction and installation of improvements and extensions to sewage works and the issuance of up to \$2,5000,000 revenue bonds to provide funds for same
Res. 19-3-1	3-11-2019	Economic Revitalization Area tax deduction for Perma-Column, LLC in Ossian Industrial Park
Res. 19-4-1	4-8-2019	Expansion of Ossian Industrial Park Economic Development Area

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<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
Res. 20-1-1	1-13-2020	Economic Revitalization Area tax deduction for Trusted Supply Chain Partners, LLC in Ossian Industrial Park

PARALLEL REFERENCES

References to Indiana Code
References to Resolutions
References to Ordinances

INDIANA CODE REFERENCES

<i>I.C. Section</i>	<i>Code Section</i>
1-1-1-5	10.04
1-1-1-7	10.12
1-1-1-8	10.06
1-1-4-5	10.05
1-1-5-1	10.11
1-1-6-1	10.08
1-1-7-1	52.02, 53.02, 91.40, 91.42
3-10-6-2.5	32.02
3-10-7-2.5(b)	32.02
3-13-9-4	32.01
5-11-1-4(a)	31.20
5-11-1-27	31.20
5-11-10	31.18
5-14-3	31.01
5-14-3-8	31.01
5-22-22 (Repealed)	34.33
5-22-22-9 (Repealed)	34.34
6-2.5-5-26	110.01, 110.05
6-2.5-8	110.01
8-1.5-5-1 <i>et seq.</i>	34.03
8-1.5-5-6	34.03
8-1.5-5-30	52.02
9-13-2	91.16
9-21-8-32	Ch. 71, Sch. I
9-22	91.16
9-22-1-1 <i>et seq.</i>	91.15
9-25-4-1 <i>et seq.</i>	73.01
9-25-4-4	73.05
10-14	34.05
13-11-2	50.070
16-20	51.01
22-9-1-4 <i>et seq.</i>	93.02
22-9.5-1 <i>et seq.</i>	93.01

Ossian - Parallel References

<i>I.C. Section</i>	<i>Code Section</i>
22-9.5-2-2	93.02
22-9.5-2-3	93.02
22-9.5-2-4	93.02
22-9.5-2-8	93.02
22-9.5-2-9	93.02
22-9.5-2-11	93.02
22-9.5-2-13	93.02
22-9.5-3	93.03
22-9.5-3 <i>et seq.</i>	93.09
22-9.5-4-8	93.10
22-9.5-5	93.02
22-9.5-5-1	93.03
22-9.5-6	93.02, 93.10
25-6.1-3	110.01
27-2-15	151.01
31-37-19-27	130.04
33-36-1-1 - 33-36-3-7	35.01
34-28	Ch. 71, Sch. I
34-28-5-1	70.99
36-1-3-8(a)(10)	10.99
36-1-5-4	32.03
36-1-6-2	91.36, 91.40
36-1-20.2	32.03
36-1-21	32.03
36-2-7-10	91.44
36-5-2-2	10.15, 34.06
36-5-2-3	32.02
36-7-9 <i>et seq.</i>	151.01
36-7-9-1 <i>et seq.</i>	151.01
36-7-9-1 - 36-7-9-28	151.01
36-7-9-2	151.01
36-7-9-5	151.01
36-7-9-5(a,2); 5(a,3); or 5(a,4)	151.01
36-7-9-7	151.01
36-7-9-8	151.01
36-7-9-13	151.01
36-7-9-25	151.01
36-7-9-27	151.01
36-7-9-28	151.01

<i>I.C. Section</i>	<i>Code Section</i>
36-7-10.1	91.36
36-7-11.9	34.04
36-7-12	34.04
36-7-14	T.S.O. I
36-7-14-6.1(d)	34.06
36-8-3-4	34.01
36-8-3-4.1	34.01
36-8-8-3	34.01
36-8-9-1	34.01
36-9-23	53.30, 53.32, 53.34, 53.43
36-9-23-33	53.02
36-10-3-1 et seq.	90.01
36-10-3-10	90.01
36-10-3-17	90.01
36-10-3-22	90.01

REFERENCES TO RESOLUTIONS

<i>Res. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
97-2-1	--	30.01
6-13-89	6-13-1989	150.01
96-8-2	8-13-1996	Ch. 71, Sch. I
98-4-3	4-13-1998	Ch. 71, Sch. I
2000-9-8	9-11-2000	Ch. 71, Sch. I
03-6-1	6-9-2003	Ch. 71, Sch. I
03-11-1	11-10-2003	95.01
03-11-2	11-10-2003	95.02
03-11-3	11-10-2003	Ch. 71, Sch. I
2004	12-6-2004	90.02
05-8-1	9-12-2005	70.99
08-1-1	1-14-2008	T.S.O. III
08-1-2	1-14-2008	T.S.O. III
08-7-1	7-28-2008	T.S.O. VI
08-8-1	8-25-2008	T.S.O. VI
08-12-1	12-8-2008	T.S.O. III
09-2-1	2-9-2009	T.S.O. VI
09-2-5	2-23-2009	T.S.O. I
09-2-6	2-23-2009	T.S.O. I
09-2-7	2-23-2009	T.S.O. III
09-2-8	2-23-2009	T.S.O. III
09-2-9	2-23-2009	T.S.O. III
09-2-10	2-23-2009	T.S.O. III
10-1-1	1-25-2010	Ch. 71, Sch. I
10-2-1	2-8-2010	T.S.O. III
10-2-2	2-8-2010	T.S.O. III
10-2-3	2-8-2010	T.S.O. III
10-2-4	2-8-2010	T.S.O. III
10-3-2	3-8-2010	T.S.O. VI
10-3-3	3-8-2010	T.S.O. VI
12-10-1	10-8-2012	Ch. 71, Sch. I
16-7-2	7-11-2016	31.22
17-4-1	4-10-2017	T.S.O. VI
17-8-3	8-21-2017	T.S.O. VI
17-12-3	12-11-2017	T.S.O. VI
17-12-4	12-11-2017	T.S.O. VI

Ossian - Parallel References

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
18-4-2	4-9-2018	T.S.O. VI
18-5-01	5-14-2018	T.S.O. VI
18-5-02	5-14-2018	T.S.O. VI
18-5-3	5-14-2018	T.S.O. VI
19-3-1	3-11-2019	T.S.O. VI
19-4-1	4-8-2019	T.S.O. VI
20-1-1	1-13-2020	T.S.O. VI
20-3-2	3-9-2020	31.23

REFERENCES TO ORDINANCES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
92-8-6	--	T.S.O. I
58-1	9-2-1958	T.S.O. II
3	10-6-1959	T.S.O. II
8	5-3-1966	T.S.O. II
13	9-2-1969	T.S.O. II
25	7-16-1970	53.30 - 53.45
29	4-1-1971	150.01
—	5-10-1971	T.S.O. IV
—	6-3-1971	T.S.O. IV
—	2-4-1974	T.S.O. III
1-1974	4-17-1974	91.16
75-10-1	10-14-1975	T.S.O. II
—	2-3-1976	T.S.O. II
77-1	4-5-1977	T.S.O. II
3529	11-17-1977	T.S.O. VI
7-2-79	7-2-1979	T.S.O. IV
—	11-6-1979	T.S.O. IV
—	10-7-1980	T.S.O. IV
81-2	6-9-1981	T.S.O. VI
81-12-1	12-8-1981	T.S.O. I
82-1	2-9-1982	T.S.O. II
84-8-1	8-14-1984	T.S.O. III
85-1	3-12-1985	T.S.O. IV
85-7-1	7-9-1985	70.01, 70.99
—	8-13-1985	T.S.O. IV
85-8-1	8-13-1985	T.S.O. VI
86-2-1	2-11-1986	T.S.O. VI
86-12-1	12-9-1986	T.S.O. I
—	3-10-1987	T.S.O. IV
87-8-3	8-11-1987	T.S.O. II
—	12-8-1987	T.S.O. IV
87-12-1	12-8-1987	T.S.O. I
—	4-7-1988	T.S.O. IV
—	10-6-1988	T.S.O. IV

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<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
1-89	3-14-1989	T.S.O. I
6-13-89	6-13-1989	150.01
—	4-4-1991	T.S.O. IV
91-3-1	5-14-1991	90.01
862	8-13-1991	T.S.O. II
92-1-2	2-11-1992	91.15
92-3-1	5-12-1992	33.02
92-7-1	7-14-1992	T.S.O. VI
95-5-2	7-14-1992	90.01
—	8-11-1992	T.S.O. IV
92-8-1	8-11-1992	34.04
92-8-3	8-25-1992	T.S.O. VI
92-10-1	10-13-1992	T.S.O. VI
93-3-2	3-10-1993	T.S.O. II
93-3-1	5-11-1993	50.001, T.S.O. I
93-4-1	6-8-1993	T.S.O. III
93-6-1	6-8-1993	T.S.O. VI
93-7-1	7-15-1993	T.S.O. I
93-8-1	8-10-1993	T.S.O. I
93-8-2	8-10-1993	T.S.O. VI
94-4-1	1-4-1994	T.S.O. VI
94-1-2	1-11-1994	T.S.O. VI
94-2-1	2-8-1994	T.S.O. I
94-2-2	2-8-1994	T.S.O. VI
94-2-3	2-8-1994	T.S.O. VI
94-2-4	2-8-1994	T.S.O. VI
—	2-23-1994	T.S.O. VI
—	3-3-1994	T.S.O. IV
94-4-1	4-12-1994	T.S.O. VI
94-4-2	4-12-1994	T.S.O. VI
94-4-3	4-12-1994	T.S.O. VI
—	5-10-1994	T.S.O. VI
94-5-1	5-10-1994	T.S.O. VI
94-6-1	6-14-1994	T.S.O. VI
94-6-2	6-14-1994	T.S.O. VI
94-7-1	7-12-1994	T.S.O. VI
94-9-1	9-13-1994	T.S.O. VI
94-9-2	9-28-1994	T.S.O. VI
94-12-2	12-13-1994	T.S.O. VI
93-3-1	1-10-1995	50.001
95-1-1	1-10-1995	T.S.O. VI

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
95-3-1	3-21-1995	T.S.O. II
95-4-1	4-11-1995	T.S.O. VI
95-6-1	6-13-1995	T.S.O. VI
95-6-2	6-13-1995	T.S.O. VI
95-10-1	10-17-1995	T.S.O. VI
95-10-2	10-17-1995	31.18
96-5-3	5-5-1996	T.S.O. VI
96-5-1	5-15-1996	32.01
96-8-1	8-13-1996	Ch. 71, Sch. I
96-8-3	8-13-1996	94.01
96-10-1	10-8-1996	T.S.O. II
96-10-4	10-22-1996	T.S.O. II
96-11-1	11-12-1996	51.01, 51.99
96-11-2	11-12-1996	T.S.O. II
97-4-1	4-14-1997	T.S.O. II
97-6-1	6-23-1997	T.S.O. VI
97-7-1	7-14-1997	T.S.O. VI
97-7-2	7-14-1997	T.S.O. VI
97-11-1	11-10-1997	33.01
97-12-1	12-8-1997	T.S.O. VI
98-2-1	2-9-1998	32.02
98-2-2	2-9-1998	T.S.O. VI
98-3-1	3-9-1998	T.S.O. VI
98-4-1	4-13-1998	T.S.O. II
98-4-2	4-13-1998	31.19
98-4-4	4-13-1998	110.01 - 110.07, 110.99
95-12-1	4-20-1998	30.02
98-5-1	5-11-1998	31.02
98-7-1	7-13-1998	T.S.O. II
98-7-2	7-13-1998	T.S.O. II
98-7-3	7-13-1998	T.S.O. VI
98-7-4	7-13-1998	31.16
98-7-5	7-13-1998	31.16
98-7-6	7-13-1998	31.15
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