

CITY OF BUTLER, INDIANA CODE OF ORDINANCES

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CITY OFFICIALS OF BUTLER, INDIANA

MAYOR:	Mike Hartman
CLERK-TREASURER:	Angela M. Eck
CITY ATTORNEY:	Cedric M. Hollabaugh
COMMON COUNCIL:	Bill White
	Tracey
	Hawkins
	Gale Ryan
	Gary Miller
	Eric Johnson
CITY JUDGE:	Richard Obendorf
CHIEF OF POLICE:	Mark Heffelfinger
STREET SUPERINTENDENT:	Eric Dohner
WATER AND WASTEWATER SUPERINTENDENT:	Scott Lanning
FIRE CHIEF:	Jeff Shultz
CITY PLANNER:	Steve Bingham

TITLE I: GENERAL PROVISIONS

Chapter

10. RULES OF CONSTRUCTION

11. WARDS AND BOUNDARIES

CHAPTER 10: RULES OF CONSTRUCTION

Section

10.01 Title of code

10.02 Interpretation

10.03 Application to future ordinances

10.04 Captions

10.05 Definitions

10.06 Rules of interpretation

10.07 Severability

10.08 Reference to other sections

10.09 Reference to offices

10.10 Errors and omissions

10.11 Official time

10.12 Reasonable time

10.13 Ordinances repealed

10.14 Ordinances unaffected

10.99 General Penalty

§ 10.01 TITLE OF CODE.

This codification by ordinances by and for the City of Butler, Indiana, shall be designated as the "Code of Butler, Indiana of 1979" and may be so cited.

§ 10.02 INTERPRETATION.

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

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

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

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I, not incompatible with future legislation, shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

§ 10.04 CAPTIONS.

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

§ 10.05 DEFINITIONS.

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

(IC 1-1-4-1)

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

- (1) "CITY," "MUNICIPAL CORPORATION," or "MUNICIPALITY." The City of Butler, Indiana.
- (2) "THIS CODE" or "THIS CODE OF ORDINANCES." The Municipal code as modified by amendment, revision, and adoption of new titles, chapters, or sections.
- (3) "COUNCIL." The Common Council of Butler, Indiana.
- (4) "MAY." Is permissive.
- (5) "MONTH." A calendar month, unless otherwise expressed. (IC 1-1-4-5)
- (6) "OWNER." Applied to a building or land, includes any part owner, joint

owner, tenant in common, tenant in partnership, or joint tenant of the whole or a part of such building or land, either alone or with others.

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

(8) "PERSONAL PROPERTY." Every species of property except real property.

(9) "PROPERTY." Real and personal property.

10) "REAL PROPERTY." Lands, tenements, and hereditaments and all chattels real.

(11) "SHALL." Is mandatory.

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

(13) "STATE." Shall be applied to any one of the United States and includes the District of Columbia, the commonwealths, possessions, states in free association with the United States, and the territories. "UNITED STATES" includes the District of Columbia and the commonwealths, possessions, states in free association with the United States, and the territories. (IC 1-1-4-5)

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

(15) "YEAR." A calendar year, unless otherwise expressed.
(IC 1-1-4-5)

§ 10.06 RULES OF INTERPRETATION.

The construction of all ordinances of this city shall be by the following rules, unless such construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance:

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

(B) Words importing the singular number only may be also applied to the plural of persons and things.

(C) Words importing the masculine gender only may be extended to females also.

(D) When a statute requires an act to be done which, by law, an agent or deputy as well may do as the principal, the requisition is satisfied by the performance of such act by an authorized agent or deputy.

(E) When a person is required to be disinterested or indifferent in acting on any question or matter affecting other parties, consanguinity or affinity within the sixth degree, inclusive, by the civil law rules, or within the degree of the second cousin, inclusive, disqualifies the person from acting, except by consent of parties.

(IC 1-1-4-1)

§ 10.07 SEVERABILITY.

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

(IC 1-1-1-8)

§ 10.08 REFERENCE TO OTHER SECTIONS.

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

§ 10.09 REFERENCE TO OFFICES.

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

§ 10.10 ERRORS AND OMISSIONS.

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

§ 10.11 OFFICIAL TIME.

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

§ 10.12 REASONABLE TIME.

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of such act or the giving of such 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 Saturday, Sunday, a legal holiday, or a day on which the office where the act is to be done is closed during regular business hours, it shall be excluded.

(IC Trial Rule 6 (A))

§ 10.13 ORDINANCES REPEALED.

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

§ 10.14 ORDINANCES UNAFFECTED.

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

§ 10.99 GENERAL PENALTY.

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

Statutory reference:

Authority of municipality to levy fines not exceeding \$2500, see IC 36-1-3-8

CHAPTER 11: WARDS AND BOUNDARIES

Section

11.01 Councilmanic districts

§ 11.01 COUNCILMANIC DISTRICTS.

The city is divided into four councilmanic districts:

(A) The First (1st) Councilmanic District shall begin at the intersection of North Broadway and the northern boundary of the city limits, thence south along the centerline of Broadway to the intersection with the centerline of East Monroe Street, thence east to the centerline of North Beech Street, thence south to the intersection with the centerline of North Beech Street and East Green Street, thence east on the east Green Street centerline to the Norfolk and Southern Railroad, thence northeast along the Railroad to the city limits. All of the houses on the north side of East Monroe Street and East Green Street shall be included in this district.

(B) The Second (2nd) Councilmanic District shall include all of the city situated east of the center line of Broadway Street beginning at the intersection of Broadway and Monroe Street and extending south to the intersection with the south side of U.S. 6 (Main Street), thence west to the east side of Eastern Avenue, thence south to the north line of Depot Street, thence east to the east side of Broadway, thence south to the city limits. The northern boundary shall be the center line of Monroe Street extended to its intersection with North Beech Street, thence south to the intersection with the centerline with East Green Street to the east side of the Norfolk and Southern Railroad. All of the houses on the south side of Monroe Street, the west side of North Beech Street, the south side of East Green Street, and east of the Railroad right-of-way are included in this district. Also all of the houses on the south side of U.S. 6 (Main Street), the east side of Eastern Avenue and the north side of Depot Street are included in this district.

(C) The Third (3rd) Councilmanic District shall include all of the city south of the centerline of U.S. 6 (Main Street) beginning at the intersection of Eastern Avenue and U.S. 6 (Main Street) and extended West to the city limits. This shall be the northern boundary line of this district. The eastern boundary line shall begin at the intersection of U.S. 6 (Main Street) and Eastern Avenue South to Depot Street, thence East to Broadway Street extended thence south to the city limits. All of the houses west of Eastern Avenue and south of U.S. 6 (Main Street) West are included in this district. All of the houses on the south side of the Depot Street between the intersection of

Eastern Avenue and Depot are included in this district. All of the houses west of Broadway to the city limits are included in this district.

(D) The Fourth (4th) Councilmanic District shall include all of the city situated west of the center line of Broadway Street north of U.S. 6 (Main Street), thence north to the city limits and north of the center line of U.S. 6 (Main Street) extended west to the city limits. All of the houses on the north side of U.S. 6 (Main Street) and on the west side of Broadway Street north of the intersection of U.S. 6 (Main Street) and Broadway Street shall be included in this district.

(E) A map of the Councilmanic Districts is as follows:

Image

(Ord. 348, passed 8-15-55; Am. Ord. 988, passed 2-16-81; Am. Ord. 1019, passed 9-7-82; Am. Ord. 1198, passed 12-21-92; Am. Ord. 1399, passed 10-21-02; Am. Ord. 1564, passed 4-16-12)

Chapter

TITLE III: ADMINISTRATION

- 30. GENERAL PROVISIONS
- 31. EXECUTIVE
- 32. LEGISLATIVE
- 33. JUDICIAL
- 34. FISCAL
- 35. STATUTORY BOARDS AND COMMISSIONS
- 36. POLICE DEPARTMENT
- 37. EMPLOYMENT POLICIES

CHAPTER 30: GENERAL PROVISIONS

Section

- 30.01 Elective officers; appointed officials
- 30.02 Eligibility for office
- 30.03 Oath; bond
- 30.04 Filling vacancies in office
- 30.05 Bribery; official misconduct
- 30.06 Smoking
- 30.07 Credit card usage policy
- 30.08 Policy for use of NIXIE

Compensation

30.10 Salaries for elected and appointed officials

30.11 (Reserved)

30.12 Salaries of employees

Ethics Policy

30.25 Purpose and intent

30.26 Definitions

30.27 Standards of conduct

30.28 Ethics Board

30.29 Statement of interests; compliance with the municipal nepotism policy

30.30 Enforcement

§ 30.01 ELECTIVE OFFICERS; APPOINTED OFFICIALS.

(A) The elective officers of the city, elected in accordance with the provisions of the state election laws, shall be:

- (1) The Mayor;
- (2) The Clerk-Treasurer;
- (3) The members of the Common Council; and
- (4) The City Judge.

(B) The Mayor shall appoint the following officials:

- (1) City Civil Engineer;
- (2) City Attorney;
- (3) Chief of the Fire Department;
- (4) Chief of the Police Department; and

(5) Boards, commissions, officers, and other employees pursuant to the provisions of the laws in effect and as hereafter provided.

(IC 33-10.1-3-1.1, 36-4-5-2, 36-4-6-2, 36-4-9-4, 36-4-10-2)

§ 30.02 ELIGIBILITY FOR OFFICE.

No person shall be eligible for any city office unless he has been a resident of the city for at least one year immediately preceding his election, nor shall any person be eligible for the office of Councilman to represent any ward unless for the last six months of his residence in the city he has been a resident of such ward. Should any city officer cease to be a resident of the city, or any Councilman representing any ward cease to be a resident of such ward, during his term of office, such office shall at once become vacant.

(IC 36-4-5-2, 36-4-6-2, 36-4-10-3)

§ 30.03 OATH; BOND.

(A) Every officer of the city, before entering on the duties of his office, shall take and subscribe an oath to be indorsed on his certificate of election. Every appointive officer shall likewise take such oath, to be indorsed on his certificate of appointment, before the Clerk-Treasurer or some officer authorized to administer oaths. The oath will state that he will support the Constitution of the United States and the constitution of the state, and that he will faithfully discharge all his official duties. The oath shall also be filed with the Clerk-Treasurer. If any officer does not take and file the oath within ten days after the beginning of his term, the office shall become vacant.

(B) Every city officer, except the Mayor and the members of the Common Council, shall likewise execute a bond, to the approval of the Mayor, payable to the city, in such penal sum as the Common Council may enact by ordinance covering such cases, conditioned for the faithful performance of the duties of his office and for the payment to the proper person of moneys received by him as such officer. Such bond shall be filed with the county recorder in the county of residence of the officer. Any person who shall not file his bond with the proper officer before the commencement of his term of office, may not take office.

Statutory reference:

Oath and bond requirements, see IC §§ 5-4-1-1 et seq.

§ 30.04 FILLING VACANCIES IN OFFICE.

(A) City offices other than city court judge, filling by caucus. A vacancy in a city office (other than judge of a city court) that was last held by a person elected or selected as a candidate of a major political party of the state shall be filled by a caucus under IC 3-13-11.

(IC 3-13-8-l)

(B) Mayor.

(1) This section applies to a vacancy in the office of Mayor not covered by division (A) of this section.

(2) A vacancy shall be filled as follows:

(a) If the city has a deputy mayor, the deputy mayor assumes the office for the remainder of the unexpired term.

(b) If the city does not have a deputy mayor, the Common Council shall fill the vacancy at a regular or special meeting.

(3) The Clerk-Treasurer shall give notice of the meeting. Except as provided in division (B) (4) below, the meeting shall be held not later than 30 days after the vacancy occurs. The notice must:

(a) Be in writing;

(b) State the purpose of the meeting;

(c) State the date, time, and place of the meeting; and

(d) Be sent by first class mail to each Councilmember at least ten days before the meeting.

(4) If a vacancy exists because of the death of the Mayor, the Council shall meet and select an individual to fill the vacancy not later than 30 days after the Clerk-Treasurer receives notice of

the death by IC 5-8-6. The Clerk-Treasurer may not give the notice required under division (B)(3) until he or she receives notice of the death under IC 5-8-6.

(5) Until the vacancy is filled, the Council shall designate one of its members to serve as Acting Mayor.

(IC 3-13-8-8)

(C) City Clerk-Treasurer.

(1) This division applies to a vacancy in the office of Clerk-Treasurer not covered by division (A) of this section.

(2) This vacancy shall be filled by the Mayor or Acting Mayor, subject to the approval of the Common Council. However, if a vacancy exists because of the death of the Clerk-Treasurer, the Mayor or Acting Mayor may not fill the vacancy until the Mayor or Acting Mayor receives notice of the death under IC 5-8-6.

(3) The Common Council shall vote on the question of approving the Mayor's or Acting Mayor's appointment at a regular or special meeting. The Mayor shall give notice of the meeting, which shall be held not later than 30 days after the appointment is made. The notice must:

(a) Be in writing;

(b) State the purpose of the meeting;

(c) State the date, time, and place of the meeting; and

(d) Be sent by first class mail to each Councilmember at least ten days before the meeting.

(IC 3-13-8-9)

(D) Common Council.

(1) This division applies to a vacancy in the Common Council not covered by division (A) of this section.

(2) A vacancy shall be filled by the remaining members of the Council at a regular or special meeting. The Mayor may break any tie vote.

(3) The City Clerk-Treasurer shall give notice of the meeting. Except as provided in division (D)(4) below, the meeting shall be held not later than 30 days after the vacancy occurs. The notice must:

(a) Be in writing;

(b) State the purpose of the meeting;

(c) State the date, time, and place of the meeting; and

(d) Be sent by first class mail to each Councilmember at least ten days before the meeting.

(4) If a vacancy exists because of the death of a Councilmember, the Council shall meet and select an individual to fill the vacancy not later than 30 days after the Clerk-Treasurer receives notice of the death by IC 5-8-6. The Clerk-Treasurer may not give the notice required under division (B)(3) until he or she receives notice of the death under IC 5-8-6.

(IC 3-13-8-10)

(E) City Court Judge.

(1) As used in this division, "JUDGE" refers to a judge of a city court.

(2) If a judge wishes to resign from office, the judge must resign as provided in IC 5-8-3.5.

(3) A vacancy that occurs because of the death of a judge may be certified to the Governor under IC 5-8-6.

(4) A vacancy that occurs, other than by resignation or death of a judge shall be certified to the Governor by the Circuit Court Clerk of the county in which the judge resided.

(5) A vacancy in the office of a judge of a city court shall be filled by the Governor. However, the Governor may not fill a vacancy that occurs because of the death of a judge until the Governor receives notice of the death under IC 5-8-6.

(IC 3-13-8-2)

(F) Term of person filling vacancy. A person selected to fill a vacant office under this section holds the office for the remainder of the term. (IC 3-13-8-13)

§ 30.05 BRIBERY; OFFICIAL MISCONDUCT.

In case the Mayor or other officer of the city is convicted of bribery or official misconduct, the court in which the conviction is had may include in the sentence an order rendering the person incapable of holding a public office of trust or profit for a fixed period of not more than ten years.

(IC 35-50-5-1.1)

§ 30.06 SMOKING.

(A) The use of any and all tobacco products shall not be permitted in any enclosed building owned by the city or in any motor vehicle owned by the city. The term "city" shall include the city utilities.

(B) The use of any and all tobacco products shall not be permitted in any public parks or recreation facilities owned by the city. This includes all athletic fields located in city parks.

(C) Any person in violation of this section shall be subject to a fine of not less than \$25 nor more than \$100.

(Ord. 1439, passed 4-4-05; Am. Ord. 1585, passed 9-16-13)

§ 30.07 CREDIT CARD USAGE POLICY.

(A) The City Council authorizes elected officials, the City Attorney and specified city employees to use the city credit card pursuant to the policies specified herein.

(B) The Clerk-Treasurer is designated as the person who will distribute the credit card to authorized users upon request as provided in these rules.

(C) The credit card may only be used for expenses incurred by employees while engaged in city business or purchasing items for the city.

(D) Employees are only allowed to check out or use a credit card if their supervisor has signed the acknowledgment form authorizing them to do so.

(E) The credit card will be checked out from the Clerk-Treasurer by the employee and returned with original receipts as soon as the transaction is completed.

(F) The Clerk-Treasurer will maintain a log of all credit card usage listing the employee name, position, estimated cost, fund to be charged and date the card is checked out and returned.

(G) Any interest or penalty incurred due to the late filing or furnishing of documentation by an employee will be the responsibility of that employee.

(H) All employees will acknowledge that they have read and understand the policy and procedures for credit card usage prior to checking out the card by signing a copy of this policy and acknowledging they have read and understand it and agree to abide by it.

(I) The employee will report to the Clerk-Treasurer immediately if the card is lost, stolen or damaged. The Clerk-Treasurer will then contact the card company.

(J) Gratuities may be added to meals charged on the card within the limits specified in and authorized by the travel policy.

(K) Any purchases that will be made either by phone or on-line need prior authorization of the appropriate person or entity.

(L) Any unauthorized use of the card will be charged to the employee.
(Res. 09-461, passed 12-7-09)

§ 30.08 POLICY FOR USE OF NIXIE.

(A) NIXIE is a free web service that allows a city to relay information to its citizens.

(B) NIXIE can be used to post the following types of information to the citizens of Butler:

- (1) Public safety information;
- (2) Water or waste water emergencies;
- (3) Street closures;
- (4) Weather-related information;
- (5) City-sponsored events.

(C) The following people, or their designees, are permitted to post information on NIXIE:

- (1) Police Chief;
- (2) Fire Chief;
- (3) City Superintendent;
- (4) Mayor;
- (5) Clerk-Treasurer.

(Res. 09-462, passed 11-2-09)

COMPENSATION

§ 30.10 SALARIES FOR ELECTED AND APPOINTED OFFICIALS.

(A) From and after January 1, 2019, the following stated officers of the city shall receive the following total salaries, divided into four pays, paid quarterly.

	<i>General Fund</i>	<i>Garbage</i>	<i>Water Works</i>	<i>Waste Water</i>	<i>Total</i>
Mayor	\$ 6,400		\$ 2,900	\$ 3,700	\$13,000
City Judge	22,150				22,150
Council Member (5 members - per member)	3,800				19,000
President of Board of Public Works and Safety			400	1,000	1,400
Member of Board of Public Works and Safety			400	1,000	1,400
Plan Commission President	120				120
Plan Commission Secretary	120				120
Plan Commission & BZA members for each meeting attended (per meeting)	50				50

	<i>Redevelopment Fund</i>	<i>Total</i>
Redevelopment Commission members for each meeting attended (per meeting)	\$50	\$50

(B) (1) From and after January 1, 2018, the Clerk-Treasurer shall receive the following total salary, divided into 26 pays, paid bi-weekly.

	<i>General Fund</i>	<i>Butler/ Wilmington Fire Territory Operating Fund</i>	<i>Garbage</i>	<i>Water Works</i>	<i>Waste Water</i>	<i>Total</i>
Clerk-Treasurer	\$17,550	\$5,200	\$1,000	\$9,700	\$10,845	\$44,295

(2) In November of each year the Clerk-Treasurer shall also receive \$1.75 for each week

worked times the number of years he or she has been in the position.

(C) (1) From and after January 1, 2019, the City Attorney shall receive the following total retainer, divided into 12 pays, paid monthly.

	General Fund	Water Works	Waste Water	Total
City Attorney	\$17,250	\$4,500	\$5,900	\$27,650

(2) In addition to the above fees, the City Attorney shall charge and receive the sum of \$175 per hour for all special work. The term "special work" shall include work done for the Board of Zoning Appeals, the Plan Commission, the Redevelopment Commission, the Utility Department, and any other board, department, personnel, or agency of the city, including any grants or real estate transactions, as well as litigation, hearings, and prep work or activities that would lead to this. In addition, the City Attorney may charge \$175 per hour for work on bonds or financing agreements up to \$250,000. All bond issues or financing agreements in excess of \$250,000 shall be paid at an hourly rate charged by bond counsel. Such hourly rate is to be negotiated individually for each bond issue.

(Ord. 914, passed 4-16-79; Am. Ord. 1204, passed 7-27-93; Am. Ord. 1223, passed 12-19-94; Am. Ord. 1241, passed 12-18-95; Am. Ord. 1268, passed 12-16-96; Am. Ord. 1286, passed 12-1-97; Am. Ord. 1333, passed 12-6-99; Am. Ord. 1356, passed 12-4-00; Am. Ord. 1375, passed 12-17-01; Am. Ord. 1411, passed 12-31-03; Am. Ord. 1447, passed 4-19-05; Am. Ord. 1478, passed 9-4-07; Am. Ord. 1498, passed 11-17-08; Am. Ord. 1513, passed 9-8-09; Am. Ord. 1528, passed 9-7-10; Am. Ord. 1550, passed 10-3-11; Am. Ord. 1572, passed 9-17-12; Am. Ord. 1588, passed 10-7-13; Am. Ord. 1604, passed 10-6-14; Am. Ord. 1640, passed 1-16-17; Am. Ord. 1647, passed 10-2-17; Am. Ord. 1672, passed 9-17-18)

§ 30.11 (RESERVED).

§ 30.12 SALARIES OF EMPLOYEES.

(A) (1) From and after January 1, 2019, the following employees of the city shall receive the following pay rates in 26 pay periods per year unless otherwise stated:

<i>Position</i>	<i>Pay Range</i>	<i>Fund(s)</i>
Clerk-Treasurer		
Assistant Clerk	\$13.00 to \$16.00/hour	All
Utility Billing Clerk	\$14.00 to \$20.00/hour	Water, Wastewater, Garbage
Community Development		
City Planner (salaried)	up to \$1,175/pay period	General
	up to \$560/pay period	Water
	up to \$560/pay period	Wastewater
Court		
Traffic Violations Clerks	\$12.00 to \$15.60/hour	General (Court)
Fire		
Chief	up to \$5,000/year	Fire

Assistant Chief	up to \$3,000/year	Fire
First Captain	up to \$2,000/year	Fire
1st Lieutenant	up to \$1,700/year	Fire
2nd Lieutenant	up to \$1,300/year	Fire
Secretary/Treasurer	up to \$1,250/year	Fire
Advanced Firefighter	up to \$475/year	Fire
1st Class/FF 2	up to \$375/year	Fire
2nd Class/FF 1	up to \$275/year	Fire
Recruit	up to \$175/year	Fire
Car & Clothing Allowance	\$200/year	Fire
In addition, each firefighter will receive additional pay based on a point-system as approved by the membership of the department		
GIS		
GIS/IT Coordinator (salaried)	up to \$550.00/pay period	General (GIS)
	up to \$106.00/pay period	Fire
	up to \$765.00/pay period	Water
	up to \$765.00/pay period	Wastewater
GIS Intern	up to \$16/hour	All
MVH/Park/Cemetery		
Street Superintendent	up to \$350/pay period added to bi-weekly earnings	
Laborers	up to \$30.00/hour	All
Police		
Police Chief (salaried)	up to \$2,315.00/pay period	General (Police)
Assistant Chief	up to \$1,945.00/pay period	General (Police)
Detective	up to \$1,870.00/pay period	General (Police)
1st Class Patrolman		
Up to 5 years of service	up to \$1,650.00/pay period	General (Police)
6 to 10 years of service	up to \$1,702.00/pay period	General (Police)
11 to 15 years of service	up to \$1,755.00/pay period	General (Police)
16 to 20 years of service	up to \$1,810.00/pay period	General (Police)
Probationary Patrolman	up to \$1,430.00/pay period	General (Police)
Police Clerk	up to \$14.00 per hour	Local Option Income Tax
2nd & 3rd Shift Incentive	\$1.00/shift	paid in December
Holiday Incentive	Double Time	paid bi-weekly
Longevity/year of service	\$1.75/week/year	included in bi-weekly salary
Clothing Allowance	\$800/year/officer	paid in March & September
Police Pension Fund		
Survivor of retired officer other than 1977 Police Pension	Up to \$19,500	
Utilities		
Public Works Manager	up to \$865/pay period	Water
	up to \$1,315/pay period	Wastewater

	up to \$345/pay period	Stormwater
Water and Wastewater Superintendent	up to \$2,480/pay period	Water and Wastewater
Laborers	up to \$30/hour	All
Other		
Summer help	up to \$15/hour	All

(2) The wages of all laborers shall be determined by the applicable department heads, and/or Public Works Manager, within the hourly rates specified above.

(B) In November of each year each full-time city employee, other than police, shall receive \$1.75 for each week worked times the number of years they have been employed.

(C) In November of each year, each part-time employee shall receive \$1.00 for each week worked times the number of years they have been employed.

(D) The city shall provide uniforms for superintendents, supervisors, managers, equipment operators, laborers, and lab technicians.

(E) The city shall contribute the 3% contribution on behalf of each city employee who is a member of the Public Employee Retirement Fund. The city shall also contribute the 6% contribution on behalf of each police officer who is a member of the 1977 Police and Firefighters Fund.

(F) The following positions are salaried positions: Public Works Manager, Water and Wastewater Superintendent, City Planner, Police Chief, and GIS/IT Coordinator.

(Ord. 918, passed 7-16-79; ; Am. Ord. 1242, passed 8-1-95; Am. Ord. 1249, passed 11-6-95; Am. Ord. 1250, passed 11-6-95; Am. Ord. 1255, passed 12-4-95; Am. Ord. 1267, passed 7-19-96; Am. Ord. 1278, passed 12-16-96; Am. Ord. 1285, passed 7-30-97; Am. Ord. 1316, passed 7-30-98; Am. Ord. 1322, passed 12-22-98; Am. Ord. 1332, passed 8-16-99; Am. Ord. 1341, passed 12-6-99; Am. Ord. 1357, passed 8-14-00; Am. Ord. 1376, passed 9-4-01; Am. Ord. 1396, passed 9-16-02; Am. Ord. 1412, passed 9-2-03; Am. Ord. 1430, passed 9-7-04; Am. Ord. 1448, passed 8-17-05; Am. Ord. 1453, passed 11-21-05; Am. Ord. 1455, passed 12-5-05; Am. Ord. 1479, passed 9-4-07; Am. Ord. 1480, passed 1-21-08; Am. Ord. 1496, passed 9-15-08; Am. Ord. 1514, passed 9-8-09; Am. Ord. 1529, passed 9-7-10; Am. Ord. 1551, passed 10-3-11; Am. Ord. 1571, passed 9-17-12; Am. Ord. 1588, passed 10-7-13; Am. Ord. 1589, passed 10-7-13; Am. Ord. 1589B, passed 12-2-13; Am. Ord. 1601, passed 10-6-14; Am. Ord. 1604, passed 10-6-14; Am. Ord. 1647, passed 10-2-17; Am. Ord. 1648, passed 6-23-17; Am. Ord. 1648A, passed 10-2-17; Am. Ord. 1673, passed 9-17-18)

Cross-reference:

Disability benefits for Chief of Police and Street Superintendent, see § 37.12

ETHICS POLICY

§ 30.25 PURPOSE AND INTENT.

The purpose of this subchapter shall be to establish ethical standards of conduct for all covered individuals; to set forth certain activities which are incompatible with such standards; to require certain disclosure of private financial or other interests in matters affecting the city or the

discharge of public duties; and to provide for the enforcement and sanctions for violations of this subchapter.

(Ord. 1682, passed 4-15-19)

§ 30.26 DEFINITIONS.

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

“CITY.” The City of Butler, Indiana.

“CITY ENTITY.” Any board, commission, committee, subcommittee, ad hoc committee, or other government body of the city which is controlled, or to which appointments are made, by the Mayor or the Common Council.

“COVERED INDIVIDUAL.” Any elected official of the city, any employee of the city, and any appointed officials of the city.

“ETHICS BOARD.” The Board established under § 30.28.

“IMMEDIATE FAMILY.” A covered individual's parent, sibling, spouse or full-time domestic partner, parental or sibling relative by marriage, or natural or adoptive child or grandchild.

(Ord. 1682, passed 4-15-19)

§ 30.27 STANDARDS OF CONDUCT.

(A) Employment Policy and Procedure. This subchapter shall be in addition to any policies or procedures adopted by the city, including, but not limited to, the City Employee Handbook.

(B) Disqualification from Acting on City Business. Any covered individual shall disqualify himself or herself from, and shall refuse to act upon, any matter in which the covered individual, or any member of his or her immediate family, or the private employer of the covered individual, has any material direct financial interest or might otherwise gain a profit, and upon which the covered individual would be required to act in the conduct of official duties.

(C) Use of Position or Office. No covered individual shall use or attempt to use his or her position, or any individual, funds, or property under his or her control, direction, or custody, for the private benefit of the covered individual, his or her immediate family, or any other individual or entity, except in the course of the proper conduct of official duties, or as otherwise expressly authorized by the city.

(D) Improper Influence. No covered individual, except in the course of the proper conduct of official duties, shall assist any person or entity in any transaction, whether with an agency, department, or commission of the city or otherwise, where such assistance is intended to use the covered individual's public position to influence any decision in the transaction. No covered individual, regardless of prior disclosure, who has a material interest, or whose immediate family has a material interest, in any matter before any city entity, shall influence or attempt to influence any conduct or decision of such city entity.

(E) Appearance of Improper Conduct. Each covered individual shall make all reasonable efforts to conduct his or her public duties in a manner which would avoid any reasonable appearance of improper conduct under this subchapter.

(F) Outside Employment. During the period of serving any city entity, no covered individual shall engage in or accept employment or render service, whether compensated or uncompensated, when such employment or service would impair or reasonably appear to impair, his or her independence of judgement or action on behalf of the city entity.

(G) Gifts over \$50 and Loans Prohibited. No covered individual shall solicit or receive anything of monetary value over \$50 from any person or entity whether it has been solicited, received, or given, or to a reasonable person would appear to have been solicited, received, or given, with the intent to give or obtain special consideration or influence as to any official action, whether by the covered individual or otherwise. Nothing herein shall prohibit the giving or receipt of political contributions which are permitted under applicable law and are properly reported as required. Covered individuals shall not receive and retain honoraria, other than commemorative or other items of nominal value, for or in recognition of activities relating to or arising from his or her public position. Covered individuals may retain the cost or reimbursement of actual and reasonable expenses related to such activities which are not reimbursed by the city.

(H) Political Activity. No covered individual shall, during the performance of public duties or otherwise on official city business, wear or display political campaign material or materials concerning any referendum other than buttons, badges, or similar items relating to the covered individual's current or prospective elected position; distribute campaign material or materials advocating a referendum position; or solicit, receive, or give contributions or political support services for a candidate. No covered individual shall at any time in any manner coerce or attempt to coerce contributions or service from subordinate employees in support of a political party or candidate for public office, or any referendum position, or retaliate against or reward any employee for any political action or inaction.

(I) Disclosure of Confidential Information. No covered individual shall disclose or use any information which is available to the covered individual by reason of his or her public position and not a matter of public knowledge, or available to the public upon request, for the immediate or anticipated personal gain or benefit of the covered individual or any other person or entity.

(Ord. 1682, passed 4-15-19)

§ 30.28 ETHICS BOARD.

(A) There is hereby created an Ethics Board to oversee the implementation and enforcement of this subchapter. The Ethics Board shall consist of not less than three, nor more than five members; appointments are as follows: one member by the Mayor, one member by the Common Council, and one member by the employees. The Clerk-Treasurer shall be a non-voting member. The City Attorney shall serve as Secretary and an ex-officio member, but shall not be a voting member, except in the case of a complaint against a member of the Ethics Board, who shall be required to recuse himself or herself.

(B) The Ethics Board shall have the powers and responsibilities:

- (1) To adopt rules and regulations in furtherance of the implementation of this subchapter;
- (2) To require or request periodic statements from covered individuals concerning any activities which may be covered by the terms hereof;
- (3) To recommend amendments or additions to this subchapter to the Council and Mayor;
- (4) Upon request of the Mayor, a Council Member, or a department manager, to hold such hearings or conduct such investigations as necessary to review possible violations of this subchapter; and

(5) Upon finding that a violation of this subchapter has occurred by any covered individual, to recommend to the Council a resolution of the violation, which may include private censure, public disclosure or censure, or other remedial action including dismissal.

(C) Ethics Violations Complaints.

(1) Complaints alleging a violation of this subchapter shall be filed in writing with the Ethics Board by any elected official, any department head of the city, the chairperson or head of any city entity, or by the City Attorney. Complaints by employees or citizens shall be filed with one of the above-named officials, who shall determine whether possible grounds for a violation may exist. If such grounds appear to exist, the official shall proceed to file a complaint with the Ethics Board.

(2) The complaint shall be forwarded to the Secretary of the Ethics Board, who shall provide an anonymous copy to the person charged with a violation. All complaints shall remain confidential, subject to applicable law.

(3) Within 30 days after receipt of a complaint, the Secretary shall conduct a preliminary investigation. The Secretary may request that the Ethics Board extend the time for the completion of such preliminary investigation. If the Ethics Board determines that such extension is necessary or desirable and would not be prejudicial to the person charged with the violation, the Ethics Board shall grant the extension. If the Ethics Board determines that the preliminary investigation must be completed in less than 30 days in order to avoid prejudice or irreparable harm to the person charged with the violation, the Ethics Board shall order the Secretary to complete the preliminary investigation in a shorter period of time, and the Secretary shall comply.

(4) If the Secretary determines after preliminary investigation that there are no reasonable grounds to believe that a violation has occurred, the Secretary shall dismiss the complaint. If the Secretary does so dismiss the complaint, he or she shall do so in writing, setting forth the facts and the provisions of law upon which the dismissal is based, and provide copies of the written dismissal to the complainant, to the person charged with the violation, and to the Ethics Board. If the complaint is dismissed, the record shall remain confidential, subject to applicable law, unless the person against whom the complaint was made requests disclosure.

(5) If, after a preliminary investigation, the Secretary does not dismiss the complaint, the Secretary shall refer the complaint to the Ethics Board for hearing, unless the matter is resolved at a prehearing conference between the Secretary and the person charged with the violation, and the prehearing resolution is approved by the Ethics Board, all in accordance with applicable rules and regulations.

(6) All hearings that are held to determine whether the provisions of this subchapter have been violated shall be conducted in conformance with rules and regulations of the Ethics Board except as otherwise provided in this subchapter and subject to applicable law.

(7) Within 30 days from the date the Secretary refers a complaint to the Ethics Board for hearing, the Ethics Board shall hold a public hearing and issue a written determination stating whether this subchapter has been violated and setting forth the facts and the provisions of law upon which this determination is based. A copy of such determination shall be delivered to the complainant, to the person charged with the violation and, where appropriate, to the person's superior.

(8) In the case of a complaint involving the City Attorney, the Ethics Board shall select an individual, who may or may not be a member of the Ethics Board, to perform the duties of the Secretary.

(Ord. 1682, passed 4-15-19)

§ 30.29 STATEMENT OF INTERESTS; COMPLIANCE WITH THE MUNICIPAL NEPOTISM POLICY.

(A) The Ethics Board shall require a statement of interests to be filed with the Board by: the Mayor, all department heads, all members of the Ethics Board, all appointees of the Mayor to standing public commissions, boards, committees, and such other covered individuals as shall be from time to time determined by the Ethics Board. The statement of interests shall be provided by all current covered individuals described above as soon as reasonably possible after request by the Ethics Board, and by all future covered individuals from whom a statement of interests is required prior to employment or appointment.

(B) (1) The statement of interests shall be in such form as the Ethics Board shall from time to time determine. The statement of interests shall include:

(a) The business address, current employment position, and employer of the covered individual;

(b) A description of any business or personal relationship between the covered individual, his or her immediate family, and/or his or her employer and the city;

(c) Whether, to the knowledge of the covered individual, his or her employer, immediate family, or any entity in which the covered individual or his or her immediate family have any financial interest is currently, or contemplates, doing business with the city;

(d) Whether the covered individual has any knowledge of any facts or circumstances in existence or likely to exist which could result in a violation or possible violation of this subchapter; and

(e) Such other information as the Ethics Board may from time to time reasonably determine.

(2) The statement of interest shall not require disclosure of private financial information unless such information is determined by the Ethics Board to be directly related to the public position of the covered individual, and, in such case, only to the extent directly relevant.

(C) The Ethics Board shall require all elected officials to certify in writing annually that they have not violated the Nepotism Policy according to IC 36-1-20.2

(Ord. 1682, passed 4-15-19)

§ 30.30 ENFORCEMENT.

A violation of this subchapter shall be cause for suspension, discharge, or removal from employment or a position on any city entity, or such other disciplinary action as shall be determined by the Mayor, after receipt of a report and recommendation from the Ethics Board, or the Ethics Board, in the case of a violation by the Mayor. A written report outlining any action taken as a result of a violation or recommendation of the Ethics Board shall be provided to the Ethics Board within 14 days following such action, and in any event within 60 days of the date of the report. Any action taken shall be consistent with all personnel policies of the city, and in compliance with all applicable laws and ordinances. Nothing contained in this subchapter, nor any investigation or action taken pursuant hereto, shall in any manner derogate from employee rights under any collective bargaining agreement, written contract of employment, or any personnel ordinance, statute, or law, or rules promulgated thereunder.

(Ord. 1682, passed 4-15-19)

CHAPTER 31: EXECUTIVE

Section

- 31.01 General organization of city government
- 31.02 Mayor as head of executive branch
- 31.03 Board of Public Works and Safety; control of certain city departments
- 31.04 Department of Law
- 31.05 Appointment of department heads, Fire and Police Chiefs
- 31.06 Authority of departments to hire employees, make appropriations

§ 31.01 GENERAL ORGANIZATION OF CITY GOVERNMENT.

The government of the city shall consist of the following:

- (A) Executive branch (IC 36-4-5).
 - (B) Legislative branch (IC 36-4-6).
 - (C) Fiscal branch (IC 36-4-10).
 - (D) Judicial branch.
 - (E) Statutory boards and commissions.
- (Ord. 1009, passed 6-7-82)

§ 31.02 MAYOR AS HEAD OF EXECUTIVE BRANCH.

The Mayor is the city executive and head of the executive branch. He or she shall faithfully perform the duties and responsibilities contained in IC 36-4-5 and other statutes of the state.

(Ord. 1009, passed 6-7-82)

Cross-reference:

Member of Board of Public Works and Safety, see § 31.03

Appointment of department heads, see § 31.05

§ 31.03 BOARD OF PUBLIC WORKS AND SAFETY; CONTROL OF CERTAIN CITY DEPARTMENTS.

(A) There is hereby established a Board of Public Works and Safety within the executive branch. The Board shall be the chief administrative body of the city and shall have control of the day to day operations of the following executive departments which are hereby established:

- (1) Police Department.
- (2) Fire Department.

(3) Utilities Department, consisting of the Sewage Collection and Disposal System, and the Electrical Generation and Distribution System.

(4) Street and Sanitation Department.

(B) The members of the Board of Public Works and Safety are the Mayor and two persons appointed by the Mayor. IC 36-4-4-2 notwithstanding, a person may hold other appointive or elective positions in city government during his tenure.

(IC 36-4-9-8(c))(Ord. 1009, passed 6-7-82)

§ 31.04 DEPARTMENT OF LAW.

There is hereby established a Department of Law pursuant to IC 36-4-9-12.
(Ord. 1009, passed 6-7-82)

§ 31.05 APPOINTMENT OF DEPARTMENT HEADS, FIRE AND POLICE CHIEFS.

The Chiefs of the Police and Fire Departments and the heads of the Departments of Law, Sewage, and Street and Sanitation are appointed by the Mayor and serve at his or her pleasure.

(Ord. 1009, passed 6-7-82)

Statutory reference:

City departments, boards, and appointed officers, see IC 36-4-9-1 et seq.

§ 31.06 AUTHORITY OF DEPARTMENTS TO HIRE EMPLOYEES, MAKE APPROPRIATIONS.

Subject to the appropriation power of the Common Council, the foregoing departments shall have the ability to fire those employees, and purchase or contract for those materials or services, that the Board of Public Works and Safety or other governing board or commission deems necessary to perform their public functions.

(Ord. 1009, passed 6-7-82)

CHAPTER 32: LEGISLATIVE

Section

General Provisions

32.01 General organization of city government

32.02 Common Council as legislative branch; election of members

32.03 Clerk-Treasurer as Clerk of Council; collection of fines

Rules of Procedure

32.10 Time, place of meetings

32.11 Presiding officer

32.12 Order of business

32.13 Contempt, disorder in Council room

32.14 Introduction and adoption of ordinances and resolutions

32.15 Questions of order

32.16 Appeal from decision of Presiding Officer

32.17 Suspension of rules

Council Districts

32.25 Council districts; boundaries

32.26 Redistricting

32.27 Election districts to be governed by appropriate state law

GENERAL PROVISIONS

§ 32.01 GENERAL ORGANIZATION OF CITY GOVERNMENT.

The government of the city shall consist of the following:

(A) Executive branch (IC 36-4-5).

(B) Legislative branch (IC 36-4-6).

(C) Fiscal branch (IC 36-4-10).

(D) Judicial branch.

(E) Statutory boards and commissions.
(Ord. 1009, passed 6-7-82)

§ 32.02 COMMON COUNCIL AS LEGISLATIVE BRANCH; ELECTION OF MEMBERS.

(A) The legislative branch of the city is the Common Council. The Council shall have exclusive authority to adopt ordinances and appropriate tax monies received by the city, and to perform other necessary and desirable legislative functions.

(B) The Common Council shall be composed of five members, four of whom are elected from districts and one of whom is elected at large.

(Ord. 1009, passed 6-7-82)

Cross-reference:

District boundaries, see § 31.25

Statutory reference:

City legislative body, see IC 36-4-6-1 et seq.

§ 32.03 CLERK-TREASURER AS CLERK OF COUNCIL.

(A) The Clerk-Treasurer shall be the Clerk of the Council and shall perform the duties prescribed by IC 36-4-6-9 and such others as the Council may direct.

(B) In addition to the powers and duties specified in division (A), the Clerk-Treasurer shall collect all fines provided for by these ordinances or other laws that are \$25 or less.

(Ord. 1009, passed 6-7-82; Am. Ord. 1126, passed 11-7-88)

RULES OF PROCEDURE

§ 32.10 TIME, PLACE OF MEETINGS.

The Common Council of the city shall meet on the first and third Mondays of each month at the City Hall in the Council room. The meeting shall begin at 7:30 p.m.

(Ord. 1009, passed 6-7-82; Am. Ord. 1118, passed 3-7-88)

§ 32.11 PRESIDING OFFICER.

The Mayor, or in his or her absence the President of the Council, shall be the Presiding Officer of the Council pursuant to IC 36-4-6-8.

Meetings shall be conducted pursuant to applicable state law (IC 36-4-6-10 through 36-4-6-17) and in accordance with the rules set forth in §§ 32.12 through 32.17 which are hereby adopted as a part of this chapter.

(Ord. 1009, passed 6-7-82)

§ 32.12 ORDER OF BUSINESS.

The order of business to be followed at a meeting of the Common Council shall be as follows:

- (A) Call to order.
- (B) Roll call by Clerk-Treasurer.
- (C) Reading of minutes and approval.
- (D) Petitions or comments of citizens.
- (E) Reports from committees, boards, and commissions.
- (F) Unfinished business, including ordinances or resolutions already introduced.
- (G) New business, including introduction of ordinances and resolutions.
- (H) Miscellaneous business, including any matters not already considered.
- (I) Adjournment.

(Ord. 1009, passed 6-7-82)

§ 32.13 CONTEMPT, DISORDER IN COUNCIL ROOM.

No person shall use violent or contemptuous language, behave in a disorderly manner, or refuse to obey the orders of the Mayor or Presiding Officer in the Council room while the Common Council is in session. The Mayor or Presiding Officer may order the removal from the Council room of anyone who intentionally disturbs the decorum of a Council meeting.

(Ord. 1009, passed 6-7-82)

§ 32.14 INTRODUCTION AND ADOPTION OF ORDINANCES AND RESOLUTIONS.

(A) Ordinances.

(1) All ordinances shall be regularly filed with the Clerk- Treasurer at least five business days before a regular meeting. However, ordinances prepared by the City Attorney pursuant to the directions of the Common Council or the Mayor can be presented at any regular meeting.

(2) All ordinances shall be read three times before being passed, and no ordinance shall pass on the same day in which it is introduced unless the provisions of IC 36-4-6-13 are complied with.

(B) Resolutions. Resolutions shall be subject to the same rules in method of introduction and adoption as ordinances.

(C) In the event a proposed ordinance has been filed with the Clerk-Treasurer at least five business days before any regular meeting, upon motion of the City Council, said ordinance may be passed and adopted by reference to the ordinance number in lieu of reading the same. Likewise, in the event of lengthy or complicated ordinances, upon motion of the City Council, said ordinance may be passed and adopted by reference to an outline describing the provisions of the ordinance in lieu of reading the same.

(Ord. 1009, passed 6-7-82; Am. Ord. 1238, passed 6-19-95)

§ 32.15 QUESTIONS OF ORDER.

The Mayor or Presiding Officer shall decide all questions of order. He or she shall decide whether any question submitted to the Council for adoption or rejection is decided in the affirmative or negative.

(Ord. 1009, passed 6-7-82)

§ 32.16 APPEAL FROM DECISION OF PRESIDING OFFICER.

From any decision of the Presiding Officer any member may appeal to the Council. The appeal shall be by motion duly made and seconded.

A majority vote as defined in IC 36-4-6-11 is necessary to overrule the chair.
(Ord. 1009, passed 6-7-82)

§ 32.17 SUSPENSION OF RULES.

The order of business may be suspended by a two-thirds vote of the members of the Council.
(Ord. 1009, passed 6-7-82)

COUNCIL DISTRICTS

§ 32.25 COUNCIL DISTRICTS; BOUNDARIES.

The Council districts are as follows:

(A) The First Councilmanic District shall include all of the city situated east of the center line of Broadway Street extended and north of the center line of Liberty Street extended east to the city limits. All of the houses on the north side of Liberty Street east of Broadway Street shall be included in this district.

(B) The Second Councilmanic District shall include all of the city situated east of the center line of Broadway Street extended and south of the center line of Liberty Street extended. All of the houses on the south side of Liberty Street east of Broadway Street shall be included in this district.

(C) The Third Councilmanic District shall include all of the city situated west of the center line of Broadway Street extended and south of the center line of West Oak Street extended. All of the houses on the south side of Oak Street and on the west side of Broadway Street located in the city limits shall be included in this district.

(D) The Fourth Councilmanic District shall include all of the city situated west of the center line of Broadway Street and north of the center line of West Oak Street. All of the houses on the north side of West Oak Street and on the west side of Broadway Street north of the intersection of Oak Street and Broadway Street shall be included in this district.

(E) The Councilmanic District At-Large shall consist of the entire city.
(Ord. 1009, passed 6-7-82; Am. Ord. 1019, passed 9-7-82)

§ 32.26 REDISTRICTING.

Redistricting of Councilmanic districts shall be done in 1982 and at least every ten years thereafter, in accordance with IC 36-4-6-5.

(Ord. 1009, passed 6-7-82)

§ 32.27 ELECTION DISTRICTS TO BE GOVERNED BY APPROPRIATE STATE LAW.

The city hereby elects to be governed under IC 36-4-6-5, as added by Acts 1980, Public Law 212, Section 3; amended by Acts 1980, Public Law 73, Section 8; Acts 1981, Public Law 44, Section 44.

(Ord. 1006, passed 3-15-82)

Statutory reference:

Council election districts in third-class cities under 10,000 population, see IC 36-4-6-5

CHAPTER 33: JUDICIAL

Section

33.01 General organization of city government

33.02 City Court; City Judge

Cross-reference:

Bureau of Justice Assistance Fund, see § 34.14

Department of Law, see § 31.04

§ 33.01 GENERAL ORGANIZATION OF CITY GOVERNMENT.

The government of the city shall consist of the following:

(A) Executive branch (IC 36-4-5).

(B) Legislative branch (IC 36-4-6).

(C) Fiscal branch (IC 36-4-10).

(D) Judicial branch.

(E) Statutory boards and commissions.

(Ord. 1009, passed 6-7-82)

§ 33.02 CITY COURT; CITY JUDGE.

There is hereby established, effective January 1, 1984, a city court, to be headed and operated by a City Judge elected and seated pursuant to state statute.

(Ord. 1009, passed 6-7-82)

CHAPTER 34: FISCAL

Section

General Provisions

34.01 General organization of city government

34.02 Clerk-Treasurer as head of fiscal branch

34.03 Clerk-Treasurer to pay bills prior to approval

34.04 Investment of city funds

34.05 Expenditure of funds to promote city

34.06 Internal control standards

34.07 Materiality threshold policy

Funds

34.10 Cumulative Building and Equipment Fund

34.11 Cumulative Capital Development Fund

34.12 Debt Service Fund

34.13 Park Equipment Fund

34.14 Bureau of Justice Assistance Fund

34.15 Redevelopment Commission Fund

34.16 River Boat Gambling Fund

34.17 Rainy Day Fund

34.18 Fire Cost Recovery and Reimbursement Fund

34.19 Fire Protection Territory Funds

34.20 GIS/IT Equipment Replacement Fund

34.21 Public Safety Local Option Income Tax Fund

34.22 Police Department Building Fund

Financing of Emergency Services

34.25 Definitions

34.26 Cost accounting; allocations and assignment

34.27 Hearings

34.28 Payment of assigned costs

34.29 Monies collected

Purchasing

34.40 Designation of purchasing agency

34.41 Protection of offers; status of documents as public records

34.42 Discussions with offerors responding to a request for proposals

34.43 Evidence of financial responsibility

34.44 Use of RFP for purchases of designated types of supplies

34.45 Modification and termination of contracts

34.46 Purchase of services

34.47 Purchase of supplies manufactured in the United States Capital Asset Policy

34.55 Capital Asset Policy

GENERAL PROVISIONS

§ 34.01 GENERAL ORGANIZATION OF CITY GOVERNMENT.

The government of the city shall consist of the following:

- (A) Executive branch (IC 36-4-5).
 - (B) Legislative branch (IC 36-4-6).
 - (C) Fiscal branch (IC 36-4-10).
 - (D) Judicial branch.
 - (E) Statutory boards and commissions.
- (Ord. 1009, passed 6-7-82)

§ 34.02 CLERK-TREASURER AS HEAD OF FISCAL BRANCH.

The Clerk-Treasurer is the fiscal officer of the city and the head of the fiscal branch. He or she shall perform the duties assigned by IC 36-4-10, and such other duties as the Common Council may, by ordinance, require.

(Ord. 1009, passed 6-7-82)

§ 34.03 CLERK-TREASURER TO PAY BILLS PRIOR TO APPROVAL.

(A) The Clerk-Treasurer shall be permitted to pay the following types of claims prior to Board approval:

- (1) Property or services purchased or leased from the United States government, its agencies, or its political subdivisions.
- (2) License or permit fees.
- (3) Insurance premiums.
- (4) Utility payments or utility connection charges.
- (5) General grant programs where advance funding is not prohibited and the contracting party posts sufficient security to cover the amount advanced.
- (6) Grants of state funds authorized by statute.
- (7) Maintenance or service agreements.
- (8) Leases or rental agreements.
- (9) Bond or coupon payments.
- (10) Payroll.
- (11) State, federal, or county taxes.

(B) Each payment of expenses under this section must be supported by a fully itemized claim and the city legislative body or the board having jurisdiction over the allowance of the claim shall

review and allow the claim at its next regular or special meeting following the pre-approved payment of the expense.

(C) The authority given to the Clerk-Treasurer under this section shall include any amendments to IC 36-4-8-14 which may expand or contract the types of items for which prepayment is admitted.

(Ord. 1185, passed 6-1-92)

§ 34.04 INVESTMENT OF CITY FUNDS.

(A) The Clerk-Treasurer is hereby authorized to invest and reinvest funds that are not required for the immediate operating expenses of the city and its various departments in certificates of deposit, pass book savings accounts, or United States Government Bonds, at the financial institution offering the best rate of interest which is to the best advantage of the city.

(B) Funds that are determined to not be required for a period of 90 days or more are to be considered as not required for immediate operating needs and are to be invested. The interest earned on the investments is to be credited to the fund from which the investment is purchased as specified by the State Board of Accounts, except those not specified on total monies, which may be credited to the General Fund.

(C) This section shall be in effect for the calendar year of 2013.

(Res. 00-323, passed 12-18-00; Am. Res. 02-354, passed 12-16-02; Am. Res. 04-384, passed 12-20-04; Am. Res. 05-393, passed 12-19-05; Am. Res. 12-499, passed 10-1-12; Am. Res. 12-505, passed 12-17-12)

§ 34.05 EXPENDITURE OF FUNDS TO PROMOTE CITY.

(A) All elected officials, appointed officials or others shall be allowed to spend funds allocated to their departmental budgets for the promotion of the City of Butler as a place to live, locate a business or industry, or shop within the city.

(B) These funds may be used for improvements within the city that would promote the city as a place to live, locate a business or industry, or shop within the city.

(Ord. 1537, passed 12-6-10)

§ 34.06 INTERNAL CONTROL STANDARDS.

(A) The City of Butler hereby adopts as policy the Internal Control Standards as set forth by the Indiana State Board of Accounts Uniform Internal Control Standards for Indiana Political Subdivisions Manual as expressly written and published by the Indiana State Board of Accounts in September, 2015, and as amended from time to time.

(B) At the time the annual financial report is electronically filed, the Clerk-Treasurer as fiscal officer of the City of Butler shall certify in writing that the Uniform Internal Control Standards for Political Subdivisions have been adopted and shall certify that the personnel have been trained as required by law.

(Ord. 1636, passed 11-7-16)

§ 34.07 MATERIALITY THRESHOLD POLICY.

(A) 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 \$250. In addition, all erroneous or irregular variances, losses, shortages or thefts of cash which occur more than one time in a month and which the aggregate total is \$250 or more shall be reported immediately to the State Board of Accounts. Exceptions shall be made for inadvertent clerical errors that are identified timely and promptly corrected with no loss to the City.

(B) 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 \$500 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 City, and except for losses from genuine accidents.

(C) All erroneous or irregular variances, losses, shortages or thefts shall be reported immediately to the Clerk-Treasurer. The City shall maintain records and documentation concerning erroneous or irregular variances, losses, shortages or thefts in accordance with generally accepted accounting principles and the internal control standards provided by the Indiana State Board of Accounts.

(D) The city shall investigate all erroneous or irregular variances, losses, shortages or thefts, regardless of whether they meet the materiality threshold established by this section. Upon conclusion of each such investigation, the city shall:

(1) Implement procedures designed to prevent the recurrence of such incidents; and

(2) Take appropriate disciplinary action against the employee responsible for the incident.
(Ord. 1637, passed 12-5-16)

FUNDS

§ 34.10 CUMULATIVE BUILDING AND EQUIPMENT FUND.

There is hereby created a Cumulative Building and Equipment Fund for the purchase, construction, renovation, or addition to buildings used by the Fire Department and for the purchase of firefighting equipment, including making the required payments under a lease rental with option to purchase agreement made to acquire firefighting equipment. The Fund may also be used to acquire police radio equipment. The rate assessed to the taxpayers of the city for the Fund shall be \$.10 per \$100 of assessed valuation.

(Ord. 1007, passed 4-5-82)

§ 34.11 CUMULATIVE CAPITAL DEVELOPMENT FUND.

(A) There is hereby established a Cumulative Capital Development Fund as authorized by IC 36-9-15.5 et seq.

(B) An ad valorem property tax levy will be imposed and the revenues from the levy will be retained in the Cumulative Capital Development Fund. The revenues retained in said Fund shall be used for the purposes authorized by statute as set out in division (D) below.

(C) The maximum rate of levy for the Cumulative Capital Development Fund will not exceed \$.15 per \$100 of assessed valuation.

(D) The funds accumulated in the Cumulative Capital Development Fund will be used for purposes allowed by IC 36-9-16-2 and 36-9-16-3 as amended from time to time.

(E) Notwithstanding other provisions of this section, funds accumulated in the Cumulative Capital Development Fund may be spent for purposes other than the purposes stated in division (D) if the purpose is to protect the public health, welfare or safety in an emergency situation which demands immediate action. Money may be spent under the authority of this section only after the Mayor issues a declaration that the public health, welfare or safety is in immediate danger and requires the expenditure of money in the Fund.

(Ord. 1202, passed 7-19-93)

§ 34.12 DEBT SERVICE FUND.

(A) There is hereby created within the City of Butler a Debt Service Fund.

(B) The current G.O. Bond Fund as shown on the books and records of the city is hereby canceled and terminated.

(C) The Clerk-Treasurer is authorized to transfer all funds from the G.O. Bond Fund to the newly created Debt Service Fund.

(Res. 98-289, passed 11-2-98)

§ 34.13 PARK EQUIPMENT FUND.

(A) There is hereby created and established a fund to be called the Park Equipment Fund.

(B) The Park Equipment Fund shall receive and be funded with all or any excess funds or money remaining in the existing Park and Recreation Fund.

(C) The money in the Park Equipment Fund is intended for items or improvements actually located in the parks, such as playground equipment as directed by the Recreation Board.

(Ord. 1345, passed 12-20-99)

§ 34.14 BUREAU OF JUSTICE ASSISTANCE FUND.

There is hereby created the Bureau of Justice Assistance Fund, Fund No. 230. All sums received from the Bureau of Justice grant shall be deposited in this fund.

(Res. 02-355, passed 12-16-02)

§ 34.15 REDEVELOPMENT COMMISSION FUND.

There is hereby established the Redevelopment Commission Fund to accept any and all monies of the Redevelopment Commission.

(Res. 03-363, passed 7-21-03)

§ 34.16 RIVER BOAT GAMBLING FUND.

There is hereby established the River Boat Gambling Money Fund, Fund No. 242.
(Res. 03-364, passed 8-18-03)

§ 34.17 RAINY DAY FUND.

There is hereby created a Rainy Day Fund to be used to deposit excess funds received from the State of Indiana which funds may be disbursed as allowed by Indiana Code.

(Res. 04-372, passed 4-5-04)

§ 34.18 FIRE COST RECOVERY AND REIMBURSEMENT FUND.

(A) (1) The City of Butler WFST Fire Department is authorized to seek reimbursement for fire, safety, and rescue responses, hazardous material and environmental incidents as specified in the ESRV by statute as follows:

(a) For initial response with a fire engine, a fire truck, or a fire apparatus, including a hazardous material response unit, or a fire rescue unit dispatched on a fire or hazardous material incident.

(b) For each hour or fraction thereof as on-scene assistance.

(c) For expendable materials such as absorption materials, emulsifiers, or other agents used in cleanup operations, the actual replacement cost of those materials.

(d) For collection of debris, chemicals, fuel, or contaminated materials resulting from a spill, the actual cost of removal and disposal at an authorized location.

(2) It is recognized that the duties of fire companies require specialized fire/safety/emergency/rescue/environmental/ hazardous material, tools, equipment, materials, supplies and specialized training in order to provide for the safety of the public served. Such requirements, as well as the response to emergency situations involving, and/or caused by, non-resident individuals, places a tremendous financial burden on said fire companies and the communities that support them. While taxes, if applicable, may provide the fire companies sufficient financial assistance to exist, in an effort to avoid ever-increasing tax burdens on the residents of the City of Butler and surrounding townships, it is determined that emergency service cost reimbursement (i.e., response billing) should be authorized in order to defray the cost of services provided.

(3) To grant the City of Butler WFST Volunteer Fire Department or any successor company operating in the City of Butler or surrounding townships the authority to seek reimbursement for all reasonable costs of responding to such incidents, as well as all reasonable costs to recoup such costs for apparatus, materials, equipment, tools, and personnel, as well the ability of its billing agent to collect administrative fees based upon their calculated percentage of fees.

(B) Recovery of costs.

(1) (a) Fire departments are authorized to recover the reasonable costs of the use of emergency fire and/or rescue (including, but not limited to, vehicle accidents) personnel hours, tools, equipment, materials and vehicles; hazardous material and/or environmental response personnel hours, tools, equipment, materials and vehicles; and reasonable interest on any amount due from the date of the response forward. Additionally, fire departments are authorized

to collect a reasonable flat-rate fee for any false alarm responses or fire drill responses for which the fire department did not receive at least 48 hours prior notice.

(b) Nothing in this section shall be interpreted as limiting any amounts fire departments are authorized to collect under any applicable state statute or law.

(2) The reasonable costs authorized to be billed for under this section may be recovered directly by the Fire Department or through a third party billing service as an authorized agent for the collection of such costs.

(3) The reimbursement rates for the aforementioned costs shall be set by the billing company.

(4) If a third party billing service is utilized, said third party billing service shall be authorized to charge a service charge in addition to the costs it is recovering for the Fire Department. Said service charge will be set by the third party billing service.

(5) All funds recovered under this section, and due to the Fire Department, shall be remitted directly to the Fire Department by either the responsible party or, if a third party billing service is utilized, by said third party billing service. All funds recovered under this section shall be exclusively used for the support of the Fire Department.

(6) The Fire Department or third party billing service shall only have the authority to recover the costs authorized under this section from the applicable insurance company/carrier of the party responsible for the costs authorized to be billed for under this section. In the event that collection costs and/or attorney's fees are incurred by the Fire Department or third party billing service as a result of the efforts required to obtain full reimbursement for the costs billed for under this section, said collection costs and/or attorney's fees may be recovered by the Fire Department or third party billing service from the applicable insurance company/carrier of the party responsible for the costs authorized to be billed for under this section.

(C) All monies recovered by the City of Butler WFST Fire Department for services provided shall be remitted or paid to the Clerk-Treasurer for the City of Butler.

(D) The Fire Chief or his designee shall be responsible for collection of all recovered monies and doing all necessary paperwork for the recovery of said sums and transmitting said funds to the Clerk-Treasurer.

(E) All such monies that are recovered for services rendered by the City of Butler WFST Fire Department shall be deposited in the Fire Cost Recovery and Reimbursement Fund and dispersed or used for Fire Department purposes as authorized by the Butler City Council.

(F) There is hereby established a Recovery and Reimbursement Account as an income line in Fire Cost Recovery Fund. The account number is 271.0.00.39600.

(Ord. 1517, passed 12-7-09)

§ 34.19 FIRE PROTECTION TERRITORY FUNDS.

(A) The city is hereby authorized to enter into an agreement with the township for the establishment of the Butler/Wilmington Fire Protection Territory ("Territory").

(B) The boundaries of the Territory shall be the boundaries of the township, inclusive of the City of Butler.

(C) The city shall be the provider unit as defined in IC 36-8-19-3. The city and the township shall each be a participating unit as defined in IC 36-8-19-2.

(D) The contents of the agreement to establish the Territory, including an agreement to impose a uniform tax rate upon all the taxable property within the Territory for fire protection is attached to Ordinance 1521 as Attachment A and incorporated herein by reference.

(E) There is hereby established the Butler/Wilmington Fire Protection Territory Fund from which all expenses of operating and maintaining the fire protection services within the Territory, including repairs, fees, salaries, depreciation on all depreciable assets, rents, supplies, contingencies, and all other expenses lawfully incurred within the Territory shall be paid.

(F) There is hereby established the Butler/Wilmington Fire Protection Territory Equipment Replacement Fund to be used to purchase fire protection equipment, including housing, that will be used to serve the Territory, such fund to be funded by the imposition of a uniform tax rate upon all the taxable property within the Territory.

(G) All line items under various account numbers are hereby transferred to the Butler/Wilmington Fire Protection Territory when the Territory takes effect.

(H) The balance of Fund numbers 426 and 271 will be transferred to the Butler/Wilmington Fire Protection Territory Equipment Replacement Fund by July 1, 2010.

(Ord. 1521, passed 1-18-10)

§ 34.20 GIS/IT EQUIPMENT REPLACEMENT FUND.

A GIS/IT Equipment Replacement Fund, Fund number 273, is hereby created. This fund shall be used to escrow funds remaining from each year's GIS/IT budget for the maintenance of the GIS/IT infrastructure.

(Ord. 1610, passed 12-15-14)

§ 34.21 PUBLIC SAFETY LOCAL OPTION INCOME TAX FUND.

A Public Safety Local Option Income Tax Fund, Fund number 249, is hereby created and shall be used according to state law.

(Ord. 1611, passed 1-19-15)

§ 34.22 POLICE DEPARTMENT BUILDING FUND.

A Police Department Building Fund, Fund number 276, is hereby created. This fund shall be used to save money for upcoming repairs and/or renovations.

(Ord. 1612, passed 12-15-14)

FINANCING OF EMERGENCY SERVICES

§ 34.25 DEFINITIONS.

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

"BOARD OF PUBLIC WORKS AND SAFETY" or "BOARD." That statutorily created body of the city.

"COSTS." Those necessary expenditures of personnel, wages, monies, time and materials required to alleviate control or contain an emergency, including any costs, expenses, or attorney fees incurred to collect those costs expended.

"DEPARTMENT." One or more of the following:

- (1) Butler Fire
- (2) Butler Police
- (3) Butler Street
- (4) Butler Water
- (5) Butler Sewage
- (6) Butler City Engineer
- (7) Butler City Attorney

"EMERGENCY." That situation which arises unexpectedly requiring some quick response by a Department of the city.

(Ord. 1137, passed 6-5-89)

§ 34.26 COST ACCOUNTING; ALLOCATIONS AND ASSIGNMENT.

(A) Whenever a City Department responds by request or mandate to an emergency, the Department Head or his assign shall main a log of the costs incurred.

(B) When a final tabulation of the costs is completed, the Department Head or his assign shall present it to the Board of Public Works and Safety.

(1) The Board shall set a hearing at which testimony may be taken from which a determination shall be arrived at as to the amount of costs to be allocated to each Department and the amount assigned to the party receiving the Department emergency services.

(2) Said determination of the Board shall be final.

(C) The Board shall require the recipient of emergency services to pay those costs assigned to the recipient within 90 days from the date of determination.

(D) The Board shall be authorized to empower the City Attorney to institute legal proceedings upon nonpayment within 30 days. The costs to the city for legal proceedings, including attorney fees, shall be assessed to the nonpaying party.

(E) The Board shall have the authority to suspend the assignment of costs upon finding that the incident was a routine emergency situation or when there is a determination by the Board that an assessment of costs would constitute undue hardship on the party receiving emergency services.

(Ord. 1137, passed 6-5-89)

§ 34.27 HEARINGS.

(A) All hearings on the accounting, allocation, and assignment of costs shall be scheduled to coincide with regularly scheduled Board of Public Works and Safety meetings except as follows:

(1) When a hearing is expected to last greater than 30 minutes;

(2) When undue hardship would be placed on any witnesses; or

(3) Whenever urgent circumstances exist to require a special meeting of the Board to conduct the hearing.

(B) All recipients of emergency services who may be assessed the costs of the services are entitled to a hearing.

(C) All parties to the hearing shall be given a notice not less than ten days before the scheduled hearing by the Clerk-Treasurer.

(D) All parties shall have the opportunity to present witnesses and cross-examine.

(E) The decision of the Board shall be final.
(Ord. 1137, passed 6-5-89)

§ 34.28 PAYMENT OF ASSIGNED COSTS.

(A) Payment of assigned costs shall be made to the Clerk-Treasurer by cash, money order or certified check.

(B) The Clerk-Treasurer is authorized to establish a payment schedule so as to avoid undue hardship on the person or entity to which costs have been assigned, but in no event shall the length of payments exceed one year from the date of the Board of Public Works and Safety's determination.

(Ord. 1137, passed 6-5-89)

§ 34.29 MONIES COLLECTED.

All monies collected from assigns shall be credited to the Department which incurred the costs for the emergency services.

(Ord. 1137, passed 6-5-89)

PURCHASING

§ 34.40 DESIGNATION OF PURCHASING AGENCY.

(A) The Board of Public Works is hereby designated as the Purchasing Agency for the city with all of the powers and duties authorized under IC 5-22. The purchasing agency shall designate in writing the purchasing agent. The purchasing agency may also designate in writing additional purchasing agents as necessary.

(B) The Board of Public Works shall adopt purchasing policies which may be amended from time to time without modifying this subchapter. The policies shall be available to the public upon request.

(Ord. 1315, passed 11-2-98; Am. Ord. 1420, passed 4-19-04)

§ 34.41 PROTECTION OF OFFERS; STATUS OF DOCUMENTS AS PUBLIC RECORDS.

(A) 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.

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

(C) 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.

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

(Ord. 1315, passed 11-2-98; Am. Ord. 1420, passed 4-19-04)

§ 34.42 DISCUSSIONS WITH OFFERORS RESPONDING TO A REQUEST FOR PROPOSALS.

The purchasing agent may conduct discussion 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.

(Ord. 1315, passed 11-2-98; Am. Ord. 1420, passed 4-19-04)

§ 34.43 EVIDENCE OF FINANCIAL RESPONSIBILITY.

(A) 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.

(B) 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 ten percent (10%) of the estimated cost of the purchase.

(C) 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 ten percent (10%) of the estimated cost of the purchase.

(Ord. 1315, passed 11-2-98; Am. Ord. 1420, passed 4-19-04)

§ 34.44 USE OF RFP FOR PURCHASES OF DESIGNATED TYPES OF SUPPLIES.

(A) When the purchasing agent determines that:

(1) It is either not practicable or not advantageous to purchase certain types of supplies by sealed competitive bidding; and

(2) Receiving proposals is the preferred method for purchasing types of supplies, as that is determined from time to time by the Board of Public Works and Safety.

(B) Then in that event the Purchasing Agent may make a request for proposals as provided in the Purchasing Policies of the city as adopted by the Board of Works.

(Ord. 1315, passed 11-2-98; Am. Ord. 1420, passed 4-19-04)

§ 34.45 MODIFICATION AND TERMINATION OF CONTRACTS.

(A) 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:

(1) Price adjustments may 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;

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

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

(4) Price adjustments may be computed in such other manner as the contracting parties may mutually agree upon; or

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

(B) Adjustment in Time of Performance. The purchasing agent may include provisions in a purchase contract concerning adjustments for time of performance under the contract.

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

(D) 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.

(Ord. 1315, passed 11-2-98; Am. Ord. 1420, passed 4-19-04)

§ 34.46 PURCHASE OF SERVICES.

The Council hereby determines that the Board of Works may purchase services except for the services of attorneys in whatever manner the Board determines to be reasonable. Only the head of the department of law may purchase the services of attorneys, unless otherwise authorized by law.

(Ord. 1315, passed 11-2-98; Am. Ord. 1420, passed 4-19-04)

§ 34.47 PURCHASE OF SUPPLIES MANUFACTURED IN THE UNITED STATES.

Supplies manufactured in the United States shall be specified for all city purchases and shall be purchased unless the city determines that:

- (A) The supplies are not manufactured in the United States in reasonably available quantities;
 - (B) The prices of the supplies manufactured in the United States exceeds by an unreasonable amount the price of available and comparable supplies manufactured elsewhere;
 - (C) The quality of the supplies manufactured in the United States is substantially less than the quality of comparable priced available supplies manufactured elsewhere;
 - (D) The purchase of supplies manufactured in the United States is not in the public interest.
- (Ord. 1315, passed 11-2-98; Am. Ord. 1420, passed 4-19-04)

CAPITAL ASSET POLICY

§ 34.55 CAPITAL ASSET POLICY.

(A) General information.

(1) The Capital Asset Policy is being issued effective January 1, 2008. The new policy will be referred to as the "Capital Asset Policy." This Policy is being instituted to set the minimum dollar value of capital assets as reported on our financial statements (see table below). The Policy is related to the implementation of the new reporting model, Government Standards Accounting Board Statement 34. The new reporting model will require the unit to depreciate certain capital assets.

(2) This Policy will provide a higher degree of control over the city's considerable investment in capital assets, and allows the city to demonstrate accountability to its various constituencies: citizens, taxpayers, oversight bodies and regulators.

(3) The purpose of this Capital Asset Policy is:

- (a) To safeguard the investments of the people of Butler;
- (b) To fix responsibility for the custody of equipment;
- (c) To provide a basis for formulating capital asset acquisition, maintenance and retirement policies;
- (d) To provide data for financial reporting;
- (e) To demonstrate appropriate stewardship responsibility for public assets.

(B) Definitions of capital assets.

(1) "CAPITAL ASSETS" include: land, easements, rights-of-way, land improvements, buildings, building improvements, construction in progress, machinery and equipment, vehicles and infrastructure. Land, easements, rights-of-way and land improvements will be capitalized by not depreciated. Other "CAPITAL ASSETS" with a useful life of more than one year shall be

capitalized and depreciated (including acquisitions by lease-purchase agreements and donated items - see the table below for details).

(2) A capital asset meeting these criteria will be reported in the government-wide financial statements. Assets that are not capitalized will be expensed in the year of acquisition. For accountability and safeguarding of assets, an inventory will be kept on all computers and on all items costing less than the threshold(s) as defined in the table below, but more than \$500, which will be classified as non-capitalized assets.

<i>Class of Asset</i>	<i>Minimum Threshold</i>	<i>Depreciation Method</i>
Land	\$1.00	Straightline
Land Improvements	\$2,500.00	Straightline
Building	\$2,500.00	Straightline
Building Improvements	\$2,500.00	Straightline
Construction in Progress	\$2,500.00	Straightline
Machinery & Equipment	\$2,500.00	Straightline
Vehicles	\$2,500.00	Straightline
Utility Assets	\$2,500.00	Straightline

(C) Valuation of capital assets.

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

- (a) Legal and title fees, closing costs;
- (b) Appraisal and negotiation fees, surveying fees;
- (c) Damage payments;
- (d) Land preparation costs, demolition costs;
- (e) Architect, engineering and accounting fees;
- (f) Insurance premiums during construction;
- (g) Transportation charges;
- (h) Interest costs during construction - on utility funds only.

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

(D) Asset definitions by major category.

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

“BUILDINGS.”

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

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

“EQUIPMENT.”

1. The definition of “MACHINERY” and “EQUIPMENT” is as follows: an apparatus, tool, or conglomeration of pieces to form a tool. The tool will stand alone and not become part of a basic structure or building. Included within this category are office equipment and furniture, appliances, furnishings, machinery items, maintenance equipment, communication equipment, police and fire equipment, sanitation and water equipment, vehicles and emergency equipment. This list is not inclusive. All supplies are excluded.

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

A. Total cost exceeds \$500;

B. The useful life is extended two or more years; and

C. The total costs will be greater than the current book value and less than the fair market value.

“IMPROVEMENTS OTHER THAN BUILDINGS.”

1. Improvements to land for better enjoyment, attached or not easily removed, and will have a life expectancy of greater than two years.

2. Examples of unit assets in this category are walks, parking areas and drives, fencing, retaining walls, pools, fountains, planters, underground sprinkler systems, and other similar items. Examples of utility assets in this category are water supply mains, collection sewers, wells, fences, intake pipes, manholes and fire hydrants.

“INFRASTRUCTURE.”

1. Long-lived capital assets that normally can be preserved for a significantly greater number of years than most capital assets and are normally stationary in nature. Examples include roads, bridges, sidewalks, street lights, traffic signals, street signs, waste water systems, and water systems. “INFRASTRUCTURE ASSETS” can include structures directly related to the infrastructure. An example would be water pumping buildings associated with water systems.

2. The historical reporting requirement of GSABS 34 allows the unit to only include items put into use from 1980 forward.

“LAND, EASEMENTS AND RIGHTS-OF-WAY.” Specified land, easements, rights-of-way, lots, parcels or acreage owned by the unit or its various departments, boards or authorities, regardless of the method or date of acquisition.

(E) Asset transfers and dispositions.

(1) Property should not be transferred, turned in for auction, or disposed of without prior approval of the appropriate department head. A capital asset notification form should be sent to the Clerk-Treasurer in all cases. Invoices for new purchases will not be paid unless this form is attached. Deletions for any reason must be reported to the Clerk-Treasurer.

(2) "TRANSFERS" are defined as any movement of an asset by virtue of change in location, either by account, department or building. If an asset is stolen, the department head should ensure that a police report is promptly filed and that the police report be forwarded to the Clerk-Treasurer along with the capital asset notification form.

(F) Periodic inventories. A physical inventory of capital assets will be conducted by each department as near as practical to year-end. The Clerk-Treasurer will provide a list of the inventory on file which will be sent to each department before each year-end. The department heads will then compare physical observations of assets to the listing, noting whether the assets exist, the location if not apparent otherwise, and other relevant factors. If the condition of the asset has deteriorated to the point that its useful life has been impaired, that fact should be noted. Assets which are observed during the physical inventory and are not on the list should also be noted, and the reasons for such omissions should be documented to the extent possible. Department heads will be responsible for conducting a physical inventory for the capital assets charged to their department. The physical inventory sheet and related documentation will be forwarded to the Clerk-Treasurer when requested. The Clerk-Treasurer will compare results of the physical inventory to the capital asset records and make necessary adjustments to the capital assets.

(G) Safeguarding of assets. Accounting controls shall be designed and implemented to provide reasonable assurances that:

(1) Capital expenditures made by the city, its various departments and utilities are in accordance with management's authorization as documented in the minutes.

(2) Transactions of the utilities are recorded as necessary to permit preparation of financial statements in conformity with generally accepted principles.

(3) Adequate records are maintained to assure accountability for city and utility owned assets.

(4) Access to assets is permitted in accordance with management's authorization.

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

(Ord. 1484, passed 12-17-07)

CHAPTER 35: STATUTORY BOARDS AND COMMISSIONS

Section

35.01 General organization of city government

35.02 Police Pension Board of Trustees

35.03 City Plan Commission, Board of Zoning Appeals, and Economic Development Commission

35.04 Redevelopment Commission

§ 35.01 GENERAL ORGANIZATION OF CITY GOVERNMENT.

The government of the city shall consist of the following:

- (A) Executive branch (IC 36-4-5).
 - (B) Legislative branch (IC 36-4-6).
 - (C) Fiscal branch (IC 36-4-10).
 - (D) Judicial branch.
 - (E) Statutory boards and commissions.
- (Ord. 1009, passed 6-7-82)

§ 35.02 POLICE PENSION BOARD OF TRUSTEES.

There shall be a Police Pension Board of Trustees to perform certain duties prescribed by IC 36-8-6 (1925 Fund) and IC 36-8-8 (1977 Fund) concerning the statutory pensions of city police.

(Ord. 1009, passed 6-7-82)

Cross-reference:

Police Department, See Ch. 36

§ 35.03 CITY PLAN COMMISSION, BOARD OF ZONING APPEALS, AND ECONOMIC DEVELOPMENT COMMISSION.

There shall be a City Plan Commission, a Board of Zoning Appeals, and an Economic Development Commission whose members shall be appointed as prescribed by statute.

(Ord. 1009, passed 6-7-82)

Statutory reference:

Plan commissions, see IC 36-7-4-200 et seq., 36-7-4-300 et seq., and 36-7-4-400 et seq.
Boards of zoning appeals, see IC 36-7-4-900 et seq.
Economic development commissions, see IC 36-7-12-1 et seq.

§ 35.04 REDEVELOPMENT COMMISSION.

Pursuant to the authority of IC 36-7-14-3, the city hereby establishes the City of Butler Redevelopment Commission.

(Ord. 1297, passed 3-2-98)

Cross-reference:

Redevelopment Commission Fund, see § 34.15

§ 35.05 REVOLVING LOAN COMMITTEE.

(A) The Revolving Loan Committee shall consist of the following:

- (1) The Mayor;
- (2) A member of Common Council;
- (3) A member of the Economic Development Commission or Redevelopment Commission;
- (4) A minimum of one citizen appointee to be appointed by the Mayor.

(B) The Clerk-Treasurer shall act as secretary of the RLC.

(C) All loans except loans to other city governmental agencies shall be secured.

(Res. 10-473, passed 7-19-10)

CHAPTER 36: POLICE DEPARTMENT

Section

- 36.01 Powers of Police Department
- 36.02 Duties of Police Department
- 36.03 Members of Police Department
- 36.04 Police Pension Fund created; Board of Trustees; duties

Police Reserve Department

- 36.10 Police Reserve Department established
- 36.11 Membership; powers
- 36.12 Application; training periods
- 36.13 Continuation of training process
- 36.14 Establishment of rules and regulations
- 36.15 Badge and identification card provided
- 36.16 Uniforms and equipment
- 36.17 State law prevails

Cross-reference:

Bureau of Justice Assistance Fund, see § 34.14

Cumulative Building and Equipment Fund; use for acquiring police radio equipment, see § 34.10

Employment policies, see Ch. 37

§ 36.01 POWERS OF POLICE DEPARTMENT.

(A) The officers and members of the Police Department shall possess all the common law and statutory powers of constables, except in relation to the service of civil process. Any warrant of search or arrest, issued by any judge, may be executed in any part thereof by any member of the Police Department, subject to the laws governing arrest and bail.

(B) The members of the Police Department shall serve all process within the city issuing from the City Court. They shall arrest, without process, all persons who within view violate the statutes of the state, or the ordinances of the city, and take them before the court having jurisdiction of the offense, and retain them in custody until the cause of the arrest has been investigated. They shall suppress all breaches of the peace within their knowledge and may call to their aid the power of the city and pursue and commit to jail persons guilty of violation of the statutes of the state or of the ordinances of the city. They shall serve all process issued by the Common Council or any committee thereof, pursuant to statute, or by any of the executive departments of the city. They shall attend upon the City Court and assist the Bailiff to preserve order in the Court.

(C) The members of the Police Department, under the direction of the Chief of Police, shall convey prisoners to and from the county jail or station-houses of the city for arraignment or trial in the City Court, or to the place of imprisonment under sentence of the Court.

(IC 36-8-3-6)

§ 36.02 DUTIES OF POLICE DEPARTMENT

(A) The Police Department shall, within the city, preserve peace; prevent offenses; detect and arrest offenders; suppress riots, mobs, and insurrections; disperse unlawful and dangerous assemblages, and assemblages which obstruct the free passage of public streets, sidewalks, parks, and places; protect the rights of persons and property; guard the public health; preserve order at elections and public meetings; direct the movement of vehicles in streets, alleys, or public places; remove all nuisances in public streets, parks, or highways; provide proper police assistance at fires; assist, advise, and protect strangers and travelers in public streets or at railroad stations; carefully observe and inspect all places of business under license, or required to have the same, all houses of ill fame or prostitution, and houses where common prostitutes resort or reside, all lottery or policy-shops, all gambling-houses, dance houses, and resorts; and enforce and prevent the violation of all ordinances and laws in force in the city.

(B) The Chief of Police and each Captain, in the captain's precinct or district, shall possess the power of supervision and inspection over all pawnbrokers, vendors, junk-shop keepers, cartmen, expressmen, dealers in second-hand merchandise, intelligence offices, architectural salvage material dealers (as defined in IC 24-4-16-3) and auctions, and any member of the Department may be authorized, in writing, by the Chief to exercise the same powers. The Chief or any Captain may, by written authority, authorize any member of the Department, when in search of stolen property, evidence, or suspected offenders, to examine the books, business, or premises of any of the persons named in this section and to examine any property.

(IC 36-8-1-10, 36-8-3-10)

(C) The following fee schedule shall apply:

- (1) Police Department. For fees, see § 100.01.
- (2) Fire departments

Fire reports	\$5.00
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(3) City Court

Court costs	\$75.50
Fines	As determined by Judge/Butler City Code

(Am. Ord. 1342, passed 12-6-99; Am. Ord. 1485, passed 2-4-08)

§ 36.03 MEMBERS OF POLICE DEPARTMENT.

(A) The Butler Police Department shall constitute no more than seven (7) full-time officers, including the Chief of Police. The command structure for the Police Department shall be as follows:

(1) A Chief of Police who is appointed by the Mayor and serves at the pleasure of the Mayor. The Police Chief may be removed by the Mayor as the Police Chief at any time and without cause or reason.

(2) (a) An Assistant Chief of Police shall be a current police officer on the Butler Police Department who is recommended by the Chief of Police and approved by the Mayor. It is specifically determined that the position of Assistant Chief of Police of Butler is an upper policy-making position.

(b) The Assistant Chief of Police serves at the pleasure of the Chief of Police and the Mayor and may be removed as Assistant Chief of Police at any time by the Chief of Police or the Mayor without cause or reason. Removal as Assistant Chief of Police is not covered by provisions of IC 36-8-3-4. Upon removal from office of Assistant Chief of Police, the officer shall resume the rank he or she held prior to becoming the Assistant Police Chief.

(c) The Assistant Police Chief shall have the following duties:

1. Accepts assignments and duties delegated by the Chief of Police.
2. Acts as Chief of Police of the department in the absence of the Chief of Police.
3. Is responsible for Police Department personnel as directed by the Police Chief.
4. Performs administrative activities of the Department as delegated by the Chief of Police.

(3) Patrolmen. All other members of the Police Department shall be classified as patrolmen. All patrolmen are hired and fired by the City Board of Works following the provisions of IC 36-8-3-4 as amended from time to time.

(d) Class of patrolman;

1. Probationary
2. Patrolman
3. Patrolman/detective

(e) Patrolmen shall have the following duties:

1. Work on rotating shifts performing security patrols, traffic control, investigations, first aid at accidents, detection, investigation and arrest of persons involved in misconduct or

violations of the law.

2. Work an assigned shift using his or her own judgment in deciding a course of action being expected to handle difficult situations without assistance.

3. Maintain normal availability by radio or telephone for consultation on major emergencies or precedent while on duty.

4. Carry out duties in conformance with federal, state, county, and city laws and ordinances and as directed by the Chief of Police or Assistant Chief of Police.

5. While on duty, patrol city streets, parks, commercial and residential areas to preserve the peace and enforce the law, control and observe vehicular traffic, routinely check buildings and prevent or detect and investigate misconduct involving misdemeanors, felonies, infractions, and other violations of the law, and to otherwise serve and protect the community and its citizens.

6. Respond to all radio calls and investigate accidents, robberies, civil disturbances, domestic disputes, fights, drunkenness, missing children, prowlers, abuse of drugs, and any other reported or observed violations of law.

7. Interrogate suspects, witnesses and drivers involved in or having knowledge of an incident being investigated. Preserve evidence. Arrest violators. Investigate and render assistance at scene of all accidents. Summon ambulances and other vehicles as needed at the scene of any accident, and draw diagrams of scenes as part of the investigation of crash scenes.

8. Specific vision requirements for this job include close vision, distance vision, color vision, peripheral vision, depth perception, and the ability to adjust focus.

9. The officer must occasionally push, pull, drag, or lift/carry up to 100 pounds.

10. Initiate traffic stops on vehicles if general reasonable suspicion that criminal activity is afoot, past, present, or future or may have violated the traffic laws of the State of Indiana or City of Butler.

11. Work to generate confidential informants to generate and assist with the investigation and resolution of criminal cases whenever possible.

12. Work together well with fellow officers and supervisors. Follow the orders and directions of the Chief of Police or in the Chief's absence, the Assistant Chief of Police.

13. The patrolman/detective position is an appointed position, not a rank. This position is appointed by the Chief of Police. The patrolman/detective can be removed by the Chief of Police and returned to his or her position as a patrolman at the Chief's discretion. The patrolman who is to be appointed as detective by the Chief of Police must understand the nature of this position. The terms of appointment and removal must be explained to any candidate for the position of detective. The candidate must sign an acknowledgment of these terms before being appointed.

a. The duties of the patrolman/detective are the same as the duties described in this section for all patrolmen.

b. The patrolman/detective will work closely with the DeKalb County Prosecutor to investigate and develop cases in certain crimes specified by the Prosecutor pursuant to the Prosecutor's standards and requirements. Failure to meet these standards will result in removal from the patrolman/detective position.

(B) Any extra employees who are hired pursuant to any federal programs funded by federal funds shall not be deemed a part of the Butler Police Department. The employment of said officers shall be terminated on the expiration of the federal program or the funds with which to pay

them unless the City makes a decision to retain them as one of the full-time police officers referred to in paragraph (A) above.

(Ord. 887, passed 8-21-78; Am. Ord. 1125, passed 11-7-88; Am. Ord. 1296, passed 1-5-98; Am. Ord. 1581, passed 3-18-13)

§ 36.04 POLICE PENSION FUND CREATED; BOARD OF TRUSTEES; DUTIES.

There is created a Police Pension Fund and a Police Pension Board of Trustees to administer such fund. The Police Pension Board of Trustees of such Fund shall be governed as set forth in § 35.01.

Statutory reference:

Police pension funds, IC 36-8-6-1 et seq.

POLICE RESERVE DEPARTMENT

§ 36.10 POLICE RESERVE DEPARTMENT ESTABLISHED.

There is hereby established a reserve police department to be called “The Butler City Police Reserve Department”.

(Ord. 1056, passed 6-18-84)

§ 36.11 MEMBERSHIP; POWERS.

(A) There shall be no more than 12 members of the Police Reserve Department.

(B) Police Reserves may not be members of the regular Police Department of the city but shall have the same police powers as regular police officers except as limited by the rules of the Department. The Chief of Police shall be in charge of the Police Reserve Department.

(Ord. 1056, passed 6-18-84)

§ 36.12 APPLICATION; TRAINING PERIODS.

Applicants for membership in the Police Reserve Department shall be approved by the Chief of Police and the Board of Works and Safety.

(A) Upon such approval each member shall embark upon a one-month training period consisting of:

- (1) Department rules and regulations.
- (2) Radio procedure and use.

(B) Upon completion of the indoctrination training period, each reserve shall then be considered a probationary reserve for a period of three months and shall receive training in the following areas.

- (1) Firearms familiarization.

- (a) Qualification.
- (b) Rules concerning use of firearms.
- (2) Traffic and crowd control.
- (3) Traffic stops and arrests.
- (4) Crime in progress calls.
- (5) State criminal law.
- (6) Police image and public relations.

(C) These requirements may be waived by the Chief of Police with approval of the Board of Works and Safety if the applicant is already qualified to be a reserve officer because of previous education or experience.

(D) After completion of the probationary period or if the applicant meets the qualifications to be a police reserve the Chief of Police shall present the reserve officer's application to the Board of Works and Safety in order to have him appointed to the Police Reserve Department.

(Ord. 1056, passed 6-18-84)

§ 36.13 CONTINUATION OF TRAINING PROCESS.

The Chief of Police shall continue the training process of members of the Police Reserve Department and require the members to participate in the continuous training as a requirement of membership in the Police Reserve Department.

(Ord. 1056, passed 6-18-84)

Cross-reference:

Application and training periods, see § 36.12

§ 36.14 ESTABLISHMENT OF RULES AND REGULATIONS.

The Police Reserve Department, with approval of the Chief of Police, may establish rules and regulations concerning their organization, removal of members, rank and advancement, attendance, and such other rules as may be necessary to maintain an effective Police Reserve.

(Ord. 1056, passed 6-18-84)

§ 36.15 BADGE AND IDENTIFICATION CARD PROVIDED.

The city shall provide a badge and identification card to each officer after his appointment to the Police Reserve Department. In the event any reserve officer leaves or is removed from the reserve force the badge and identification card shall be returned to the Chief of Police.

(Ord. 1056, passed 6-18-84)

§ 36.16 UNIFORMS AND EQUIPMENT.

Each reserve officer is responsible for purchasing his own uniforms and equipment.
(Ord. 1056, passed 6-18-84)

§ 36.17 STATE LAW PREVAILS.

Any provision of this chapter in conflict with any amendment of IC 36-8-3-20 shall be null and void. Any amendment of IC 36-8-3-20, which conflicts with the provisions of this chapter shall be included by reference as a provision of this chapter.

(Ord. 1056, passed 6-18-84)

CHAPTER 37: EMPLOYMENT POLICIES

Section

- 37.01 Application of policies
- 37.02 Employee Earned Time-Off Policy
- 37.03 (Reserved)
- 37.04 Funeral leave
- 37.05 Holidays, employees other than police
- 37.06 Holidays for police
- 37.07 Jury service; employees other than police
- 37.08 Group insurance
- 37.09 Old-age and survivors' insurance
- 37.10 Membership dues to organizations providing local government information and services
- 37.11 Payment of salaries
- 37.12 Disability benefits for Chief of Police, Street Superintendent
- 37.13 Anti-nepotism policy

§ 37.01 APPLICATION OF POLICIES.

The following personnel policies apply to all present and future employees of the city in the Police, Street, Water, Sanitation, and Cemetery Divisions, Planning Department or any other divisions or departments. These policies do not apply to department heads appointed by the Mayor unless so specified in the appointment. The Mayor or any other appointing agency can vary any of the terms and conditions contained herein with respect to any department head, provided he has approval of the City Council.

(Res. 199, passed 5-2-77; Am. Ord. 1328-A, passed 4-5-99)

§ 37.02 EMPLOYEE EARNED TIME-OFF POLICY.

(A) Vacation.

(1) On their anniversary date, each full-time employee will be awarded vacation time according to the schedule below.

<i>Vacation Schedule</i>	
6 months	40 hours
2 to 9 years	80 hours
10 to 19 years	120 hours
20 to 29 years	160 hours
30 years and over	200 hours

(2) Vacation pay will be computed at the employee's hourly rate of pay.

(3) Vacations are to be applied for at least 14 days in advance, if possible.

(4) All vacations must be approved by the employee's supervisor, with the supervisor giving consideration to seniority, work load, and training schedules.

(5) Vacation time may be split with the approval of the employee's supervisor.

(6) Rescheduling of vacation may be done with the approval of the employee's supervisor.

(7) If an employee is terminated, the employee will be paid for any accrued vacation time that has not been used.

(8) If an employee dies, his or her current spouse will be paid for his or her accrued vacation.

(9) If there is a break in service, the employee's amount of vacation upon rehiring will be decided by the appropriate department head.

(10) All vacation days that are not used by the employee's anniversary hire date will be paid to the employee.

(11) If an employee is injured, any scheduled vacation can be rescheduled.

(B) Sick leave. All sick leave will be awarded on each full-time employee's anniversary hire date.

(1) Each employee will be awarded seven sick days per year.

(2) If a sickness exceeds three consecutive days, a doctor's excuse must be presented to the employee's supervisor. A copy of the doctor's excuse must be attached to the employee's time sheet and forwarded to the Clerk-Treasurer.

(3) If an employee needs to use more than seven sick days in a year, he or she must have a doctor's note and the approval of his or her supervisor and the Clerk-Treasurer. If the supervisor and the Clerk-Treasurer deny the paid sick leave, the issue may be taken before the Board of Works if the employee so desires.

(4) Sick days are cumulative. An employee is allowed to accumulate all unused sick days up to 40 working days. These 40 working days will include the seven annual days each employee is allowed.

(5) If an employee is injured on the job, the employee will not be allowed to use accumulated sick days and must proceed with a worker's compensation claim.

(6) If an employee leaves the city's employment due to retirement, the employee has the option of using the accumulated sick leave or being paid for the unused days.

(7) If an employee dies, his or her current spouse will be paid for his or her unused sick leave.

(8) Any employee who leaves the city for any reason, excluding retirement or death, receives no compensation for unused sick leave.

(9) The city has the right to subrogation against any recovery made by an employee from a third party who is responsible for the employee's illness or injuries.

(C) Personal leave. All personal leave will be awarded on each full-time employee's anniversary hire date.

(1) After 60 days of employment, all city employees shall receive three days leave per year for personal reasons.

(2) Personal leave shall be awarded on each full-time employee's anniversary hire date.

(3) Each personal day shall be with regular pay.

(4) Personal days are noncumulative and must be used by the employee's anniversary hire date.

(5) No employee who leaves the city's employment will be compensated for unused personal days.

(D) The Clerk-Treasurer is the official record keeper of all time-off.

(Res. 199, passed 5-2-77; Am. Res. 211, passed 8-7-78; Am. Ord. 978, passed 9-15-80; Am. Ord. 1050, passed 2-20-84; Am. Ord. 1103, passed 7-20-87; Am. Ord. 1108, passed 10-5-87; Am. Ord. 1112, passed 11-2-87; Am. Ord. 1149, passed 12-18-89; Am. Ord. 1178, passed 12-2-91; Am. Ord. 1328, passed 3-1-99; Am. Ord. 1368, passed 2-19-01; Am. Ord. 1430, passed 9-7-04; Am. Ord. 1483, passed 12-17-07; Am. Ord. 1678, passed 12-3-18)

§ 37.03 (RESERVED).

§ 37.04 FUNERAL LEAVE.

(A) When death occurs in the employee's immediate family, the employee, on request, will be excused for three normal work days, up to and including the day of the funeral.

(B) The immediate family includes spouse, children, employee's parents, spouse's parents, employee's brothers and sisters, employee's grandparents, spouse's grandparents, son-in-law, daughter-in-law, brother-in-law, sister-in-law, ward, or any relative with whom the employee resides.

(Res. 199, passed 5-2-77; Am. Ord. 1453-06, passed 2-20-06)

§ 37.05 HOLIDAYS, EMPLOYEES OTHER THAN POLICE.

(A) The following days are recognized as holidays for all city employees:

- (1) New Year's Eve;
- (2) New Year's Day;
- (3) Good Friday;
- (4) Independence Day;
- (5) Memorial Day;
- (6) Labor Day;
- (7) Thanksgiving Day;
- (8) The day after Thanksgiving;
- (9) Christmas Eve; and
- (10) Christmas Day.

(B) Pay for holidays. An eligible employee is one who:

- (1) Has worked 60 days for the city;
- (2) Performs work or is on vacation in the holiday week or preceding week;
- (3) Works as scheduled on the last scheduled work day prior to and the first scheduled work day following the holiday, unless absence is because of employee's illness, death in the immediate family, or similar good cause.

(Res. 199, passed 5-2-77; Am. Ord. 1679, passed 12-3-18)

§ 37.06 HOLIDAYS FOR POLICE.

(A) The following are recognized as holidays for members of the Police Department:

- (1) New Year's Eve;
- (2) New Year's Day;
- (3) Good Friday;
- (4) Independence Day;
- (5) Memorial Day;
- (6) Labor Day;
- (7) Thanksgiving Day;
- (8) The day after Thanksgiving;
- (9) Christmas Eve; and
- (10) Christmas Day.

(B) (1) Since it is impossible for the members of the Police Department to receive holidays off, each member shall receive "holiday incentive" for working any of the holidays listed in

division (A) of this section; provided that the police officer has been scheduled to work on that day by his or her supervisor.

(2) The term "HOLIDAY INCENTIVE" shall mean the extra pay a police officer receives for working on one of the holidays listed above. This pay shall be over and above the officer's regular salary. Holiday incentive shall be determined by the number of hours an officers works on one of the holidays listed in division (A) of this section.

(C) Because members of the Police Department are salaried employees, it is necessary to do a calculation to determine the hourly rate to be used in calculating the holiday incentive each officer shall receive. The officer's "base hourly rate" multiplied by the number of hours an officer works any shift on a holiday listed in division (A) of this section shall constitute the holiday incentive that the officer receives for working on that day.

(D) The "base hourly rate" is determined by dividing the officer's annual salary by 13. The quotient of this calculation shall be divided by 171 to determine the base hourly rate.

(Res. 199, passed 5-2-77; Am. Ord. 1186, passed 5-15-92; Am. Ord. 1679, passed 12-3-18)

§ 37.07 JURY SERVICE; EMPLOYEES OTHER THAN POLICE.

(A) A full-time employee shall be excused from work on a work day on which he performs jury service or is subpoenaed and reports for witness service in a court of record, provided he gives prior notice to his supervisor.

(B) An employee who is excused for jury or witness service who furnishes the city with a statement from the court with regard to jury pay or witness fees received and time spent on a regularly scheduled work day will be reimbursed the difference between jury pay or witness fee and his regular rate of pay.

(Res. 199, passed 5-2-77)

§ 37.08 GROUP INSURANCE.

(A) There is hereby established an Insurance Committee consisting of three members; the members shall be the Mayor and two other persons.

(B) The duties of the Committee shall be to study and analyze the group life and medical insurance coverage provided to employees of the city and its various departments and to make recommendations to the City Council concerning this coverage. Further duties shall be:

(1) To establish policy and procedures governing the administration of the insurance coverage provided to employees of the city and its various departments.

(2) Determine and recommend to the City Council the amount of all premiums, deductibles and co-pays that they determine are in the city's and the employees' best interests.

(C) If coverage is available to elected or appointed officials under the insurance coverage provided to city employees, then the elected or appointed official may participate, provided they pay 100% of the cost of providing coverage to them.

(D) If a husband and wife are employed by the city or its various departments, the city shall only pay for coverage under its insurance programs for the spouse who is the oldest. The other spouse may be covered as a dependent.

(E) If the spouse of a city employee or its various departments has medical insurance coverage at his or her place of employment, that coverage will be the spouse's primary insurance and the coverage provided through the City of Butler will be secondary.

(F) The term "CITY EMPLOYEE" shall refer to all employees of the city, including employees of its various departments, such as the Street Department, Water Department, Police Department, and Wastewater Treatment Plant, and any other department or office not specifically mentioned herein.

(Res. 199, passed 5-2-77; Am. Res. 204, passed 12-19-77; Am. Res. 211, passed 8-7-78; Am. Ord. 1049, passed 2-20-84; Am. Ord. 1104, passed 7-20-87; Am. Ord. 1165, passed 11-19-90; Am. Ord. 1486, passed 1-21-08)

§ 37.09 OLD-AGE AND SURVIVORS' INSURANCE.

(A) The city elects coverage under the Old-Age and Survivors' Insurance, as provided by IC 5-10.1-1-1 et seq., as amended, and as they may be amended, and as they may be implemented by regulations of the State Agency.

(B) All positions are to be covered except all services of an emergency nature, elected legislative officials, elected executive officials, and elected judicial officials.

(C) For the purpose of carrying out the provisions of Title II, Section 218 of the Federal Social Security Acts and amendments thereof, the agreement entered into between the State Agency with the approval of the Governor and the Social Security Administrator is made a part of this resolution and shall constitute an integral part of the federal agreement between this political subdivision and the State Agency, and shall become a part of the agreement or modifications of the agreement between the state and Social Security Administrator. The Council explicitly agrees that it will fully perform the obligation of a political subdivision under said agreement and IC 5-10.1-1-1 et seq., as amended, and as they may be amended, and as they may be implemented by regulations of the State Agency.

(Res. 381, passed 12-3-56)

§ 37.10 MEMBERSHIP DUES TO ORGANIZATIONS PROVIDING LOCAL GOVERNMENT INFORMATION AND SERVICES.

(A) (1) Payment of membership dues in the following associations is approved for the Chief of the Police Department:

- (a) Indiana Association of Chiefs of Police;
- (b) American Association of Chiefs of Police;
- (c) Fraternal Order of Police.

(2) The annual dues in these associations shall be placed in the budget for the Police Department for the year of 1978 and each subsequent year.

(B) (1) Payment of membership dues in the following associations is approved for the Clerk-Treasurer:

- (a) Indiana Association of Cities and Towns (one-half by city, one-half by utilities).
- (b) Indiana League of Municipal Clerks and Treasurers.

(2) The annual dues in these associations shall be placed in the budget for the Clerk-Treasurer for the year of 1978 and each subsequent year.

(Res. 202, passed 8-1-77)

(C) The Common Council is authorized to budget and appropriate funds from the General Fund or from other funds to provide membership for the city and the elected and appointed officials and members of the municipality's boards, Council, departments, or agencies in local, regional, state, and national associations of a civic, educational, or governmental nature, which have as their purpose the betterment and improvement of municipal operations. The city is further authorized to budget and appropriate funds to pay the expenses of duly-authorized representatives to attend the meetings and functions of organizations with which the municipality belongs.

(Ord. 1018, passed 9-7-82)

§ 37.11 PAYMENT OF SALARIES.

Payment of wages and salaries to city employees and officials shall be made on the following basis.

(A) Full-time employees on either an hourly wage rate or annual salary are to be paid by two-week pay periods. The first period will be determined from the first business Monday of each year and end on the second Sunday following the business Monday, and shall continue to be calculated in that method for each subsequent pay period.

(B) Time sheets for each employee shall be turned into the Clerk-Treasurer's office on Monday, the day after the close of the pay period. The Clerk-Treasurer shall prepare the pay checks and have them ready for delivery to each employee not later than the following Thursday morning; provided however, should the New Year's holiday fall between the day the time sheets are turned in to the Clerk-Treasurer and the Thursday pay day, the Clerk-Treasurer shall have said pay checks prepared as soon as possible after the holiday, but in no event shall said pay checks be delayed any longer than the number of working days the holiday consisted of.

(C) Employees on an annual salary and the Clerk-Treasurer shall receive one twenty-sixth of the annual salary for each pay period. The following city officials: the Mayor, City Attorney, Common Council, Board of Works and Safety, and City Court Judge shall be paid quarterly at the second regular Council meeting in the months of March, June, September, and December.

(D) This section applies to all police officers, other than the Chief of Police. Members of the Police Department are recognized as salary employees. There will arise times during a police officer's shift when additional compensation is to be paid to the police employee. The additional compensation shall be controlled by the following:

(1) Types of additional compensation.

(a) Extra pay. Extra pay shall be given to any police officer, other than the Chief of Police, for all hours worked over 160 hours through 170 hours in a 28-day pay period.

(b) Overtime pay. Overtime constitutes all hours worked in excess of 171 hours during a 28-day pay period. The employee shall be paid pursuant to federal law, 1½ times the officer's calculated hourly rate.

(2) Calculations for additional compensation.

(a) For extra hours worked over 160 up to 171 hours in any 28-day pay period, the extra pay shall be calculated as follows: The employee's base hourly rate shall be paid. The base

hourly rate shall be calculated by taking the employee's base annual salary and dividing it by 13 (the number of 28-day pay periods in a year). This number shall be the base salary for a single 28-day pay period. The base salary for a 28-day pay period shall then be divided by 171 to determine the base hourly rate. This is the rate that will be used for additional compensation for all hours worked by a member of the Police Department over 160 but less than 171 hours for any 28-day pay period.

(b) Overtime shall be paid at 1½ times the base hourly rate as the same is described in division (A) of this section.

(3) Approval of additional compensation or overtime.

(a) All additional work time that results in additional compensation must be approved by the Chief of Police for the times worked. They must be approved in writing and dated on the day of approval. This approval must be submitted to the Clerk-Treasurer when additional compensation is requested.

(b) All hours worked, including any additional time that results in additional compensation, will be documented on the time sheets submitted to the Clerk-Treasurer for the respective pay periods. If additional compensation is claimed the written approval of the Chief of Police as described above, shall be attached with the documented time sheets.

(c) All additional compensation will be paid at the end of the 28-day pay period that the additional work occurred.

(d) The provisions of this section shall be retroactive to April 20, 1992.

(Res. 213, passed 12-18-78; Am. Ord. 1113, passed 12-7-87; Am. Ord. 1195, passed 12-21-92; Am. Ord. 1398, passed 10-7-02)

§ 37.12 DISABILITY BENEFITS FOR CHIEF OF POLICE, STREET SUPERINTENDENT.

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

“DISABILITY.” Any condition which prohibits the Supervisor of full performance of his duties.

(B) Procedure; amount of payments. The Chief of Police and Street Superintendent shall receive disability benefits as follows.

(1) For a period of six months upon proof of the disability being submitted by the supervisor to the Board of Works. The proof shall be in the form of a medical statement from a doctor stating the nature and the cause of the disability.

(2) The amount of the disability payments shall be:

(a) The supervisor's weekly salary minus any disability payments from any other source such as medical insurance or Workmen's Compensation.

(b) It shall be the supervisor's responsibility to pursue the collection of any supplemental benefits. Failure to do so will result in the forfeiture of the right to any city disability payments as outlined herein.

(3) The payments shall not begin until all of the supervisor's accumulated sick leave has been used or two weeks have elapsed, whichever period of time is greater.

(Res. 220, passed 3-3-80)

§ 37.13 ANTI-NEPOTISM POLICY.

(A) The city incorporates by reference all provisions of IC 36-1-20.2 and IC 36-1-21.

(B) General policy.

(1) Purpose. Decisions about hiring, promoting, evaluating, awarding salary increases, job assignment, terminating employees, and the awarding of contracts for goods, services, and public works projects should be based on the qualifications, performance, and ability of the employee or contractor. Every attempt to avoid favoritism and conflicts of interest in employment related and contractual decisions instills confidence of the electorate in its government. The purpose of this policy is to prohibit certain individuals from being employed by the city in a position in which a relative, as defined by state statute, provides direct supervision. Additionally, this policy regulates contracting with relatives of individuals employed by the city for goods, services, and public works projects.

(2) Individuals who are relatives of city employees or elected officials, as defined by state statute, may not be hired by the city to a position of employment where said employee would be in direct line of supervision of the other relative.

(C) This policy will not apply to individuals employed by the city prior to July 1, 2012, unless there is a break in the person's employment as defined by statute.

(D) Contracting policy of the city.

(1) All contracts between the city and any party are subject to, and must comply with, the provisions of IC 36-1-21 et seq. and other state law.

(2) The city may enter into or renew a contract for the procurement of goods, services, or public works projects with a relative of an elected official or a business entity in which a relative has an ownership interest if:

(a) The elected official files with the city a full disclosure which must be:

1. In writing; and

2. Describe the contract or purchase to be made by the city; and

3. Describe the relationship the elected official has to the individual or business entity that provides the contract for goods, services or public works projects.

(b) The appropriate city board or department:

1. Issues a certified statement that the contract amount or purchase price was the lowest amount or price bid offered; or

2. Issues a certified statement detailing the reasons why the particular vendor or contractor was selected.

(c) The city satisfies all other requirements of Indiana's public purchasing (IC 5-22) or public works projects (IC 36-1-12) statutes.

(d) The elected official complies with disclosure provisions of IC 35-44-1-3.

(E) The city's personnel report, which is required and defined by IC 5-11-13-1, shall include a statement by the Mayor that the city has implemented an anti-nepotism policy as required by and pursuant to IC 36-1-20.2 and IC 36-1-21.

(F) Any amendments to IC 36-1-20.2 and IC 36-1-21 are hereby incorporated by reference to this policy at the time of passage.

TITLE V: PUBLIC WORKS

Chapter

- 50. WATER SUPPLY - TREATMENT AND DISTRIBUTION
- 51. GARBAGE
- 52. WASTEWATER AND SEWER USE
- 53. STORMWATER OPERATIONS, MAINTENANCE AND MANAGEMENT

CHAPTER 50: WATER SUPPLY - TREATMENT AND DISTRIBUTION

Section

General Provisions

- 50.001 Department of Waterworks established
- 50.002 Purpose and policy
- 50.003 Administration
- 50.004 Abbreviations
- 50.005 Definitions
- 50.006 Installation and responsibility
- 50.007 Inspection of connections and services

Financial - Fees and Rates

- 50.20 Deposits
- 50.21 Water rates, charges and fees
- 50.22 Payment of bills; dates
- 50.23 Connection charges for new services
- 50.24 Water Works Depreciation Fund
- 50.25 Water Utility Cash Reserve Fund

Private Wells

- 50.40 Prohibition of private wells
- 50.41 Permit required
- 50.42 Enforcement for private wells
- 50.43 Metering device and certification required

50.44 Connection to storm or sanitary sewer required

Cross-Connection Control/Backflow Prevention

50.055 Requirement for cross-connection/backflow prevention control devices

50.056 Approved cross-connection/backflow prevention control devices

50.057 Prohibition of unauthorized connections

50.058 Reference documents adopted by reference

50.059 City's right to order installation of devices

Conservation and Rationing Water

50.070 Application

50.071 Declaration of need

50.072 Voluntary conservation

50.073 Mandatory conservation

50.074 Rationing

50.075 Exceptions

50.076 Notice

Water Improvement Policy

50.90 Statement of policy

50.91 Residential equivalent unit (REU)

50.92 Water system capacity fee

50.93 Application for water services

50.94 Payment of capacity fee

Enforcement

50.105 Notification of violation

50.106 Compliance order

50.107 Injunctive relief

50.108 Remedies nonexclusive

50.109 Administrative fines

50.110 Appeals

GENERAL PROVISIONS

§ 50.001 DEPARTMENT OF WATERWORKS ESTABLISHED.

(A) The Department of Waterworks shall be under the control, management, and supervision of the Board of Public Works and Safety of the City of Butler with executive authority and administrative power as provided by law in carrying out the functions of said Department of Waterworks.

(B) The Department of Waterworks is responsible for the operation, maintenance and management of the water supply system of the City of Butler that includes treatment and distribution of the potable water supply to the residents, businesses, institutions and industries within the service area of the City of Butler.

(Ord. 1627, passed 7-5-16)

§ 50.002 PURPOSE AND POLICY.

(A) This chapter sets forth uniform requirements for all users of the water supply system operated by the Department of Waterworks of the City of Butler, Indiana.

(B) The objectives of this chapter are:

(1) To allow the Department of Waterworks to provide its customers with safe potable drinking water;

(2) To regulate and protect the aquifer and ground water wells, treatment components and distribution system within the service area of the Department of Waterworks;

(3) To regulate the installation and construction of service connections to the water mains owned and operated by the Department of Waterworks within the Butler water supply system service area;

(4) To prevent the introduction of contamination into the water supply system owned and operated by the Department of Waterworks;

(5) To promote water conservation and proper use of the potable water supplied by the Department of Waterworks;

(6) To establish rates and fees for payment of the cost of operation, maintenance, and improvement of the Department of Waterworks water supply system; and

(7) To enable the City of Butler, Indiana to comply with the Safe Drinking Water Act, all associated regulations and any other Federal or State laws to which the Department of Waterworks is subject.

(C) This chapter shall apply to all users of the water supply system operated, maintained and managed by the City of Butler's Department of Waterworks.

(Ord. 1627, passed 7-5-16)

§ 50.003 ADMINISTRATION.

Except as otherwise provided herein, the Superintendent, appointed by the Mayor, shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the Superintendent may be delegated by the Superintendent to other Department of Waterworks personnel.

(Ord. 1627, passed 7-5-16)

§ 50.004 ABBREVIATIONS.

The following abbreviations, when used in this chapter, shall have the designated meanings:

- (A) CFR Code of Federal Regulations
- (B) EPA U.S. Environmental Protection Agency
- (C) gpd gallons per day
- (D) IAC Indiana Administrative Code
- (E) IC Indiana Code
- (F) IDEM Indiana Department of Environmental Management
- (G) mg/L milligrams per liter
- (H) MCL Maximum Contaminant Level
- (I) SDWA Safe Drinking Water Act
(Ord. 1627, passed 7-5-16)

§ 50.005 DEFINITIONS.

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

“APPLICANT.” A person, firm, corporation, partnership or other entity who has the authority to act on behalf of the owner(s) or developer(s) of a new development or existing water and/or sewer service connection.

“BACKFLOW.” The undesirable reversal of flow of a liquid, gas, or suspended solid into the potable water supply.

“BACKFLOW PREVENTION DEVICE.” A device used to protect potable water supplies from contamination or pollution due to backflow.

“BOARD.” The Board of Public Works and Safety for the City of Butler, Indiana.

“CAPITAL IMPROVEMENT.” Land and/or facilities for the distribution, pumping, storage, raw water production or treatment of potable water.

“CAPITAL IMPROVEMENT PROGRAM.” The five-year capital improvement project list adopted by the City Council. The list shall describe each project and the estimated cost of each capital improvement to be funded

“COMMISSION.” The Public Service Commission of the State of Indiana.

“CONNECTION (TAP) FEE.” The charge assessed by the Utility for connection, often referred to as the tap, of a property’s service connection to the Water Department’s water main.

“CONTRACT.” An agreement between the Utility and the customer by which the Utility sets forth its conditions to provide water service.

“COUNCIL.” The Common Council for the City of Butler, Indiana

“CROSS CONNECTION.” A piping connection between two otherwise separate piping systems, one of which contains potable water provided by the Department of Waterworks, and the other

water of unknown or questionable safety.

“CURB STOP” or “SERVICE VALVE.” A fitting inserted in the service pipe near the curb or main for turning on and shutting off water to the premises supplied or to be supplied.

“CUSTOMER.” The person, firm, corporation, governmental agency, or association having interest, whether legal or equitable, sole or only partial, either as tenant or owner, in any property which is, or is to be, supplied with water service, either temporarily or permanently, by the Utility and is responsible for paying the Utility bill.

“DEVELOPMENT.” The construction of improvements to land which requires modification of existing water service connection or the construction of new water service connections to the city’s water system.

“DISCONNECTION.” The termination, temporary or permanent, of water services provided to a customer by the Utility for repairs, delinquent payments, non-payment of bills, illegal connections or other causes identified by the Superintendent.

“DISTRIBUTION MAIN.” A pipe owned by the Utility, located in a street, easement, road, right-of-way, or alley and used to deliver water.

- (1) To fire hydrants or fire lines.
- (2) To service pipes attached to the water main.
- (3) To private mains.

“DWELLING UNIT.” One or more habitable rooms which are occupied or which are intended or designed to be occupied by a person or persons, with facilities for living, sleeping, cooking and eating, and includes a mobile home.

“EXISTING WATER SERVICE.” All existing physical water service connections to the Utility’s water system.

“FIRE SERVICE CONNECTION.” Dedicated water service connection for the sole purpose of providing water for fire suppression systems. Water-using devices shall not be connected to a fire service connection. A fire service connection shall have a leak detection meter system.

“MAJOR IMPROVEMENTS.” The following may be considered, but not limited to, major improvements, as described in the Water Master Plan - installation of distribution mains, storage tanks, booster stations, raw water production systems, or water treatment plant additions, expansion or enhancements.

“METER.” The mechanical device owned by the Utility and used to measure and record the quantity of water supplied to the customer.

“METER PIT.” The structure provided by the Utility to house and protect the premise’s water meter.

“METER TESTING.” The testing by Utility personnel of a customer’s meter to determine the accuracy of the meter and / or to determine the need for meter repair or replacement.

“MINOR IMPROVEMENTS.” Actions required to connect a proposed development to existing water system facilities in compliance with the Utility’s specifications.

“MONTH.” The period between any two consecutive regular billings by the Utility for service rendered to a customer at his premises. The billings are scheduled at intervals of approximately 30 days.

“NON-RESIDENTIAL DEVELOPMENT.” All development other than residential development and includes commercial and industrial development.

“PLUMBER.” A person or firm licensed by the State of Indiana to provide plumbing services.

“PREMISES.” A dwelling unit, building, structure, or parcel of real estate which is normally supplied through a separate service pipe and meter.

“PRIVATE FIRE SERVICE” or “FIRE SYSTEM.” A privately owned arrangement of pipes, fixtures, and devices designed for stand-by service and from which water is taken only to extinguish fires.

“PRIVATE WATER MAIN.” A privately owned pipe, other than the service line, connected to the Utility’s distribution system and used to deliver water for private fire service purposes. The private water main for fire service shall pay a monthly flat fee.

“PRIVATE WELL.” A well that is not owned by the Department of Waterworks that was dug, drilled or bored for the extraction of groundwater and the pumping of the water for operation of heating or cooling systems, or any other purpose than consumption.

“RAILROAD USE.” Special water supplied and/or service to the railroad as addressed through an agreement with the Council and/or the Indiana Utility Regulatory Commission.

“RECONNECTION.” The establishment of water service after a temporary disconnection.

“RESIDENTIAL DEVELOPMENT.” The construction of improvements to property used for the construction of a dwelling unit or dwelling units.

“RESIDENTIAL EQUIVALENT UNIT (REU).” The basis for assessing the water capacity fee to different water customers. One REU is equal to 300 gallons per day (when calculating equivalency on flow basis).

“SECONDARY WATER SUPPLY.” Water used on a premises for such purposes as a geothermal energy source, cooling water, manufacturing, and other supplemental water usually drawn from private wells or captured surface waters, located on or near the premises served by the Utility public supply.

“SERVICE AREA.” The area within which potable water is provided to residential, commercial, institutional and industrial customers by the Butler Waterworks Department.

“SERVICE BOX.” The structure used by the Utility to house the curb stop, valves or other fittings on the service pipe.

“SERVICE CONNECTION.” That portion of a service pipe situated between and including the tap and the curb stop, installed or maintained by the Utility.

“SERVICE CONNECTION POINT.” The point where a water service line crosses the customer’s property line and is attached to the Utility’s water main.

“SERVICE PIPE.” The pipe, including Fittings, that carries water from the Utility owned and constructed water main to the service connection point at a customer’s residence, business, institution, industry or other structure.

“STORAGE.” Storage of treated water for the water service customers’ use and for meeting fire demands.

“SUPERINTENDENT.” The Utility’s designated person responsible for the management, operation and maintenance of the Utility’s water.

“TAP” or “CORPORATION COCK.” A fitting owned by the Utility and inserted in the distribution main to be used as the service pipe connection.

“TEMPORARY DISCONNECTION.” The termination of water services to a customer that is not permanent.

“TEMPORARY USER.” A customer that is not permanently connected to the Utility’s water system, such as a contractor, that needs water provided on a non-continuous basis.

“TRIP FEE.” The charge to a customer that has scheduled a service requiring Utility personnel to take an action at the customer’s premises.

“UNAUTHORIZED TURN-ON.” Unauthorized persons or persons opening the valve at the curb stop to deliver water service to a customer. Only authorized Utility personnel shall open the valve at the curb stop.

“UTILITY.” The City of Butler Waterworks Department, a department of the city, having its principal office at 215 S. Broadway, Butler, IN 46721 and engaged in furnishing the public water supply in the City of Butler.

“VALVE.” The device used to turn on or off the flow of water to the premises.

“WATER MASTER PLAN.” A document adopted by the Board of Public Works and Safety and the City Council that describes and outlines the orderly growth of water services, including the production, treatment, distribution and storage facilities.

“WATER SYSTEM.” The devices and /or processes used in the production, treatment, distribution, pumping or delivery of potable water.

“WATER SYSTEM CAPACITY FEE.” A fee charged to an applicant who is authorized to connect to the city’s public water system or who is authorized to increase the capacity of an existing water connection.

“WATER TREATMENT PLANT (WTP).” The site where raw water is treated and potable water pumped into the water distribution system for customer use.

(Ord. 1627, passed 7-5-16)

§ 50.006 INSTALLATION AND RESPONSIBILITY.

(A) The Utility shall determine the placement of each service connection so that the curb stop will, if possible, be located between the present or proposed sidewalk and curb, in the Utility easement, or at such other location that will, in the judgment of the Utility, provide a safer, more convenient, or more satisfactory location for the curb stop and service box.

(B) All customers shall obtain written approval from the Superintendent prior to installation of any approved backflow prevention protection device. Plans shall include full details of the proposed installation.

(C) The customer shall be responsible for the installation of the service connection, including the connection to the curb stop and / or the service box. The customer is responsible for the costs of installation, maintenance and repair of the service pipe between their premises and the curb stop. The customer shall pay the Utility for the service connection, per the tap fee established by the Utility and approved by the Board and Council.

(1) All service piping shall be disinfected, at the customer’s expense, before the water supply shall be turned on for service. The customer shall perform or cause to be performed, disinfection

of the piping and appurtenances in compliance with the Indiana Department of Health Standards. There shall be at least three samples obtained from the service piping on consecutive days and those samples must be satisfactory for consumption. A written report shall be submitted to the Utility by the customer with certification from a laboratory qualified to make the analysis, which is acceptable to the Utility.

(2) All required testing, which includes the following: hydrostatic test, chlorination, and three consecutive samples taken with two consecutive satisfactory bacterial tests - shall be completed before the main is accepted for service and the water is turned on by the Utility.

(3) No building permits, occupancy permits, or water service can be provided until all testing is completed and accepted by the city. If all testing is not completed in ten days, the City Water Department may complete the testing and bill the owner of the water lines the Utility's actual costs for testing. No water service shall be provided until all charges incurred by the Utility are paid in full.

(4) Water will be furnished through a single service pipe, and metered, to one property. Where a single property consists of several units or buildings, and is served by a single service pipe, the property owner has the option of valving and metering each unit or building separately. A separate valve must be provided outside each building, and must be accessible to the Utility.

(5) Each building or unit metered shall be considered as a separate customer and each customer will be responsible for the charges incurred and identified on each utility bill and subject to the rules and regulations of the Utility and the ordinances of the City of Butler.

(6) In a case where a service has been installed prior to the adoption of and not in accordance with this chapter, where water is being taken from a single curb stop for supply for two or more units, buildings, or premises, the customer benefiting from these arrangements shall be responsible for the payment of the usage charges and all other legitimate charges.

(D) All service piping, fittings, valves and other materials shall be in accordance with any "Water Construction Standards", adopted by the Board.

(1) The Superintendent shall, upon request and / or receipt of the customer's application of service, provide a copy of the "Water Construction Standards".

(2) Service pipes shall be grey cast or ductile cast iron, brass, or type "K" copper or approved plastic materials from the curb stop to the meter.

(3) No service pipe shall be less than 3/4-inch nominal diameter, and all service pipes shall be installed with a minimum of four feet of ground cover.

(4) New service piping between the water main and a building shall be run in a straight or direct line when practicable, without bends and at a depth of not less than four feet. Pipe with joints shall be dug and properly backfilled, not driven. Service pipes shall not be placed in the same trench with sewers or other piping and shall be in accordance with state, local, and applicable standards, codes, regulations, and ordinances.

(E) There shall be no physical connection from a secondary water supply to any service provided by the Utility. This type of connection shall be cause for immediate termination of water service without notice, as provided in § 50.043 of this chapter.

(F) The water service line between the customer's residence, business, institution, industry or other structure and the service connection shall be maintained and repaired by the customer.

(G) The water line between the Utility's water main and the water service connection point shall be maintained by the Utility.

(Ord. 1627, passed 7-5-16)

§ 50.007 INSPECTION OF CONNECTIONS AND SERVICES.

(A) The Utility shall inspect each service line installed by a plumber, contractor, or individual, for proper materials and depth of the service before the service trench is backfilled. However, the quality of material and workmanship shall be the customer's responsibility and must conform to applicable plumbing codes and standards.

(B) The Utility's authorized representative shall have the right to enter upon the premises of the customer at all reasonable times for the purpose of inspecting or testing cross-connection protective devices, atmospheric tank installations, booster pump-vacuum breaker-type valves, general plumbing, as well as meter readings, inspection, repairs, testing, removal, replacements, and relocation in connection with the water service. Failure to provide or allow access for the Utility to the customer premises for the herein stated purposes, after written notice of the intent to inspect, shall be cause for discontinuance of water service.

(C) The Utility's authorized representative shall have the right to enter upon the premises of any customer with a secondary water supply system to insure that no connection exists between the customer's secondary supply and the Utility's water supply system. The presence of any connection of a secondary water supply to the Utility's water system shall be cause for the immediate discontinuance of water supply services from the Utility to the customer and services will not be restored until the connection is eliminated or acceptable cross-connection/backflow prevention appurtenances are properly installed, at the customer's expense and approval by the Superintendent.

(Ord. 1627, passed 7-5-16)

FINANCIAL - FEES AND RATES

§ 50.020 DEPOSITS.

(A) When any customer makes application for water services from the Water Department, a deposit of \$50 shall be paid to the Water Department for services to be provided to the property. Services will not be provided to any renter or contract purchaser unless the owner of the real estate signs the application and agrees to be responsible for any water and wastewater services rendered to his property in the event the renter or contract purchaser fails to pay the bills for the Utility services provided to the property.

(B) If the customer pays all service charges for water for 12 consecutive months after payment of the deposits, per the schedule described in § 50.022 of the Butler City Code, with no bills becoming past due, the \$50 deposit shall be refunded to the customer who originally made the deposit, without interest thereupon.

(C) If the customer fails to pay the charges for water services on time during the 12 consecutive month period after payment of the deposit, then the deposit shall be retained by the Water Department.

(D) In the event a customer becomes delinquent in the payment of charges for water service and their service is discontinued because of late payment, then any deposit being held by the City shall be applied on delinquent charges for water, unless the customer makes payment in full of all delinquencies due the Water Department, including service charges, before service is resumed. If all of the deposit is applied on delinquent charges, then a new deposit will be required before service is resumed.

(E) No deposit will be required of a customer moving from one residence within the city to another if their bill has been paid per the provisions in § 50.12 of the Butler City Code for the previous thirty-six (36) months.

(Ord. 1627, passed 7-5-16)

§ 50.021 WATER RATES, CHARGES AND FEES.

The following rates, charges and fees, based on the volume of water supplied during each monthly billing period are established. These rates, charges and fees may be amended or modified as the law provides.

(A) There are established for the use of and the services rendered by the waterworks system of the city the following rates, charges and fees, based on the volume of water supplied during each monthly period:

SCHEDULE OF RATES AND CHARGES			
CONSUMPTION PER MONTH (PER 1,000 GALLONS)	Charges Effective June 1, 2017	Charges Effective June 1, 2018	Charges Effective June 1, 2019
First 10,000 gallons	\$7.94	\$8.42	\$8.93
Next 20,000 gallons	\$5.98	\$6.34	\$6.72
Over 30,000 gallons	\$5.30	\$5.62	\$5.96

(B) Minimum charge. Each user shall pay a minimum charge in accordance with the size of the meter installed for which the user will be entitled to the quantity of water set out in the above schedule of rates.

MINIMUM CHARGES				
Meter Size	Gallons Used	After June 1, 2017	After June 1, 2018	After June 1, 2019
5/8 - 3/4 inch	\$2,500	\$19.85	\$21.05	\$22.33
1 inch	\$4,286	\$34.03	\$36.09	\$38.27
1.5 inch	\$10,003	\$79.42	\$84.22	\$89.32
2 inch	\$18,843	\$132.28	\$140.26	\$148.72
3 inch	\$42,353	\$264.47	\$280.42	\$297.32
4 inch	\$92,216	\$528.74	\$560.65	\$594.51
6 inch	\$142,136	\$793.32	\$841.20	\$892.03

(C) Fire protection.

(1) Hydrants.

FIRE PROTECTION (RATE PER MONTH)

	<i>After June 1, 2017</i>	<i>After June 1, 2018</i>	<i>After June 1, 2019</i>
Public (per hydrant)	\$60.47	\$64.10	\$67.95
Private (per hydrant)	\$60.47	\$64.10	\$67.95

(2) Sprinkler connections.

PRIVATE FIRE PROTECTION, SPRINKLER CONNECTIONS

<i>METER SIZE</i>	<i>After June 1, 2017</i>	<i>After June 1, 2018</i>	<i>After June 1, 2019</i>
1 inch	\$7.28	\$7.72	\$8.18
2 inch	\$38.37	\$40.67	\$43.11
3 inch	\$62.99	\$66.77	\$70.78
4 inch	\$111.95	\$118.67	\$125.79
6 inch	\$251.96	\$267.08	\$283.10
8 inch	\$330.70	\$350.54	\$371.57

(D) Municipal drinking fountain.

DRINKING FOUNTAIN

	<i>After June 1, 2017</i>	<i>After June 1, 2018</i>	<i>After June 1, 2019</i>
Per fountain (per month)	\$22.03	\$23.35	\$24.75

(E) Trip Fee: A \$50.00 trip fee will be applied, payable to the Butler Water Department. Said fee will be assessed even if a customer fails to keep an appointment.

(F) Temporary disconnection: One free request shall be allowed per year per customer, after which a temporary disconnection fee of \$50.00 shall be assessed and be payable to the Water Department.

(G) Reconnection after nonpayment: There shall be a \$50.00 charge, payable to the Water Department prior to the reconnection, to reconnect a service that has been disconnected for reason of nonpayment.

(H) Meter testing: One meter test shall be allowed per calendar year (January through December) at no charge to the customer. A meter testing fee of \$50.00 shall be assessed, payable to the Water Department, for any subsequent tests during the calendar year (January through December).

(I) Disconnection for repair: One request shall be allowed per calendar year (January through December) at no charge the customer. A disconnection for repair fee of \$50.00 shall be assessed, payable to the Water Department, for any subsequent disconnection for repair requests during the calendar year (January through December).

(J) Temporary users: Water furnished to temporary users, such as contractors, shall be charged on the basis of the volume provided, at the rates described in § 50.021(A), as metered or estimated by the Water Superintendent, payable to the Water Department.

(K) Railroads: Water supplied for railroad use may be billed per terms as shall be fixed by specific contract approved by the Council and the Commission.

(Ord. 1627, passed 7-5-16; Am. Ord. 1642, passed 3-20-17)

§ 50.022 PAYMENT OF BILLS; DATES.

(A) All water bills (which also will include wastewater and stormwater charges) shall be due and payable on the fifteenth day of each month. The property owner is ultimately responsible for the payment due for all city services furnished to the owner's property, including water, wastewater and stormwater. The property owner is responsible whether or not the owner actually occupies the property. The failure of the occupants of the property, or the property owner, to pay for any charges for water, wastewater and stormwater services furnished to the property shall result in these services being withheld from his property until the unpaid charges have been paid in full. This rule will apply to all subsequent occupants of the property.

(B) All charges for water and wastewater due and payable on the Fifteenth day of each month shall be delinquent if not paid by the Fifteenth day of the following month. A penalty shall accrue thereupon as of the sixteenth day of each month thereafter for such period of lime as the water, wastewater and/or stormwater bill is not paid. Failure to pay any overdue water, wastewater and/or stormwater bill within 30 days of the date the bill is due shall result in all Utility services to the property being disconnected or discontinued.

(C) A 10% penalty shall be assessed on all overdue water, wastewater and stormwater charges and fees after the Fifteenth day of each and every month and shall be cumulative.

(D) No building permit or occupancy permit shall be issued by the city or other governmental agency having the same authority until all applicable water, wastewater and/or stormwater charges, fees and penalties for the property have been paid.

(E) No water connection to a property with an overdue account shall be installed, made, modified or performed until all applicable overdue Utility charges and fees have been paid in full.

(F) If an approved water connection is not made within one year of the date of authorization, or if the building permit is revoked or expires, the permit for the service connection shall be considered void and terminated.

(G) An applicant may make application to the Utility for a refund of water charges and fees paid under the requirements of this chapter, provided that:

- (1) One hundred twenty days have passed from the original payment of the fees; and
- (2) The written authorization for the service connection is returned to the city; and
- (3) The applicant provides a written statement that no future service connection rights are retained by the applicant; and
- (4) The applicant is not otherwise indebted to the city.

(H) Upon approval of the Board, the water and wastewater fees previously paid may be refunded, upon completion of the conditions of division (G)(1) to (4) of this section.

(I) The cost of any special materials, equipment, or metering systems specifically ordered for a water service connection shall not be refundable to the applicant.

(Ord. 1627, passed 7-5-16)

§ 50.023 CONNECTION CHARGES FOR NEW SERVICES.

(A) Connection (tap) fees are hereby established and are required to be paid to the city prior to the installation or connection of any new water service or extensions to the public water system.

(B) Any person desiring to connect to the public water system shall complete an application for connection (tap) and shall pay a connection (tap) fee for each physical utility connection to the city in the amount set forth in the following Tap Fee Schedule. This includes repairs and reconnections as identified in the Tap Fee Schedule.

(C) The Water Department shall periodically review the Tap Fee Schedule to determine if the fees are adequate to address the operation, maintenance and management needs associated with service connections and shall make recommendations to the Council on any amendments to the fees or the method used to calculate the fees.

(D) Connection (tap) fee revenues shall be deposited into the appropriate Water Department operating revenue account.

TAP FEE SCHEDULE WATER SERVICE TAP	
Water service line < 1"	\$700
Water service line < 2"	\$800 plus cost of meter provided by city Water Department
Water service line < 4"	\$1,000 plus cost of meter provided by the city Water Department
Water service line > 4"	\$1,200 plus cost of meter provided by the city Water Department
Fire service connection	\$3,000 per connection plus cost of meter provided by the city Water Department
Water tap repair/ reconnection inspection fee	\$50

(Ord. 1627, passed 7-5-16)

§ 50.024 WATER WORKS DEPRECIATION FUND.

(A) A Water Works Depreciation Fund was created by the Council. The purpose of this Fund is for the water utility to provide replacement of major equipment after the useful life of the equipment has been met.

(B) Excess revenue to be placed in this Fund shall be from the revenue generated by the operation of the water utility. Out of such excess revenues there shall be deposited in the Fund, on or before the first day of each calendar month, not less than the sum of \$2,000 until such time as the Fund shall contain the sum of \$100,000 (the Fund Limit). This Fund contribution may be modified or changed by resolution of the City Council upon recommendation of the Board.

(C) After accumulation of the Fund limit, no further deposits need be made therein except to the extent necessary to maintain the Fund Limit of \$100,000.

(D) After the Fund reaches \$100,000 and expenditures are made from the Fund, deposits shall be made at the rate of not less than \$2,000 per month from excess revenues until the Fund Limit shall have again been attained.

(Ord. 1627, passed 7-5-16)

§ 50.025 WATER UTILITY CASH RESERVE FUND.

(A) There is hereby created a Water Cash Reserve Fund for the purpose of depositing excess revenues of the Utility. The fund shall be maintained at an amount equal to three (3) months of operating expenses of the utility excluding sums needed for principal and interest payments on bonds of the utility.

(B) The purpose of the cash reserve fund is for emergency situations when monthly revenues are not adequate to meet the recurring operating expenses of the Utility, including the purchase equipment necessary for the effective and efficient operation and maintenance of the Utility. The funds in the cash reserve fund shall be replenished by the Utility as excess revenues are generated to maintain the three (3) months of operating expenses.

(C) Expenditures from the fund shall be approved by the Board after proper appropriation.

(D) The Council may, with approval of the Board, transfer Water utility funds to the General Fund from the Water cash reserve fund as authorized by IC 8-1.5-3-11.

(E) Any interest earned by the cash reserve fund may be transferred by the Clerk-Treasurer to the operating fund of any of the city's utilities, upon approval of the Council.

(F) Cash reserve funds may also be used to make loans to any other City utility for periods not to exceed five (5) years and at an interest rate agreed upon approval by the Council. If one utility borrows money from another utility, repayment of the loan shall be within five (5) years and the interest shall be deposited to the cash reserve fund.

(Ord. 1627, passed 7-5-16)

PRIVATE WELLS

§ 50.040 PROHIBITION OF PRIVATE WELLS.

No private wells shall be dug, drilled or bored within the city limits/utility service area that shall have an adverse effect on the water system and supply of the residents of the city.

(Ord. 1627, passed 7-5-16)

§ 50.41 PERMIT REQUIRED.

(A) Any person desiring to dig, drill or bore a private well within the city limits/utility service area shall apply to the Utility for a permit for the desired well. The Superintendent shall review the permit and submit the same with his or her recommendations to the Board for its approval or disapproval. An application to drill a private well shall contain the following information:

- (1) The depth of the well;
- (2) The use of the water that will be drawn from the well;
- (3) How and where the applicant will dispose of the water from the well;
- (4) A statement that water to be discharged is in compliance with § 52.011(B) of the City Code of Ordinances;
- (5) Who will dig, drill or bore the well;
- (6) The exact location of the proposed well or wells;
- (7) The size of the well in inches; and
- (8) The production capacity, in gallons per minute, of the well.

(B) In addition to the information listed above, any applicant who intends to use the water for heating, cooling, or any other commercial use shall have, attached to the application for the desired well, a certification from a licensed hydrogeologist that the proposed water withdrawal and subsequent use, as applied for, will have no adverse effect on the Utility's wells or water supply. The hydrogeologist, in his or her report, shall refer to the above specifications on the application in reaching his or her conclusions. Further, said report shall analyze the impact on the future development of the city and its ability to supply water to future commercial and industrial users.

(C) In determining whether or not to issue the permit the Board may require the applicant to furnish such other information as the Board feels is necessary for the Board to make a decision on the application. In addition, the Utility may have the application and any supplemental reports examined by its own engineers, geologists, or other specialists for their opinion on the issuance of a permit to the applicant, the validity of the applicant's supporting documents, and their opinion on the effect said use will have on the city's water supply before deciding on whether or not to issue a permit.

(D) In issuing the permit, the Board may place whatever restrictions or conditions on the applicant that the Board in its discretion believes are necessary to protect the welfare of the city and the integrity of the water supply and wastewater system. This may include a prohibition on the discharge of any water to a sanitary sewer or the limitation of a discharge to a storm sewer only.

(E) After completion of any private well that was permitted by the Board, a diagram of the well shall be filed with the Utility showing the actual well construction and all stages of such well. Included on the diagram shall be the depth of the casing, the width of the casing, well seal depth, depth of the screen, and other levels of well casing.

(F) The owner of the real estate upon which the well is constructed shall submit a yearly well inspection report to the city, with the results of a draw down test. This report shall be on a form provided by the Utility and must be filed with the Utility by June 30 of every year. All information on said form must be filled out as listed. Any private wells drilled within the city limits, must be equipped to obtain such information as required by the well report form.

(G) In addition to the requirements of Division (F) of this section, the owner of the well must furnish the Utility with a copy of all state report forms required by the Indiana Department of Environmental Management or the Indiana Department of Natural Resources, either monthly or yearly as the case may be.

(H) The Superintendent of the Utility shall have the power to perform any tests required by the well inspection report at any time provided that they give the owner 24 hours' notice.

(I) Failure to file the required reports shall be a violation of this chapter, in which event the city shall issue an order, as provided in § 50.043, directing said wells be taken out of service until the reports are filed.

(Ord. 1627, passed 7-5-16)

§ 50.042 ENFORCEMENT FOR PRIVATE WELLS.

(A) Any private well shall at all times comply with the specifications of the permit issued by the Board. This includes the depth of the well, the gallons per minute, and the disposal of said water. The city has the discretion to inspect the installation and operation of the well and may require the applicant to make such reports, install such metering devices, or take whatever other action the Board identifies as necessary to assure that the well is constructed and used within the specifications of the permit.

(B) If at any time the Board determines that the use of the well exceeds the specifications contained in the application, or that any such well adversely affects the water supply for the city or the drainage or wastewater system of the city, then a cease and desist order shall be issued by the Board. In the event the owner of the well or the owner of the land upon which the well is located fails to obey the cease and desist order, the owner shall be responsible for all attorney fees and costs incurred by the city in enforcing this subchapter either in law or equity.

(C) The Board may assess penalties not to exceed \$ 1,000 per day for each day a private well is operated in violation of this chapter and each day shall be considered a separate offense. The Board shall also assess and recover all legal costs, including Attorney's fees for prosecution of the enforcement action.

(Ord. 1627, passed 7-5-16)

§ 50.043 METERING DEVICE AND CERTIFICATION REQUIRED.

Any person permitted to install a private well and desiring discharge of wastewater into the city's wastewater system, must meet the following requirements.

(A) Submit an application, in writing, on the form provided by the Utility, requesting authorization from the Board to connect to the wastewater system. The written request must identify the point of desired connection, the size of the pipe and the pipe materials, the type of connection, the type of wastewater and the estimated volume of the discharge to the wastewater system.

(B) After receipt of written authorization from the Board, the applicant shall install a metering device, approved by the Superintendent as to the make and model, prior to connecting to the City's wastewater system. The meter shall be purchased and installed by the property owner.

(C) Certification from a laboratory or licensed professional engineer that the wastewater to be discharged is not specifically prohibited as identified in § 52.011(B) of the City Code of Ordinances.

(Ord. 1627, passed 7-5-16)

§ 50.044 CONNECTION TO STORM OR SANITARY SEWER REQUIRED.

(A) Any person, business, institution, corporation, or other entity that has a private well within the city must dispose of the water pumped from the well by discharging said water into a city storm or sanitary sewer, insuring that the provisions of § 50.043 are met.

(B) Disposition of said water must be in compliance with all city ordinances and any applicable federal, state or county laws, rules or regulations.

(C) In no event shall any water drawn from the ground be dumped or deposited on the ground or in any type of pond.

CROSS-CONNECTION CONTROL/BACKFLOW PREVENTION

§ 50.055 REQUIREMENT FOR CROSS-CONNECTION/BACKFLOW CONTROL DEVICES.

(A) All service connections from the Water Department system shall be protected from any and all threat of contamination that could result from any type of cross-connection or backflow.

(B) It shall be the sole responsibility of the customer to provide approved cross-connection and / or backflow control protection devices at any and all locations where the threat of system entry or penetration may exist along the system.

(Ord. 1627, passed 7-5-16)

§ 50.056 APPROVED CROSS-CONNECTION/BACKFLOW PREVENTION CONTROL DEVICES.

(A) Cross-connection and/or backflow prevention control protection devices, as determined by the Superintendent, shall be of an approved type as recognized by:

- (1) The Uniform Plumbing Code;
- (2) The Indiana Board of Health;
- (3) The Indiana Department of Environmental Management;
- (4) The American Water Works Association;
- (5) The United States Environmental Protection Agency; or
- (6) Other applicable regulatory agencies.

(B) Approved devices shall be certified as acceptable by a certified cross-connection control technician, with final approval for the use and installation of said device obtained in writing from the Superintendent prior to the installation of said devices.

(Ord. 1627, passed 7-5-16)

§ 50.057 PROHIBITION OF UNAUTHORIZED CONNECTIONS.

Unauthorized or unapproved connection of any type, whether connected directly or indirectly, to any piping that contains water from the Utility's distribution system shall be cause for termination without notice of water services from the Utility, with subsequent removal of the service to the consumer or customer of the Utility.

(Ord. 1627, passed 7-5-16)

§ 50.058 REFERENCE DOCUMENTS ADOPTED BY REFERENCE.

The following documents are incorporated herein, as part of this chapter, by reference:

(A) Indiana Administrative Code, Title 320, Article 3 as it presently exists or is amended, titled - Requirements for Protection of Public Water Supplies From the Introduction of Contaminants Through Cross-connections;

(B) Indiana Uniform Plumbing Code, as it currently exists or is amended;

(C) Water Works Association Manual of Water Supply, M14, Third Edition, titled Recommended Practices for Backflow Prevention and Cross-Connection Control, as it presently exists or is amended; and

(D) Applicable Indiana drinking water standards and regulations contained in 327 IAC 8, including the terms, definitions and interpretations as set forth in said regulations with any revisions thereto, shall become as part of this subchapter as specified hereto and as referenced herein.

(Ord. 1627, passed 7-5-16)

§ 50.059 CITY'S RIGHT TO ORDER INSTALLATION OF DEVICES.

The Board shall have the right to order any person, corporation, business, industry or governmental entity to install a cross-connection or backflow prevention protection device, if it is deemed to be necessary, as specified in this chapter.

(Ord. 1627, passed 7-5-16)

CONSERVATION AND RATIONING WATER

§ 50.070 APPLICATION.

This section shall apply to all persons, firms, partnerships, associations, corporations, companies, governmental agencies or organizations of any kind connected to the city's water system or using water therefrom, hereafter known as customers.

(Ord. 1627, passed 7-5-16)

§ 50.071 DECLARATION OF NEED.

Upon determining that the Utility's water system is in danger of a shortage of water or is experiencing a shortage of water, the Board shall declare a water conservation emergency and establish the appropriate conservation measures and the duration thereof.

(Ord. 1627, passed 7-5-16)

§ 50.072 VOLUNTARY CONSERVATION.

In accordance with § 50.076(A), customers may be requested to reduce water consumption by practicing voluntary conservation techniques.

(Ord. 1627, passed 7-5-16)

§ 50.073 MANDATORY CONSERVATION.

In accordance with § 50.076(B), customers shall be prohibited from the water uses listed below during the declared emergency period, subject to reasonable terms, times and conditions as the Board shall determine.

- (A) Sprinkling, watering or irrigation of shrubbery, trees, grass, ground covers, plants, vines, gardens, vegetables or any other vegetation.
- (B) Washing of automobiles, trucks, trailers, mobile homes, railroad cars or any other type of mobile equipment.
- (C) Cleaning or spraying of sidewalks, driveways, paved areas, or other outdoor surfaces.
- (D) Washing and cleaning of any business equipment or machinery.
- (E) The filling of swimming pools, wading pools and ornamental fountains.
- (F) Knowingly allowing leakage through defective plumbing.
- (G) Pumping water for the purpose of operating heating or cooling systems.

(Ord. 1627, passed 7-5-16)

§ 50.074 RATIONING.

In addition to the mandatory conservation measures identified in § 50.073 and in accordance with § 50.076, customers shall be limited to water use per the following schedule, during the declared emergency period:

- (A) Residential customers shall be limited to 75 gallons per person per day. Water meter readings will be made on a weekly basis during any conservation or rationing period to determine compliance.
- (B) Business, commercial, governmental and industrial customers shall be limited to 75% of the volume of water used during the corresponding month of the preceding year. Business, commercial, governmental or industrial users that were not in business and operating in the area served by the Utility more than one year prior to the declaration of need shall be restricted to 75% of the average monthly volume of water used during the number of months such business, commercial, governmental or industrial user was in business and operating in the Utility's service area.

(Ord. 1627, passed 7-5-16)

§ 50.075 EXCEPTIONS.

The Board reserves the right to establish alternative rationing requirements for the following:

- (A) Health care providers;
- (B) A reasonable use of water to maintain adequate health and sanitary standards; and
- (C) Those industrial and agricultural activities declared to be necessary for the public health and well-being.

(Ord. 1627, passed 7-5-16)

§ 50.076 NOTICE.

(A) Notice of requested voluntary conservation measures shall be by publication in a local newspaper of general circulation or other means as deemed appropriate by the Board. The notice shall be effective upon publication.

(B) Notice of mandatory conservation or rationing shall be by notices on customer's bills, by first class United States mail, or by other door-to-door distribution to each current customers, and by electronic and print media. Said notice shall be deemed effective at the conclusion of door-to-door distribution, or at noon of the third day after depositing same in the United States mail. Failure to receive personal service or notification shall not be a defense to a violation of the subchapter.

WATER IMPROVEMENT POLICY

§ 50.090 STATEMENT OR POLICY.

(A) It is the policy of the Board and the Council to provide for the effective and efficient operation, maintenance, management and orderly growth and expansion of the Utility's water system.

(B) All improvements to the Utility water system shall be constructed in accordance with construction standards prepared by the Utility and adopted by the Board.

(C) The construction of minor improvements shall be at the sole cost of the applicant for water service. The Board at its sole discretion, may require an increase in the capacity of all, or part, of the improvements when such increased capacity is consistent with the adopted Water Master Plan. The city shall only pay the incremental cost associated with increased capacity requirements specified by the Board. Nothing contained herein shall be construed to require the Board to increase the capacity of the proposed minor improvements.

(D) The construction of major improvements shall be at the sole discretion of the Board subject to planning considerations and finance availability. Major improvements made to the water system may be paid with revenue generated by all customers of the Utility upon approval of the Council.

(E) The Board may approve the extension of water services outside of the city's corporation limits/Utility service area, provided that all of the following conditions are satisfied:

(1) The Council has passed a resolution authorizing the extension of services outside of the city limits;

(2) The extension of services does not conflict with any established service areas for the services requested;

(3) The water service extension does not cause the water system to exceed their design or rated capacity;

(4) The water improvements constructed to the extension area are designed and built in compliance with Utility specifications, and the plans are reviewed and approved by the Utility prior to construction; and

(5) The proposed service area extension will be governed by the ordinances that govern all Utility customers.

(F) Nothing contained herein shall be construed to require the Council to approve extending water and/or wastewater service outside of the city's corporation limits/Utility's service area.

(Ord. 1627, passed 7-5-16)

§ 50.091 RESIDENTIAL EQUIVALENT UNIT (REU).

(A) A residential equivalent unit (REU) shall be calculated for every new customer (residential, commercial, non-industrial, industrial) in the city or existing customer who is expanding a facility in the city to form the basis for comparing different water customers to calculate the capacity fee as established by this section.

(B) One REU represents the volume of water expected to be used by a single-family residence in the city. The water REU in the city is equal to 300 gallons per day when calculating equivalency on flow basis.

(C) The number of REUs for an entity other than a single-family residence shall be calculated by dividing the actual total daily water consumption (if known) or the projected total daily water consumption (from the information provided by the owner or determined by the Utility from the Table below - Typical Water Use) from the entity by 300 gallons.

(1) Example #1. New Commercial Customer "X" - Projected daily water use of 2,400 gallons per day. ($2,400/300 = 8$ REUs for water use).

(2) Example #2. Existing Customer "Z" - Expanding and projected daily water use increase by 3,000 gallons per day. ($3,000/300 = 10$ REUs increase for water).

(3) Example #3. New Customer "A" - School with cafeteria, gym and showers and 600 students (Appendix, Table D: Typical Water Use Expected - 25 gallons per student per day = 15,000 gallons per day water use = $15,000/300 = 50$ REUs).

(Ord. 1627, passed 7-5-16)

§ 50.092 WATER SYSTEM CAPACITY FEE.

(A) A water system capacity fee is hereby created and is required to be paid to the city prior to the connection of any new water service to the Utility water system or the modification of an existing water service which would increase its capacity needs.

(B) The water system capacity fee shall be as set forth below.

<i>WATER CUSTOMER</i>	<i>AMOUNT</i>
Residential Customers	
Single-family (1 REU)	\$1,200
Multi-family	\$1,200/unit
Hotel/motel, lodging houses	\$1,200/REU
Mobile homes	\$1,200/site
Non-Residential Customers	
Commercial and non-industrial	\$1,200/REU
Industrial	\$1,200/REU

(C) The Utility shall periodically review the capacity fee for the Council to determine if the fee is adequate to meet the future growth and expansion needs of the Utility and shall make recommendations to the Council on any amendments to the fee or the method used to calculate the fee.

(D) Use of water system capacity fee.

(1) The water system capacity fee shall only be used to pay for capital project costs associated with major improvements or expansion of the city water distribution, pumping, and storage or treatment systems.

(2) Capital project costs include legal fees, financing fees, engineering fees, construction costs, or any other costs directly associated with the development and/or implementation of improvements to the water system.

(3) Expansion of the water distribution, pumping, storage or treatment system components is considered:

(a) The expansion of existing systems or construction of new systems in order to provide distribution, storage, pumping, raw water production or treatment capacity (either hydraulic processing or treatment capacity); or

(b) The upgrade of existing systems to meet federal, state or local treatment requirements.

(E) A water system capacity fee account shall be established for the deposit of all water system capacity fees collected. All interest earned on the deposits of this account shall remain in the account and may be used in the same manner as the Account's deposits. The Water System Capacity Fee Deposit Account balance shall be reported to the Board and Council consistent with the auditing of other city financial accounts.

(F) Expenditure of Water System Capacity Account funds by the Superintendent shall only be upon the approval of the Board.

(Ord. 1627, passed 7-15-16; Am. Ord. 1655, passed 1-15-18)

§ 50.093 APPLICATION FOR WATER SERVICE.

(A) Applications for a new water service connection or for the modification of an existing water service connection shall be filed as described in § 50.023. The application for water service shall, at minimum, contain the following information:

(1) Name and address of customer or owner and the name and telephone number of the person to contact regarding the application;

(2) Description of the property, including address and lot number;

(3) Identify the type and size of the development;

(4) State the type of service requested, such as residential, commercial, industrial or institutional; the number of proposed units or number of employees; and the total expected demand for water and sanitary sewer service; and

(5) A plan/drawing to include the following:

(a) Tract boundary and acreage;

(b) Proposed streets, drives and lots;

(c) Proposed land use and zoning designations;

(d) Location of existing public water and sewer mains;

(e) Location of requested water services;

(f) Adjacent existing roads; and

(g) North arrow.

(Ord. 1627, passed 7-5-16)

§ 50.094 PAYMENT OF CAPACITY FEE.

(A) No building permit or occupancy permit shall be issued by the city or other governmental agency having the same authority until the applicable water capacity fee has been determined and paid.

(B) No new water service connection shall be installed, made, modified or performed until the applicable water capacity fee has been paid.

(C) If the approved new or expanded water service connection is not made within one year of the date of authorization, or if the building permit is revoked or expires, the authorization for the service connection shall be considered void and terminated.

(Ord. 1627, passed 7-5-16)

ENFORCEMENT

§ 50.105 NOTIFICATION OF VIOLATION.

(A) When the Superintendent finds that a customer has violated, or continues to violate, any provision of this chapter, a connection permit or other requirement, the Superintendent may serve the customer with a written notice of violation (NOV) that clearly states the violation, the corrective action(s) necessary and time frame to bring the customer back into compliance with this chapter or may have the Utility file a petition with a court of competent jurisdiction per § 50.107.

(B) Within 30 days of the receipt of a NOV, the customer shall provide the Superintendent a plan and schedule for the satisfactory correction of the problem causing the NOV to be issued.

The plan shall also include provision describing actions to be taken by the customer to prevent future violations. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the Superintendent to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(Ord. 1627, passed 7-5-16)

§ 50.106 COMPLIANCE ORDERS.

(A) When the Superintendent finds that a customer has violated, or continues to violate, any provision of this chapter, a connection permit or other requirement, the Superintendent may issue a compliance order (CO), in lieu of an NOV, to the customer responsible for the violations, directing that the customer to come into compliance within a specified time.

(B) If the customer does not come into compliance within the time provided, other Utility services provided by the City may be discontinued. Compliance orders also may contain other requirements to address the noncompliance. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(Ord. 1627, passed 7-5-16)

§ 50.107 INJUNCTIVE RELIEF.

(A) When the Superintendent finds that a customer has violated, or continues to violate, any provision of this chapter, a connection permit, or other provision of this chapter, the Superintendent may, in lieu of an NOV or a CO, petition a court of competent jurisdiction through the City Attorney or the designated legal counsel for the city for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the connection permit, order, or other requirement imposed by this chapter on activities of the customer.

(B) The Superintendent shall also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the customer to conduct environmental remediation, payment of all fines and costs including the recovery of attorney fees.

(C) A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a customer.

(Ord. 1627, passed 7-5-16)

§ 50.108 REMEDIES NONEXCLUSIVE.

The remedies provided in § 50.107 are not exclusive. The city may take any, all, or any combination of these actions against a non-compliant customer. The city may take other action against any customer when the circumstances warrant. Further, the city is empowered to take more than one enforcement action against any non-compliant customer.

(Ord. 1627, passed 7-5-16)

§ 50.109 ADMINISTRATIVE FINES.

(A) When the Superintendent or a court finds that a customer has violated, or continues to violate, any provision of this chapter, a connection permit or other provision of this chapter, the Superintendent may fine such customer in an amount not to exceed \$1,000. Each day a violation exists shall constitute a separate violation. Such fines shall be assessed for each day of violation. The Superintendent shall also recover attorney's fees and all other costs associated with the assessment and collection of any fine or the prosecution of any violation.

(B) A fine of \$500.00 shall be assessed to the customer if a water service is turned on (unauthorized turn-on) by other than authorized utility personnel. This fine is payable to the Water Department. Water services, if turned on by unauthorized persons, will be discontinued and the water service will not be turned on by authorized Utility personnel until this fee has been paid.

(Ord. 1627, passed 7-5-16)

§ 50.110 APPEALS.

Any person or entity to whom any provision of this chapter, other than a lawsuit, has been applied may appeal, in writing, to the Board, not later than ten days after the action or decision being appealed. Any such appeal shall identify the matter being appealed and the basis for the appeal. The Board shall consider the appeal and make a decision to affirm, reject or modify the action being appealed. In considering an appeal the Board may consider the recommendations of the Superintendent or technical persons retained by the Board for such matters.

(Ord. 1627, passed 7-5-16)

CHAPTER 51: GARBAGE

Section

51.01 Collection of garbage

51.02 Garbage collection costs to be paid by residents; penalty for nonpayment

51.03 Contracts for garbage collection

51.04 Fees for garbage/recycling collection

51.99 Penalty

§ 51.01 COLLECTION OF GARBAGE.

(A) There shall be initiated in the city a municipal system for the collection of all garbage, cans, glass, crockery, and rubbish. Such collection of garbage, cans, bottles, glassware, crockery, and rubbish shall be made at least once per week from the property of all residents of the city. All residential property owners must use the garbage pickup service contracted by the city.

(B) All garbage collected in the city shall be securely wrapped in paper or placed in garbage sacks or bags, and the garbage, wrapped or in garbage sacks or bags, shall be placed in plastic or metal containers designed for storing garbage and not exceeding 50 pounds capacity.

However, if the garbage is securely contained within the garbage bag, it need not be placed in such a container. Single-family residences shall be permitted to put their garbage bags or containers out for collection no sooner than the night before the collection is scheduled. The garbage shall be placed in the location as specified by the garbage contract of the city so as to be of easy access to the person, persons, or company removing the garbage or trash from the premises. The owner or operator of any multi-family dwelling of more than four units within the city shall provide a central location for the collection of the garbage of the residents of the multi-family dwelling. In no event shall the residents of such a multi-family dwelling be allowed to accumulate garbage or trash other than in a centrally located place provided by the landlord. The centrally located place shall be approved by the city. The centrally located place shall be enclosed. The landlord shall provide a container or dumpster approved by a company which collects garbage within the city for the residents of the multi-family dwelling to place their garbage. The central location point shall be outdoors and maintained in a clean and sanitary manner. The location shall be approved by the city and enclosed by a fence high enough to hide the container or dumpster from the view of passerby and affixed with a gate.

(C) All garbage cans shall be placed on the premises so as to be of easy access to the person or persons removing the garbage from the premises.

(D) Tin cans, glass, crockery ware, bottles, ashes, or any other substance not fit for consumption by domestic animals may be placed in these garbage cans. The term "GARBAGE" as used in this chapter shall also include kitchen and table refuse and remains of food substances, but shall not exclude all other matters and articles.

(E) In the event any dispute arises between the owner and occupant of premises and the person or persons who remove the garbage as to the location of the cans or the character of the garbage permitted therein, the dispute shall be referred to the Chief of Police, and his decision shall be final.

(Ord. 278, passed 12-20-43; Am. Ord. 330, passed 9-17-51; Am. Ord. 338, passed 10-5-53; Am. Ord. 1152, passed 2-5-90; Am. Ord. 1203, passed 6-21-93)

§ 51.02 GARBAGE COLLECTION COSTS TO BE PAID BY RESIDENTS OR PROPERTY OWNERS; PENALTY FOR NONPAYMENT.

(A) The cost of garbage collection shall be paid by the residents of individual single-family and multiple-family dwellings of four units or less. All multiple-family dwellings of more than four units shall have a private contract for garbage collection with a company that picks up garbage and trash within the city.

(B) All fees for garbage collection and related services provided to single-family dwellings and multiple-family dwellings of four units or less shall be stated on the monthly utility bills.

(C) The owner or owners of the real estate to which the garbage collection services are provided are responsible for the payment of any unpaid fees of any tenant, lessor, contract purchaser, or other resident of his premise.

(D) If an occupant or an owner of property serviced by the garbage collection company authorized to collect garbage within the city, does not pay the charges for garbage collection by the fifteenth day of the month, the amount of the charges, together with a penalty of 10%, a reasonable attorney fee, plus interest may be recovered by the city in a civil action in the name of the city. Garbage collection fees are always due on the same day that water and sewage fees are due.

(Ord. 1013, passed 8-2-82; Am. Ord. 1152, passed 2-5-90; Am. Ord. 1199, passed 12-21-92)

§ 51.03 CONTRACTS FOR GARBAGE COLLECTION.

(A) The contract for garbage pickup shall be adopted by the Common Council by ordinance as follows. After introduction of the ordinance fixing the fees and providing for their payment and before the ordinance is finally adopted, notice of the hearing shall be published in accordance with IC 5-3-1. The notice shall set forth the proposed schedule of fees and the provisions concerning payment.

(B) After the original ordinance is adopted no public hearing shall be required to adjust or change the fees on their provision for payment if the change or readjustment is made substantially pro rata as to all classes of use or service.

(Ord. 1013, passed 8-2-82; Am. Ord. 1152, passed 2-5-90)

§ 51.04 FEES FOR GARBAGE/RECYCLING COLLECTION.

The city shall charge each household the following rate per service per month for garbage/recycling collection for the following years:

	2018	2019	2020
Garbage pickup	\$8.91	\$9.09	\$9.27
Monthly large-item pickup	\$0.87	\$0.89	\$0.91
Recycling pickup	\$4.29	\$4.37	\$4.46
Butler administrative fee	\$0.40	\$0.40	\$0.40
Rate per month per household	\$14.47	\$14.75	\$15.04

(Ord. 1279, passed 12-23-97; Am. Res. 00-321, passed 12-4-00; Am. Res. 03-368A, passed 12-1-03; Am. Res. 06-402, passed 12-18-06; Am. Ord. 1-17-11; Am. Ord. 1555, passed 12-19-11; Am. Ord. 1577, passed 11-5-12; Am. Ord. 1599, passed 3-3-14; Am. Ord. 1609, passed 1-5-15; Am. Ord. 1638, passed 12-19-16; Am. Ord. 1652, passed 12-4-17)

§ 51.99 PENALTY.

Any violation of § 51.01 may be enforced by the police of the city and shall be punishable by a fine of up to \$500. Each day a violation of this section occurs shall be considered a separate violation.

(Ord. 278, passed 12-20-43; Am. Ord. 331, passed 10-15-51; Am. Ord. 1152, passed 2-5-90)

CHAPTER 52: SEWERS

Section

General Provisions

52.01 Purpose; policy

52.02 Administration

52.03 Abbreviations

52.04 Definitions

General Rules and Requirements

52.10 General requirements

52.11 Prohibited discharge standards

52.12 National categorical pretreatment standards

52.13 State pretreatment standards

52.14 Local limits

52.15 City's right of revision

52.16 Dilution

Pretreatment of Wastewater

52.25 Establishment of pretreatment program

52.26 Pretreatment facilities

52.27 Additional pretreatment measures

52.28 Accidental discharge/slug control plans

52.29 Hauled wastewater

Wastewater Discharge Permit Application

52.40 Wastewater analysis

52.41 Requirement

52.42 New connections

52.43 Application contents

52.44 Signatories and certification

52.45 Decisions

Wastewater Discharge Permit Issuance Process

52.55 Duration

52.56 Permit contents

52.57 Appeals

52.58 Modification

52.59 Transfer

52.60 Revocation

52.61 Reissuance

52.62 Regulation of waste received from other jurisdictions

Reporting Requirements

- 52.70 Baseline monitoring reports
- 52.71 Compliance schedule progress reports
- 52.72 Reports on compliance with categorical pretreatment standard
deadline
- 52.73 Periodic compliance reports
- 52.74 Reports of changed conditions
- 52.75 Reports of potential problems
- 52.76 Reports from unpermitted users
- 52.77 Notice of violation; repeat sampling and reporting
- 52.78 Discharge of hazardous waste
- 52.79 Analytical requirements
- 52.80 Sample collection
- 52.81 Timing
- 52.82 Record keeping

Compliance Assurance and Monitoring

- 52.90 Right of entry; inspection and sampling
- 52.91 Search warrants
- 52.92 Confidential information
- 52.93 Publication of users in significant noncompliance

Administrative Enforcement; Remedies

- 52.100 Enforcement remedies
- 52.101 Notification of violation
- 52.102 Consent orders
- 52.103 Show cause hearing
- 52.104 Compliance orders
- 52.105 Cease and desist orders
- 52.106 Administrative fines
- 52.107 Emergency suspensions
- 52.108 Termination of discharge
- 52.109 Injunctive relief
- 52.110 Remedies nonexclusive
- 52.111 Public nuisances

Affirmative Defenses to Discharge Violations

- 52.120 Upset
- 52.121 Prohibited discharge standards
- 52.122 Bypass

Miscellaneous Provisions

- 52.130 Pretreatment charges and fees
- 52.131 Metered rates, minimum charges and surcharges
- 52.132 Permit fee and miscellaneous charges
- 52.133 Wastewater Depreciation Fund created; purpose
- 52.134 Wastewater Cash Reserve Funds created; purpose
- 52.135 Rates for use of the wastewater system
- 52.136 Deposits
- 52.137 Payment dates
- 52.138 Appeals
- 52.139 Repeal of conflicting provisions and ordinances
- 52.140 Effective date

Wastewater and Sewer Extension and Improvement Policy

- 52.150 Definitions
- 52.151 Statement of policy
- 52.152 Residential equivalent unit (REU)
- 52.153 Wastewater system capacity fee
- 52.154 Wastewater system capacity fee account
- 52.155 Construction requirements; permits
- 52.156 Sewer lines near water wells

- 52.999 Penalty

GENERAL PROVISIONS

§ 52.001 PURPOSE; POLICY.

(A) This chapter sets forth uniform requirements for all users of the wastewater system and components of the publicly owned treatment works (POTW) of the City of Butler, Indiana and to enable the City of Butler to comply with all applicable state and federal laws, including the Clean Water Act and the general pretreatment regulations. The objectives of this chapter are:

- (1) To regulate the discharge to, and use of, public and private sewers within the service area of the POTW of Butler;
- (2) To regulate the installation and construction of building sewers and connections to the POTW of Butler;
- (3) To prevent the introduction of pollutants into the POTW that will interfere with its operation and maintenance;
- (4) To prevent the introduction of pollutants into the POTW that will pass through the POTW without adequate treatment so they are not discharged into receiving waters, or otherwise be incompatible with the POTW;
- (5) To protect the POTW, all POTW personnel and the general public from unregulated discharge of wastewater whose constituents could endanger the POTW system, and the health and welfare of POTW personnel or the general public and / or could contaminate the receiving stream;
- (6) To promote reuse and recycling of industrial wastewater and sludge from the POTW;
- (7) To establish fees for the equitable distribution of the cost of operation, maintenance, management and improvement of the POTW;
- (8) To enable the City of Butler, Indiana to comply with its national pollutant discharge elimination system (NPDES) permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the POTW is subject; and
- (9) To establish a pretreatment program for the regulation and control of industrial discharges through the issuance and enforcement of industrial wastewater discharge permits that set forth the terms, conditions and regulations under which non-compatible wastewaters may be discharged into the city's POTW.

(B) This chapter shall apply to all users of the POTW.

(Ord. 1476, passed 6-18-07; Am. Ord. 1531, passed 8-16-10; Am. Ord. 1639, passed 12-19-16)

§ 52.002 ADMINISTRATION.

(A) The wastewater system/POTW of the city shall be and remain under the management, supervision, and control of the Board of Public Works and Safety and the City Council who may employ or designate such person or persons in such capacity or capacities as it deems advisable to carry out the efficient management and operation of the system. The Board and/or the Council may make such rules, orders, or regulations as advisable and necessary to assure the safe and efficient management and operation of the system.

(B) Except as otherwise provided herein, the Superintendent, who is appointed by the Mayor, shall administer, implement, and enforce the provisions of this chapter and shall supervise the operation, maintenance and management of the POTW. Any powers granted to or duties imposed upon the Superintendent may be delegated by the Superintendent to other POTW personnel, such delegation(s) shall be in writing and available for public review.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16)

§ 52.003 ABBREVIATIONS.

The following abbreviations, when used in this chapter, shall have the designated meanings:

- (A) CBOD - Carbonaceous Biochemical Oxygen Demand.
 - (B) TBOD - Total Biochemical Oxygen Demand.
 - (C) CFR - Code of Federal Regulations.
 - (D) COD - Chemical Oxygen Demand.
 - (E) EPA - U.S. Environmental Protection Agency.
 - (F) gpd - gallons per day.
 - (G) IDEM - Indiana Department of Environmental Management.
 - (H) IU - Industrial User.
 - (I) NPDES - National Pollutant Discharge Elimination System.
 - (J) mg/l - milligrams per liter.
 - (K) POTW - Publicly Owned Treatment Works.
 - (L) RCRA - Resource Conservation and Recovery Act.
 - (M) SIC - Standard Industrial Classification.
 - (N) SIU - Significant Industrial User.
 - (O) SNC - Significant Non-Compliance.
 - (P) TSS - Total Suspended Solids.
- (Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16)

§ 52.004 DEFINITIONS.

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

“ACT” or “THE ACT.” 33 U.S.C. §§ 1251 et seq. (1972); The Clean Water Act (CWA), as amended, establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters.

“AMMONIA (or NH₃-N).” Ammonia measured as nitrogen. (The laboratory determinations shall be made in accordance with procedures set forth in the latest edition of 40 C.F.R. Part 136.3.)

“APPLICABLE PRETREATMENT STANDARD.” Any pretreatment limit or prohibitive standard (federal, state and/or local) contained in this chapter and considered to be most restrictive with which non-domestic users will be required to comply.

“APPROVAL AUTHORITY.” The U.S. Environmental Protection Agency (EPA), Region 5.

“AUTHORIZED REPRESENTATIVE OF THE USER.”

(1) If the user is a corporation:

(a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(b) The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(3) If the user is a federal, state or local governmental facility, a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(4) The individuals described in divisions (1) through (3) above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Superintendent.

“AVERAGE MONTHLY DISCHARGE LIMITATION.” The highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

“AVERAGE WEEKLY DISCHARGE LIMITATION.” The highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

“BENEFICIAL USES.” These uses include, but are not limited to, domestic, municipal, agricultural and industrial use, power generation, recreation, aesthetic enjoyment, navigation, and the preservation and enhancement of fish, wildlife and other aquatic resources or reserves, and other uses, both tangible or intangible, as specified by state or federal law.

“BEST MANAGEMENT PRACTICES (BMPs).” The following measures to prevent or reduce the pollution of local, state and federal waters. BMPs may be employed, for example, to control plant site runoff; spills, leaks and slug discharges; sludge or waste disposal; or drainage from raw materials storage areas resulting from manufacturing; commercial; mining or silviculture activities.

- (1) Schedule of activities;
- (2) Prohibition of a specific practice;
- (3) Treatment requirements;
- (4) Operation and maintenance procedures;
- (5) Use of containment facilities; and
- (6) Other practices as approved by the Approval Authority.

“BIOCHEMICAL OXYGEN DEMAND (BOD).” The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five days at 20 degrees Centigrade, usually expressed as a concentration (e.g., mg/l). (The BOD measurement may be specified as “CBOD” or “TBOD.” The laboratory determinations shall be made in accordance with procedures set forth in the latest edition of 40 C.F.R. Part 136.3.)

“BOARD.” The Board of Public Works and Safety of the City of Butler, Indiana, or any duly authorized officials or boards acting in its behalf.

“BUILDING DRAIN - STORM.” A building drain which conveys storm water or other clean water draining, but not wastewater.

“BUILDING (OR HOUSE) DRAIN.” The lowest horizontal piping of building drainage system which receives the discharge from waste, and other drainage pipes inside the walls of the building and conveys it to a point approximately five feet outside the foundation wall of the building.

“BUILDING SEWER (OR DRAIN) - SANITARY.” A building drain which conveys sanitary or industrial sewage only.

“BUILDING SEWER (LATERAL).” A pipe which is connected to the building (or house) drain at a point approximately five feet outside the foundation wall of the building and which conveys the building’s discharge from that point to the public sewer, to a septic tank or other place of disposal.

“CATEGORICAL PRETREATMENT STANDARDS (CATEGORICAL STANDARDS).” Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with §§ 307(b) and (c) of the Clean Water Act which apply to a specific category of users and which appear in 40 C.F.R. Ordinance I, Subordinance N, Parts 405-471.

“CHEMICAL OXYGEN DEMAND.” A measure of the oxygen equivalent of that portion of organic matter in wastewater that is susceptible to oxidation by a strong chemical oxidant, (as determined by approved the EPA or “Standard Methods”).

“CITY.” The City of Butler, DeKalb County, Indiana.

“CITY COUNCIL.” The Common Council of the City of Butler, DeKalb County, Indiana, or any duly authorized official acting on its behalf.

“COMBINED SEWER.” A sewer pipe intended to receive sanitary, commercial and industrial wastewaters as well as stormwater from storm events.

“COMMERCIAL WASTES.” The liquid or water-carried wastes from commercial establishments or those concerns engaged in buying, selling, or exchanging goods or services.

“COMPATIBLE POLLUTANT.” Biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria, plus any additional pollutants identified in the POTW’s NPDES permit, where the POTW is designated to treat such pollutants and, in fact, does remove such pollutants to the degree required by the POTW’s NPDES permit or to a substantial degree. Substantial degree is not subject to precise definition but generally contemplates removals in the order of 85% or greater. Minor incidental removals in the order of 10% to 40% are not considered substantial. Except as prohibited herein or where these materials would interfere with the operation and performance of the POTW, examples of additional pollutants which may be considered compatible, depending on concentration, include: chemical oxygen demand, total organic carbon, phosphorus and phosphorus compounds, ammonia, E-Coli, fats, oils and greases of animals or vegetable origin.

“COMPOSITE SAMPLE.” The sample resulting from the combination of individual samples taken at selected intervals based on the increment of flow or time. “COMPOSITE SAMPLES” shall contain a minimum of four discrete samples taken at equal time intervals over the compositing period or proportional to the flow rate over the compositing period.

“CONTROL AUTHORITY.” The City of Butler’s Board of Public Works and Safety.

“CONTROL MANHOLE.” A manhole required to be installed by the Board at facilities with industrial wastewater discharge permits issued by the City to allow the Superintendent or designated staff to observe and/or take samples of a discharge from the facility.

“COOLING WATER.” The water discharged from any use such as air conditioning, cooling, refrigeration, or to which the only pollutant added is heat.

“DAILY DISCHARGE.” Discharge measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling.

“DAILY MAXIMUM.” The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

“DAILY MAXIMUM LIMIT.” The maximum allowable discharge limit of a pollutant during a calendar day. Where “DAILY MAXIMUM LIMITS” are expressed in units of mass, the daily discharge is the total mass discharge over the course of a day. Where “DAILY MAXIMUM LIMITS” are expressed in terms of concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

“DEBT SERVICE COSTS.” The average annual principal and interest payments on all revenue bonds or other long-term capital debt.

“DIRECT DISCHARGE.” The discharge of treated or untreated wastewater directly to the waters of the State of Indiana.

“EASEMENT.” An acquired legal right for the specific use of land by others.

“EFFLUENT.” The water, together with any wastes that may be present, flowing out of a drain, sewer, receptacle or outlet.

“ENVIRONMENTAL PROTECTION AGENCY (EPA).” The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of that agency.

“EXCESSIVE STRENGTH SURCHARGE.” An additional charge that is billed to users for treating sewage wastes with an average strength in excess of normal domestic sewage.

“EXISTING SOURCE.” Any source of discharge, the construction or operation of which commenced prior to the publication by the EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with § 307 of the Act.

“FECAL COLIFORM.” Any of a number of organisms common to the intestinal tract of man and animals, whose presence in sanitary sewage is an indicator of pollution.

“FLOATABLE OIL.” Oil, fat or grease in a physical state, such that will separate by gravity from sewage by treatment in a pretreatment facility approved by the city.

“GARBAGE.” The waste from the preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

“GRAB SAMPLE.” A sample that is taken from a waste stream on a one-time basis with no regard to the flow of the waste stream and without consideration of time.

“GROUND (SHREDDED) GARBAGE.” Garbage that has been shredded to such a degree that all particles will be carried freely in suspension under conditions normally prevailing in the sewage system, with no particle being greater than one-half inch in dimension.

“HOLDING TANK WASTE.” Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, grease interceptors and traps, and vacuum pump tank trucks.

“INCOMPATIBLE POLLUTANT.” Any pollutant that is not defined as a compatible pollutant including non-biodegradable dissolved solids.

“INDIRECT DISCHARGE.” The discharge or introduction of non-domestic pollutants into the POTW from any non-domestic source regulated under § 307(b), (c), or (d) of the Act.

“INDUSTRIAL WASTES.” Industrial wastes shall mean any solid, liquid, or gaseous substance or form of energy discharged, permitted to flow or escaping from an industrial, manufacturing,

commercial, or business process or from the development, recovery, or processing of any natural resources carried on by any person, exclusive of sanitary sewage.

“INFILTRATION.” The water entering the sewer system, including building drains, from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls. (Infiltration does not include and is distinguished from inflow.)

“INFLOW.” Water discharged and entering into the sewer system including building drains, from such sources such as but not limited to roof, down spouts, cellars, yard, area drains, foundation drains, unpolluted cooling water, drains from springs and swampy areas, and combined sewers, catch basins, stormwater run-off, street wash water and drainage. (“INFLOW” does not include, and is distinguishable from infiltration.)

“INFLOW/INFILTRATION (I/I).” The total quantity of water from both inflow and infiltration without distinguishing the source.

“INSPECTOR.” The person or persons duly authorized by the city through the Superintendent to inspect and approve the installation of building sewers, connections to the POTW and any pretreatment or treatment facilities that discharge into the POTW.

“INSTANTANEOUS MAXIMUM ALLOWABLE DISCHARGE LIMIT.” The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

“INTERFERENCE.” A discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the city’s NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent state or local regulations: § 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

“LOCAL LIMIT.” Specific discharge limits developed and enforced by the city upon industrial or commercial facilities to implement the general and specific prohibitions listed in 40 C.F.R. 403.5(a)(1) and (b).

“MAY.” Is permissive.

“MAXIMUM DAILY DISCHARGE LIMITATIONS.” The highest allowable daily discharge for a calendar day or specified 24-hour period.

“MEDICAL WASTE.” Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

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

“NEW SOURCE.”

(1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under § 307(c) of the Clean Water Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(a) The building, structure, facility, or installation is constructed at a site at which no other source is located;

(b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

(a) Begun, or caused to begin, as part of a continuous on-site construction program:

1. Any placement, assembly, or installation of facilities or equipment; or
2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(b) Entered into a binding contractual obligation for the purchase of facilities or equipment, which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.

“NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT.” A permit issued under the Clean Water Act’s National Pollutant Discharge Elimination System for discharge of wastewaters to the navigable waters of the United States pursuant to § 402 of PL 92-500.

“NON-CONTACT COOLING WATER.” Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

“NORMAL DOMESTIC SEWAGE.”

(1) Wastewater or sewage having an average daily concentration as follows:

- (a) TSS not more than 225 mg/l;
- (b) CBOD5 not more than 200 mg/l;
- (c) Ammonia-N not more than 20 mg/l;
- (d) COD not more than 500 mg/l; and
- (e) Phosphorous not more than 10 mg/l.

(2) As defined by origin, wastewaters from segregated domestic and/or sanitary conveniences are distinct from industrial processes.

"PASS THROUGH." A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's NPDES permit, including an increase in the magnitude or duration of a violation.

"PERSON." Any individual, partnership, firm, company, municipal or private corporation, association, society, institutions, enterprise, governmental agency or other legal entity or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by context.

"pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ion expressed in standard units.

"PHOSPHORUS" or **"P."** The chemical element phosphorus. (The laboratory determinations shall be made in accordance with procedures set forth in "STANDARD METHODS").

"POLLUTANT." Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural, industrial wastes and certain characteristics of wastewater (e.g. pH, temperature, TSS, turbidity, color, TBOD, CBOD, COD, toxicity or odor) discharged or carried in water.

"PRETREATMENT." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

"PRETREATMENT REQUIREMENTS." Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

"PRETREATMENT STANDARDS." Prohibited discharge standards, categorical pretreatment standards, and local limits.

"PRIVATE SEWER." A sewer which is not owned by the City of Butler.

"PROHIBITED DISCHARGES." A discharge that has an absolute prohibition against the discharge of certain substances.

"PUBLICLY OWNED TREATMENT WORKS (POTW)." A treatment works, as defined by § 212 of the Act which is owned and operated by the City of Butler. This definition includes any devices or systems used in the collection, pumping, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to the Butler wastewater treatment plant.

"PUBLIC SEWER." A sewer that is owned and maintained by the city.

"SANITARY SEWAGE." The liquid or water-carried waste discharged from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories, or institutions, and free from storm water, surface water, and industrial wastes.

"SANITARY SEWER." A sewer or system of pipes for conveying sanitary, commercial and industrial wastewaters and into which stormwater and/or water from storm events are not intentionally admitted.

"SEPTAGE." Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

“SEWAGE.” The combination of the liquid and water-carried wastes from residences, business buildings, institutions and industrial establishments singular or in any combination, together with such ground, surface, and storm waters as may be present.

“SEWAGE WORKS.” The structures, equipment and processes to collect, transport and treat domestic and industrial wastes and dispose of the effluent and accumulated residual solids.

“SEWER.” A pipe or conduit or system of pipes and conduits for carrying sewage or other waste liquids.

“SHALL.” When used in this chapter means that an act or action is mandatory.

“SIGNIFICANT INDUSTRIAL USER (SIU).”

(1) A user subject to categorical pretreatment standards; or

(2) A user that:

(a) Discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding sanitary, non-contact cooling, and boiler blow-down wastewater);

(b) Contributes a process waste stream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(c) Is designated as such by the city on the basis that it has a reasonable potential for adversely affecting the POTW’s operation or for violating any pretreatment standard or requirement.

(3) Upon a finding that a user meeting the criteria in division (2) above has no reasonable potential for adversely affecting the POTW’s operation or for violating any pretreatment standard or requirement, the city may at any time, on its own initiative or in response to a petition received from a user, and in accordance with the Act, determine that such user should not be considered a significant industrial user.

“SILVICULTURE.” The practice of controlling the establishment, growth, composition, health, and quality of forests to meet diverse needs and values.

“SLUG LOAD” or **“SLUG DISCHARGE.”** Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in § 52.011 of this chapter. A **“SLUG DISCHARGE”** is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW’s regulations, local limits or permit conditions.

“STANDARD INDUSTRIAL CLASSIFICATION (SIC) CODE.” A classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

“STANDARD METHODS.” The laboratory procedures set forth in the latest edition, at the time of analysis, of Standard Methods for the Examination of Water and Wastewater prepared and published by the American Water Works Association, the Water Environmental Federal and the American Public Health Association.

“STATE.” State of Indiana.

“STORM SEWER.” A sewer or system of pipes for conveying surface water or ground water from any source and into which sanitary and/or industrial wastes are not intentionally admitted.

“STORMWATER.” Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

“SUPERINTENDENT.” The Wastewater Superintendent designated by the Mayor to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this chapter, or a duly authorized representative.

“TOTAL SUSPENDED SOLIDS (TSS).” The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering usually expressed as a concentration (e.g., mg/l). The laboratory determinations shall be made in accordance with procedures set forth in the latest edition of 40 C.F.R. Part 136.3.

“TOTAL TOXIC ORGANICS (TTOs).” Toxic organics, as defined and analytically measured by definition in the Federal Register.

“TOXIC AMOUNT.” Concentrations of any pollutant or combination of pollutants which upon exposure to or assimilation into an organism will cause adverse effects, such as cancer, genetic mutations, and physiological manifestations as defined in standards issued pursuant to § 307(a) of the Act.

“TOXIC POLLUTANT.” Those substances referred to in § 307(a) of the Act, as well as any other known potential substance capable of producing toxic effects.

“UNCONTAMINATED INDUSTRIAL WASTES.” Wastewater which has not come into contact with any substance used in or incidental to industrial processing operations, and to which no chemical or other substance has been added.

“UPSET.” An exceptional incident in which a discharger unintentionally and temporarily is in a state of non-compliance with applicable standards due to factors beyond the reasonable control of the discharger, and excluding non-compliance to the extent caused by operator error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation of the facilities.

“USER.” Any person who contributes, causes, or permits the contribution of residential, commercial, industrial or any other type of wastewater into the city’s POTW. “USERS” may be classified as residential, commercial, industrial, governmental / institutional as may be appropriate to identify the type of wastewater that the user contributes to the wastewater system.

“WASTEWATER.” Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, together with any groundwater, surface water, and stormwater that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

“WASTEWATER CONSTITUENTS AND CHARACTERISTICS.” The individual chemical, physical, bacteriological and radiological parameters, including volume, flow rate and other parameters that serve to define, classify or measure the quality, quantity and strength of wastewater.

“WASTEWATER TREATMENT PLANT (TREATMENT PLANT).” That portion of the POTW that is designed to provide treatment of municipal sewage and industrial waste.

“WATERCOURSE.” An open, natural channel in which a flow of water occurs either continuously or intermittently.

(Ord. 1476, passed 6-18-07; Am. Ord. 1531, passed 8-16-10; Am. Ord. 1639, passed 12-19-16)

GENERAL RULES AND REQUIREMENTS

§ 52.010 GENERAL REQUIREMENTS.

(A) It shall be unlawful for any person to place, deposit, permit to be deposited or discharge to any natural outlet within the city or any area under the jurisdiction of the city any sanitary, commercial, industrial or polluted wastewaters except where suitable treatment has been provided in accordance with this chapter.

(B) Except as herein provided, no person shall construct or maintain any privy, privy vault, septic tank, cesspool or other wastewater treatment facility intended or used for the treatment and/or disposal of sewage within the corporate limits of the city.

(C) No person shall construct, repair, modify or alter a sewer lateral, public sewer, manhole or other sewer system appurtenance without first obtaining a permit from the Superintendent.

(D) No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, pipe or equipment which is part of the sewage system.

(E) No person shall discharge or cause to be discharged any stormwater, surface water, ground water, roof runoff, parking lot runoff, cooling water or unpolluted industrial process waters into any sanitary sewer.

(F) The owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purpose situated in the city and abutting on any street, alley, right-of-way or easement in which there is now located or may in the future be located a public sanitary or combined sewer of the city, are hereby required at their own expense to install suitable toilet facilities therein and to connect such facilities and industrial waste outlets directly with the public sewer in accordance with this chapter within 90 days after the date of official notice to do so, provided that such public sewer is within 300 feet of the property line.

(G) No statement contained in this chapter shall be construed as preventing the city from entering into an agreement between the city and any industrial discharger whereby an industrial waste of unusual strength or character may be accepted by the city for treatment subject to payment for treatment services by the industrial discharger.

(H) It shall be the responsibility of the property owner to pay for the cost of constructing the sewer lateral from their building to the public sewer. It shall be the responsibility of the property owner to pay for the cost of maintaining their sewer lateral from the building to the where it connects to the public sewer.

(I) A separate and independent sanitary sewer lateral shall be provided for each and every building, except present sewer structures in use; and except that where one building stands at the rear of another on the same lot and no sanitary sewer can be constructed to the rear building through an adjoining alley, court, yard or driveway, the sewer lateral from the front building may be extended to the rear building and the whole sewer lateral considered as one sewer lateral for the single property.

(J) Old building sanitary sewer laterals may be used in connection with new buildings only when they are found on examination and testing by the Wastewater Department to meet all requirements of new sanitary sewer laterals.

(K) The Wastewater Department shall develop and submit to the Board for approval written construction standards for the construction of sewer laterals, sewer mains, manholes and other appurtenances that are connected to the City of Butler sewer system. The Wastewater Department shall revise the construction standards as appropriate and on a regular basis.

(L) The construction of all sewers, components, systems or private sewers that connect to the

Butler sewer system shall comply with the requirements of the Wastewater Department's construction standards. The acceptance of the applicability of these standards to all sewers shall be considered part of the terms for the approval of connection to the Butler sewer system.

(M) The construction of combined sewers is prohibited. All new sewers constructed within the Butler wastewater system must be constructed as separate sanitary sewers or as separate storm sewers per the standards described.

(N) Any new building connection that may contribute inflow or clear water to an existing combined sewer must be approved by the Superintendent before construction and must be made separate and distinct from the sanitary waste connection to facilitate disconnection of the inflow or clear water connection if and when a separate storm sewer subsequently becomes available.

(O) When required by the Superintendent, the owner of any property served by a building sewer (lateral) carrying industrial wastes or commercial wastes shall install one or more suitable control manholes in the building sewer to facilitate observation, sampling, and measurement of wastes. Such manholes, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manholes shall be installed by the owner at his expense, and shall be maintained by him to be safe and accessible at all times.

(P) All measurements, tests, and analyses of the characteristics of wastewater shall be determined in accordance with the current edition "Standard Methods for the Examination of Water and Sewage" or the methods in the current version of 40 C.F.R. 136, and shall be determined at the control manhole or on suitable samples taken at that control manhole. In the event 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 in which the building sewer is connected.

(Ord. 710, passed 9-7-71; Am. Ord. 1260, passed 5-20-96; Am. Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.011 PROHIBITED DISCHARGE STANDARDS.

(A) General prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater that causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

(B) Specific prohibitions.

(1) No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

(a) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed-cup flash point of less than 140 degrees Fahrenheit (60 degrees Centigrade) using the test methods specified in 40 C.F.R. 261.21;

(b) Wastewater having a pH less than 6.0 or more than 10, or otherwise causing corrosive structural damage to the POTW or equipment, unless specifically authorized by the Superintendent. In no case may the Superintendent authorize a pH of less than five or greater than 11.5 and in no case may the pH cause the discharge to be classified as a hazardous waste;

(c) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than three-fourths inch in dimension;

- (d) Pollutants, including oxygen-demanding pollutants (BOD, and the like), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;
- (e) Wastewater having a temperature greater than 140 degrees Fahrenheit, or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees Fahrenheit (40 degrees Centigrade);
- (f) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
- (g) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
- (h) Trucked or hauled pollutants, except at discharge points designated by the Superintendent in accordance with § 52.029 of this chapter;
- (i) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
- (j) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the city's NPDES permit;
- (k) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable local, state or federal regulations;
- (l) Stormwater, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, non-contact cooling water, and unpolluted wastewater, unless specifically authorized by the Board;
- (m) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- (n) Medical wastes, except specifically authorized by the Board in a wastewater discharge permit;
- (o) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail its NPDES toxicity test;
- (p) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW; or
- (q) Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than 10% or any single reading over 10% of the lower explosive limit of the meter.
- (r) Materials causing, alone or in conjunction with other materials normally in the sewer system, an obstruction to the flow in the sewer line or system or injury to the sewer system or cause a nuisance or prevention of effective maintenance or operation of the sewer.
- (s) Fats, oils or grease of animal or vegetable origin in concentrations greater than 100 mg/l. (2) Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

(Ord. 1476, passed 6-18-07; Am. Ord. 1520, passed 3-1-10; Am. Ord. 1639, passed 12-19-16)
Penalty, see § 52.999

§ 52.012 NATIONAL CATEGORICAL PRETREATMENT STANDARDS.

The categorical pretreatment standards found at 40 C.F.R. Ordinance I, Subordinance N, Parts 405-471, and any amendments, are hereby incorporated by reference.

(A) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Board of Public Works, through the Superintendent or person designated to manage the pretreatment program for the POTW, may impose equivalent concentration or mass limits in accordance with 40 C.F.R. 403.6(c).

(B) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Board of Public Works, through the Superintendent or designated pretreatment staff, shall impose an alternate limit using the combined waste stream formula in 40 C.F.R. 403.6(e).

(C) A user may obtain a variance from the Board for a categorical pretreatment standard if the user can prove to the Board, pursuant to the procedural and substantive provisions in 40 C.F.R. 403.13, that factors relating to its discharge are fundamentally different from the factors considered by the EPA when developing the categorical pretreatment standard.

(D) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 C.F.R. 403.15.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16)

§ 52.013 STATE PRETREATMENT STANDARDS.

The State of Indiana's pretreatment standards as described in 327 I.A.C. 5 or as amended from time to time, are hereby incorporated by reference.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16)

§ 52.014 LOCAL LIMITS.

(A) The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following maximum allowable discharge limits.

MAXIMUM DAILY CONCENTRATION	
1.5 mg/l	total aluminum
0.03 mg/l	total arsenic
0.15 mg/l	total cadmium
1.5 mg/l	total chromium
750 mg/l	total chlorides
0.5 mg/l	total copper
0.15 mg/l	total cyanide
10.0 mg/l	total iron
0.5 mg/l	total lead
0.003 mg/l	total mercury

1.0 mg/l	molybdenum
1.0 mg/l	total nickel
0.10 mg/l	total selenium
0.25 mg/l	total silver
0,5 mg/l	total phenols
1.0 mg/l	total zinc

(B) Total toxic organics (TTOs). Limits for those parameters on any TTO list from 40 C.F.R. 405-471 will be considered on an individual case by case basis by the Board of Public Works. The Board shall consider such factors including but not limited to: concentration, loading, flow to the wastewater treatment plant and other consideration necessary to prevent pass through and protect the POTW.

(C) Any wastewater containing in excess of 200 mg/l of CBOD5 or 225 mg/l total suspended solids or 20 mg/l ammonia-N or 500 mg/l chemical oxygen demand or 10 mg/l total phosphorous will be surcharged as high strength wastewater. Surcharges may be for CBOD5 or COD, but not for both. The issuance of surcharges for treating high strength wastewater shall not be construed as acceptance of high strength wastewaters for treatment by the City of Butler. The City of Butler reserves the right and authority to prohibit the discharge of high strength wastewater when such wastewaters cause or are reasonably expected to cause POTW upsets, overloading or damage to the sewer collection system.

(D) The local limits apply at the point where the wastewater is discharged into the public sewer. The Board may impose mass limitations in addition to, or in place of, the concentration-based limitations above.

(Ord. 1476, passed 6-18-07; Am. Ord. 1520, passed 3-1-10; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.015 CITY'S RIGHT OF REVISION.

The city reserves the right to establish, by ordinance or in industrial wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16)

§ 52.016 DILUTION.

No user shall increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Superintendent may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

PRETREATMENT OF WASTEWATER

§ 52.025 ESTABLISHMENT OF PRETREATMENT PROGRAM.

The Superintendent is hereby authorized and directed to establish a pretreatment program for the purpose of properly monitoring and controlling the discharging of non-domestic wastewaters into the City of Butler's sewer system. The pretreatment program shall have written policies and procedures developed and approved by the Board. The policies and procedures shall address, but not be limited to, issues such as a schedule and frequency of surveillance of significant industrial users, enforcement procedures and enforcement response plan.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16)

§ 52.026 PRETREATMENT FACILITIES.

Users shall provide wastewater treatment as necessary to comply with this chapter and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in § 52.010 within the time limitations specified by EPA, the State, or the Board, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Superintendent for review, and shall be reviewed and approved by the Superintendent before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the city under the provisions of this chapter.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.027 ADDITIONAL PRETREATMENT MEASURES.

(A) Whenever deemed necessary, the Superintendent may require users to restrict their discharge to the City's POTW during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this chapter.

(B) The Superintendent may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An industrial wastewater discharge permit may be issued solely for flow equalization.

(C) Grease, oil, and sand interceptors shall be provided by a user when, in the opinion of the Superintendent, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interceptor units shall be of type and capacity approved by the Superintendent and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense. Documentation of the inspection, cleaning and/or repairs shall be available for review by the Superintendent or designated staff upon request.

(D) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.028 ACCIDENTAL DISCHARGE/SLUG CONTROL PLANS.

(A) At least once every two years, the Superintendent shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan and/or shall evaluate the need for other action to control slug discharges.

(B) The Superintendent may require any user to develop, submit for approval, and implement such a discharge/slug control plan and/or identify the other actions to control slug discharges.

(C) The Superintendent may develop such a discharge/slug control plan for any user who fails to develop the required plan or who does not address the minimum criteria for a complete plan, as determined by the Superintendent.

(D) An accidental discharge/slug control plan shall address, at a minimum, the following:

(1) Description of discharge practices, including non-routine batch discharges;

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the Superintendent of any accidental or slug discharge; and

(4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16)

§ 52.029 HAULED WASTEWATER.

(A) Septage may be introduced into the POTW only at locations designated by the Superintendent, and at such times as are established by the Superintendent. Such waste shall not violate any sections in this chapter or any other requirements established by the city.

(B) The Superintendent shall require septage haulers to obtain wastewater discharge permits. The Superintendent shall require septage haulers to provide a laboratory analysis of the waste prior to discharge, to ensure compliance with this chapter.

(C) The Superintendent shall require haulers of industrial waste to obtain wastewater discharge permits. The Superintendent shall require generators of hauled industrial waste to obtain wastewater discharge permits. The Superintendent shall require haulers of industrial waste to provide a laboratory analysis of the waste prior to discharge, to ensure compliance with this chapter. The Superintendent also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this chapter.

(D) Industrial waste haulers shall discharge loads only at locations designated by the Superintendent. No load may be discharged without prior approval of the Superintendent. The Superintendent may collect samples of each hauled load to ensure compliance with applicable standards.

(E) Industrial waste haulers shall provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

WASTEWATER DISCHARGE PERMIT APPLICATION

§ 52.040 WASTEWATER ANALYSIS.

When requested by the Superintendent, a user shall submit information on the nature and characteristics of its wastewater within ten business days of the request. The Superintendent is authorized to prepare a form for this purpose and may periodically require users to update this information. Failure to complete and submit this form shall be deemed a violation of this chapter and subjects the user to the sanctions contained in this chapter.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.041 REQUIREMENT.

(A) No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Superintendent, except that a significant industrial user that has filed a timely application pursuant to § 52.042 may continue to discharge for the time period specified therein.

(B) The Superintendent may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this chapter.

(C) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this chapter and subjects the wastewater discharge permittee to the sanctions set out in this chapter. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.042 NEW CONNECTIONS.

(A) Any user, industrial user or significant industrial user required to obtain a wastewater discharge permit, in accordance with this chapter, who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge.

(B) An application for a wastewater discharge permit, in accordance with this chapter, must be filed at least 30 days prior to the date upon which any discharge will begin or recommence.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.043 APPLICATION CONTENTS.

(A) All users required to obtain a wastewater discharge permit, in accordance with this chapter, must submit a permit application. The Superintendent shall require all users required to obtain a permit to submit as part of an application the following information, including, but not limited to:

- (1) Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
- (2) Number and type of employees, hours of operation, and proposed or actual hours of operation;
- (3) Each product produced by type, amount, process or processes, and rate of production;
- (4) Type and amount of raw materials processed (average and maximum per day);
- (5) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
- (6) Time and duration of discharges; and
- (7) Any other information as may be deemed necessary by the Superintendent to evaluate the wastewater discharge permit application.

(B) Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.044 SIGNATORIES AND CERTIFICATION.

(A) All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

“I certify under penalty of perjury that the document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

(B) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section shall be submitted to the Superintendent prior to or together with any reports to be signed by an authorized representative.

(Ord. 1476, passed 6-18-07; Am. Ord. 1531, passed 8-16-10; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.045 DECISIONS.

The Superintendent will evaluate the data and information submitted by the user and may require additional information. Within 30 working days of receipt of a complete wastewater discharge permit application, the Superintendent will determine whether or not to issue a wastewater discharge permit. The Superintendent may deny any application for a wastewater discharge permit with justifiable cause. The Superintendent shall provide the applicant a written record documenting the reasons for approving or disapproving a wastewater discharge permit application.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16)

WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS

§ 52.055 DURATION.

A wastewater discharge permit shall be issued for a specified time period, not to exceed five years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five years, at the discretion of the Superintendent. Each wastewater discharge permit will indicate a specific date upon which it will expire.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16)

§ 52.056 PERMIT CONTENTS.

A wastewater discharge permit shall include such conditions as are deemed necessary by the Superintendent to insure continuous compliance with the POTW's NPDES permit, prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

(A) Wastewater discharge permits shall contain:

(1) A statement that indicates the wastewater discharge permit expiration date which shall not exceed five years from the effective date of the permit;

(2) A statement that the wastewater discharge permit is nontransferable without prior notification to the city and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

(3) Effluent limits based on applicable pretreatment standards;

(4) Best management practices (BMPs) required by a pretreatment standard, local limit, state or local ordinance;

(5) Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law;

(6) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law;

(7) A written summary of the facts and documentation describing the basis for the issuance of the permit and the limits or conditions in the permit; and

(8) A copy of this chapter.

(B) Wastewater discharge permits shall also contain, but are not limited to, the following conditions:

(1) Limits on the average and/or maximum rate of daily discharge, time of discharge, and/or requirements for flow regulation and equalization;

(2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

(3) A compliance schedule containing increments of progress with specific dates for the commencement and completion of major events related to the construction and operation of additional pretreatment required for the user to meet applicable categorical pretreatment standards, local limits or other wastewater discharge permit provisions. A specific date for compliance with the applicable standard, limit or condition shall be included in the schedule. No increment of the compliance schedule shall exceed nine calendar months nor may the total schedule exceed three calendar years;

(4) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;

(5) Requirements to control slug discharges, if determined necessary by the Superintendent;

(6) Development and implementation of waste minimization and/or pollution prevention plans to reduce the amount of pollutants discharged to the POTW;

(7) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;

(8) Requirements for installation and maintenance of inspection and sampling facilities and equipment;

(9) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all other applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and

(10) Other conditions as deemed appropriate by the Superintendent to ensure compliance with this chapter, and state and federal laws, rules, and regulations.

(Ord. 1476, passed 6-18-07; Am. Ord. 1531, passed 8-16-10; Am. Ord. 1639, passed 12-19-16)
Penalty, see § 52.999

§ 52.057 APPEALS.

(A) The Superintendent shall provide public notice, in the newspaper that serves the area, of the issuance, including a summary of the content of the permit, of a wastewater discharge permit. Any person, including the user, may petition the Superintendent to reconsider the terms of a wastewater discharge permit within 30 working days of publication of the required notice of its issuance.

(B) Failure to submit a timely petition for review shall be deemed to be a waiver of the right of an administrative appeal. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

(C) The effective date of the wastewater discharge permit shall not be stayed pending the appeal.

(D) The Superintendent will either approve or deny the petition or schedule a conference with the applicant and / or appealing party within 30 working days of the submission of the petition for review. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater

discharge permit, or not to modify a wastewater discharge permit by the Superintendent shall be considered final administrative actions for purposes of judicial review.

(E) Aggrieved parties seeking judicial review of the Final administrative wastewater discharge permit decision must do so by filing a complaint with a court of competent jurisdiction within 30 calendar days of the Superintendent's decision on the petition for review.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.058 MODIFICATION.

The Superintendent, for good cause, may modify a wastewater discharge permit, after providing notice to the permittee, and in the newspaper that serves the area, including, but not limited to, the following reasons:

(A) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

(B) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;

(C) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(D) Information indicating that the permitted discharge poses a threat to the city's POTW, city personnel, or the receiving waters;

(E) Violation of any terms or conditions of the wastewater discharge permit;

(F) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(G) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 C.F.R. 403.13;

(H) To correct typographical or other errors in the wastewater discharge permit; or

(I) To reflect a transfer of the facility ownership or operation to a new owner or operator.
(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16)

§ 52.059 TRANSFER.

(A) Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least 60 working days' advance notice to the Superintendent and the Superintendent approves the wastewater discharge permit transfer. The notice to the Superintendent must include a written certification by the new owner or operator which:

(1) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

(2) Identifies the specific date on which the transfer is to occur; and

(3) Acknowledges full responsibility for complying with the existing wastewater discharge permit.

(B) Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer and no discharge may occur until the Superintendent receives the requisite information and approves the transfer.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.060 REVOCATION.

(A) The Superintendent may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- (1) Failure to notify the Superintendent of significant changes to the wastewater prior to the changed discharge;
- (2) Failure to provide prior notification to the Superintendent of changed conditions pursuant;
- (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- (4) Falsifying self-monitoring reports;
- (5) Tampering with monitoring equipment;
- (6) Refusing to allow the Superintendent timely access to the facility premises and records;
- (7) Failure to meet effluent limitations;
- (8) Failure to pay fines;
- (9) Failure to pay sewer charges;
- (10) Failure to meet compliance schedules;
- (11) Failure to complete a wastewater survey or the wastewater discharge permit application;
- (12) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- (13) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this chapter.

(B) Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All prior wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

(C) If a revocation is deemed necessary, the Superintendent shall give notice of the action no later than two days prior to the effective date of the revocation.

(D) The revocation may be appealed by the permittee per the provisions for appeals described in this chapter.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.061 REISSUANCE.

A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with the application

process described in this chapter, a minimum of 120 days prior to the expiration of the user's existing wastewater discharge permit. Failure to file the requisite application could cause revocation of the existing permit.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.062 REGULATION OF WASTE RECEIVED FROM OTHER JURISDICTIONS.

(A) If another municipality, political jurisdiction or user located within another municipality, other political jurisdiction or user outside of the City of Butler service area, contributes wastewater to the POTW, the Board shall enter into an agreement with the contributing municipality, political jurisdiction or user, prior to accepting any wastewater from them.

(B) Prior to entering into an agreement required by division (A) above, the Superintendent shall require the following information from the municipality, political jurisdiction or user:

(1) A description of the quality and volume of wastewater to be discharged to the POTW by the municipality, political jurisdiction or user;

(2) An inventory of all users located within the municipality or political jurisdiction that propose to discharge to the POTW; and

(3) Such other information as the Superintendent shall deem necessary.

(C) An agreement, as required by division (A) above shall contain the following conditions:

(1) A requirement that the municipality, political jurisdiction or user adopts a sewer use ordinance which is at least as stringent as this chapter. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the city's ordinance or local limits;

(2) A requirement for the contributing municipality, political jurisdiction or user to submit a revised user inventory on at least an annual basis;

(3) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the municipality, political jurisdiction or user; which of these activities will be conducted by the Superintendent; and which of these activities will be conducted jointly by the municipality, political jurisdiction or user and the Superintendent;

(4) A requirement for the contributing municipality, political jurisdiction or user to provide the Superintendent with access to all information that the municipality, political jurisdiction or user obtains as part of its pretreatment activities;

(5) Limits on the nature, quality, and volume of the municipality, political jurisdiction or user's wastewaters at the point where it discharges to the POTW;

(6) Requirements for monitoring the municipality, political jurisdiction or user's discharge;

(7) A provision ensuring the Superintendent access to the facilities of users located within the municipality, political jurisdiction or user's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties identified as necessary by the Superintendent; and

(8) A provision specifying remedies available for breach of the terms of the intergovernmental agreement.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

REPORTING REQUIREMENTS

§ 52.070 BASELINE MONITORING REPORTS.

(A) Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 C.F.R. 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the Superintendent a report which contains the information listed in division (B) below. At least 90 days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the Superintendent a report which contains the information listed in division (B) below. A new source shall identify and describe on the application the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(B) Users described above shall submit the information set forth below.

(1) Identifying information. The name and address of the facility, including the name of the operator and owner.

(2) Environmental permits. A list of any environmental control permits held by or for the facility.

(3) Description of operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram that indicates points of discharge to the POTW from the regulated processes.

(4) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 C.F.R. 403.6(e).

(5) Measurement of pollutants.

(a) The categorical pretreatment standards applicable to each regulated process.

(b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Superintendent, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures described in this chapter. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the Superintendent or the applicable standard to determine compliance with the standard.

(c) Sampling must be performed in accordance with procedures described in this chapter.

(6) Certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(7) Compliance schedule. If additional pretreatment and / or O&M will be required to meet the pretreatment standards, the shortest schedule, as described in § 52.056(B)(3), by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.

A compliance schedule pursuant to this section must meet the requirements described below in this chapter.

(8) Signature and certification. All baseline-monitoring reports must be signed and certified in accordance with the signatory requirements in this chapter.

(Ord. 1476, passed 6-18-07; Am. Ord. 1531, passed 8-16-10; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.071 COMPLIANCE SCHEDULE PROGRESS REPORTS.

(A) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

(B) No increment referred to above shall exceed nine months;

(C) The user shall submit a progress report to the Superintendent no later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.072 REPORTS ON COMPLIANCE WITH CATEGORICAL PRETREATMENT STANDARD DEADLINE.

(A) Within 90 calendar days following the date for final compliance with applicable categorical pretreatment standards, and/or best management practices (BMPs), or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and/or best management practices (BMPs) and requirements shall submit to the Superintendent a report containing the information described in § 52.070(B)(4) through (B)(6).

(B) For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 C.F.R. 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate.

(C) For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with the signatory requirements described in this chapter.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.073 PERIODIC COMPLIANCE REPORTS.

(A) All significant industrial users shall, at a frequency determined by the Superintendent, and specified in their permit, but in no case less than twice per year (in June and December), submit a

report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with the signatory requirements of this chapter.

(B) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(C) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Superintendent, using the procedures prescribed in this chapter, the results of this monitoring shall be included in the report.

(D) If a pretreatment standard requires compliance with a best management practice (or pollution prevention alternative), the user shall submit documentation required by the Superintendent or the pretreatment standard necessary to determine the compliance status of the user.

(E) The Superintendent may, but is not required to, modify the months during which the required reports are submitted after consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., upon receipt of a written request for a modified schedule from the user. The written request shall state the basis for the requested modification.

(Ord. 1476, passed 6-18-07; Am. Ord. 1520, passed 3-1-10; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.074 REPORTS OF CHANGED CONDITIONS.

(A) Each user must notify the Superintendent of any planned significant changes to the user's operations or system which might alter the nature, quality, potential for slug discharge or volume of its wastewater at least 30 working days before the change.

(B) The Superintendent shall require the user to submit information necessary to evaluate the changed condition to determine its effect on the POTW, including the submission of a wastewater discharge permit application, as described in this chapter.

(C) The Superintendent may issue a wastewater discharge permit under or modify an existing wastewater discharge permit in response to changed conditions or anticipated changed conditions.

(D) For purposes of this requirement, significant changes include, but are not limited to, flow increases or constituent increases of 15% or greater, and the discharge of any previously unreported pollutants.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.075 REPORTS OF POTENTIAL PROBLEMS.

(A) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the Superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(B) Within five days following such discharge, the user shall, unless waived by the Superintendent, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken or to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred ;is a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.

(C) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in division (A) above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.076 REPORTS FROM UNPERMITTED USERS.

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Superintendent upon receipt of a written request from the Superintendent specifying the information requested.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.077 NOTICE OF VIOLATION; REPEAT SAMPLING AND REPORTING.

If sampling performed by a user indicates a violation of a permit limit or condition, the user must notify the Superintendent within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis, within 24 hours of becoming aware of the indicated violation and submit the results of the repeat analysis to the Superintendent within 30 days after becoming aware of the violation. The user is not required to resample if the Superintendent monitors at the user's facility at least once a month, or if the Superintendent samples between the user's initial sampling and when the user receives the results of this sampling.

(Ord. 1476, passed 6-18-07; Am. Ord. 1520, passed 3-1-10; Am. Ord. 1531, passed 8-16-10; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.078 DISCHARGE OF HAZARDOUS WASTE.

Any discharge into the POTW of any waste, substance, material or substance which, if otherwise disposed of, would be a hazardous waste under 40 C.F.R. Part 261 is prohibited unless authorized by written permit signed by the Superintendent.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.079 ANALYTICAL REQUIREMENTS.

(A) All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 C.F.R. Part 136, as amended, unless otherwise specified in an applicable categorical pretreatment standard.

(B) If 40 C.F.R. Part 136, as amended, does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.080 SAMPLE COLLECTION.

(A) Samples collected to satisfy reporting requirements of the permit shall be representative of the user's discharge and obtained through appropriate sampling techniques. The data analysis of the samples collected shall be performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(B) Except as indicated in divisions (C) and (D) below, the user shall collect wastewater samples using 24-hour flow proportional composite collection techniques. In the event flow proportional sampling is not feasible, the Superintendent may authorize, in writing, the use of time proportional sampling or a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by composting procedures as documented in approved EPA methodologies may be authorized by the Superintendent, as appropriate. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(C) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds shall be obtained using grab collection techniques.

(D) Samples for monitoring compliance by categorical industries should be taken immediately downstream from the pretreatment facilities if such facilities exist or immediately downstream from the regulated process if no pretreatment facilities exist. If other wastewaters are mixed with the regulated wastewater prior to treatment, the user should measure the flows and concentration necessary to allow use of the combined waste stream in order to evaluate compliance with pretreatment standards. When an alternate concentration or mass limit has been calculated this adjusted limit along with the supporting data shall be submitted to the Superintendent.

(E) For sampling required in support of baseline monitoring and 90-day compliance reports required by this chapter and 40 C.F.R. 403.12(b) and (d), a minimum of four grab samples shall be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Superintendent may authorize, in writing, a lower minimum number of samples. For the reports required by this chapter and 40 C.F.R. 403.12(e) and (h), the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

(Ord. 1476, passed 6-18-07; Am. Ord. 1531, passed 8-16-10; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.081 TIMING.

(A) Written reports sent via the US Mail or other delivery service will be deemed to have been submitted on the date postmarked.

(B) Written reports which are not mailed but are personally delivered or delivered via electronic means, the date of receipt of the report shall govern.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16)

§ 52.082 RECORD KEEPING.

(A) Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities, instrumentation calibration, operation logs, reports, correspondence and sample logs required by this chapter, records indicating compliance with best management practices (BMPs) and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include:

- (1) The date;
- (2) Exact place;
- (3) Method;
- (4) Time of sampling;
- (5) The name of the person(s) taking the samples;
- (6) The dates analyses were performed;
- (7) Who performed the analyses;
- (8) The analytical techniques or methods used; and
- (9) The results of such analyses.

(B) These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the Superintendent.

(C) The POTW shall retain and preserve all permit files, records and enforcement activity records for no less than three years.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

COMPLIANCE ASSURANCE AND MONITORING

§ 52.090 RIGHT OF ENTRY; INSPECTION AND SAMPLING.

(A) The Superintendent, or designee, shall have the right to enter the premises of any user at any time to determine whether the user is complying with the requirements of this chapter and any wastewater discharge permit or order issued hereunder. Users shall allow the Superintendent, or designee, ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(B) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Superintendent, or

designee, will be permitted to enter without delay for the purposes of performing specific responsibilities.

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

(D) The Superintendent, or designee, may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure waste water flow and quality shall be calibrated annually to ensure their accuracy.

(E) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Superintendent, or designee, and shall not be replaced. The costs of clearing such access shall be borne by the user.

(F) Unreasonable delays in allowing the Superintendent, or designee, access to the user's premises shall be a violation of this chapter and may result in an enforcement action as described in this chapter and/or the Enforcement Response Guide.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.091 SEARCH WARRANTS.

The Superintendent may seek issuance of a search warrant from a court of competent jurisdiction if the Superintendent, or designee:

(A) Has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter;

(B) Or to believe that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city designed to verify compliance with this chapter or any permit or order issued hereunder;

(C) Or to protect the overall public health, safety and welfare of the community.
(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.092 CONFIDENTIAL INFORMATION.

(A) Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the Superintendent's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate and verify under oath to the satisfaction of the Superintendent, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law.

(B) Any such request must be asserted at the time of submission of the information or data.

(C) When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available

immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report.

(D) Wastewater constituents and characteristics and other “effluent data” as defined by 40 C.F.R. 2.302 will not be recognized as confidential information and will be available to the public without restriction.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16)

§ 52.093 PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE.

The Superintendent shall annually publish, in the largest daily newspaper published in the municipality or that serves the municipality where the POTW is located, a list of the users which, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. The term “SIGNIFICANT NONCOMPLIANCE” shall mean:

(A) Chronic violations of wastewater discharge limits, defined here as those in which 66% or more of wastewater measurements taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 C.F.R. 403.3(1);

(B) Technical review criteria (TRC) violations, defined here as those in which 33% or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR 4033(1) multiplied by the applicable TRC (TRC - 1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(C) Any other discharge violation of a pretreatment standard or requirement as defined by 40 C.F.R. 403.3(1) (daily maximum, long-term average, instantaneous limit, or narrative schedule) that the Superintendent 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 pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Superintendent’s exercise of its emergency authority to halt or prevent such a discharge;

(E) Failure to meet, within 60 days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(F) Failure to provide within 30 days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(G) Failure to accurately report noncompliance; or

(H) Any other violation(s) that the Superintendent determines will adversely affect the operation or implementation of the local pretreatment program.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16)

ADMINISTRATIVE ENFORCEMENT; REMEDIES

§ 52.100 ENFORCEMENT REMEDIES.

The Superintendent shall develop and publish a written Enforcement Response Guide outlining cause for enforcement action and the level of enforcement action. Nothing in the Enforcement Response Guide shall limit or restrict the Superintendent from taking enforcement actions more severe than those published in the Enforcement Response Guide.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.101 NOTIFICATION OF VIOLATION.

(A) When the Superintendent finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Superintendent shall serve upon that user a written notice of violation (NOV).

(B) Within 30 days of the receipt of a NOV, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific actions required to correct the violation, shall be submitted, in writing, by the user to the Superintendent.

(C) Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation.

(D) Nothing in this section shall limit the authority of the Superintendent to take any other action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.102 CONSENT ORDERS.

(A) The Superintendent may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance.

(B) Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document.

(C) Such documents shall have the same force and effect as the administrative orders issued pursuant to provisions in this chapter and shall be judicially enforceable.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.103 SHOW CAUSE HEARING.

(A) The Superintendent may, at his or her discretion, order a user which has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Superintendent and show cause why the proposed enforcement action should not be taken.

(B) Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken.

(C) The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least seven days prior to the hearing.

(D) Such notice may be served on any authorized representative of the user.

(E) A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

(F) A user is not entitled to a show cause hearing.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.104 COMPLIANCE ORDERS.

(A) When the Superintendent finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Superintendent may issue a compliance order to the user responsible for the discharge directing that the user come into compliance within a specified time.

(B) If the user does not come into compliance within the time provided, sewer service may be discontinued unless and until adequate treatment facilities, devices, or other related appurtenances are installed and properly operated to correct the noncompliance.

(C) Compliance orders also may contain other requirements that address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer.

(D) A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.105 CEASE AND DESIST ORDERS.

(A) When the Superintendent finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Superintendent may issue a cease and desist order to the user directing it to cease and desist all such violations and directing the user to:

(1) Immediately comply with all requirements; and

(2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(B) Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.106 ADMINISTRATIVE FINES.

(A) When the Superintendent finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Superintendent may fine such user in an amount not to exceed \$1,000, as provided in the table below. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long-term average discharge limits violation, fines shall be assessed for each day during the period of violation.

<i>EXCEEDANCE OF LIMIT OR REQUIREMENT</i>	<i>FINE/VIOLATION</i>
Up to 2% > than limit or requirement	\$200/violation
2.01% to 4% > than limit or requirement	\$400/violation
4.01% to 6% > than limit or requirement	\$600/violation
6.01% to 8% > than limit or requirement	\$800/violation
8.01% or > than limit or requirement	\$1,000/violation

(B) Unpaid charges, fines, and penalties shall, after 60 calendar days, be assessed an additional penalty of 10% of the unpaid balance, and interest shall accrue thereafter at a rate of 1 1/2% per month. A lien against the user's property will be sought for failure to pay unpaid charges, fines, and penalties after 90 calendar days.

(C) Users desiring to appeal such fines must file a written request for the Superintendent to reconsider the fine along with full payment of the fine amount within 15 days of being notified of the fine. If the Superintendent determines that the appeal has merit, the Superintendent may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The Superintendent may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

(D) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

(Ord. 1476, passed 6-18-07; Am. Res. 12-500, passed 11-5-12; Am. Ord. 1639, passed 12-19-16)
Penalty, see § 52.999

§ 52.107 EMERGENCY SUSPENSIONS.

(A) The Superintendent may immediately suspend a user's discharge, after verbal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge that reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Superintendent may also suspend a user's discharge, immediately after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

(B) Any user notified of a suspension of its right to discharge shall immediately stop or eliminate its discharge to the POTW.

(1) In the event of a user's failure to immediately comply voluntarily with the suspension order, the Superintendent may take such steps as deemed necessary, including immediate

severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals.

(2) The Superintendent may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Superintendent that the period of endangerment has passed and all fines and costs, including attorney fees, if any, have been paid, unless the termination proceedings in this section are initiated against the user.

(C) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Superintendent prior to the date of any show cause or termination hearing described in this chapter and prior to the reinstatement of the permit. Nothing in this chapter shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.108 TERMINATION OF DISCHARGE.

(A) In addition to the provisions in § 52.060, any user who violates the following conditions is subject to termination of the right to discharge to the Butler POTW.

(1) Violation of wastewater discharge permit conditions;

(2) Failure to accurately report the wastewater constituents and characteristics of its discharge;

(3) Failure to report significant changes in operations, wastewater volume, constituents, and/or characteristics prior to discharge;

(4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or

(5) Violation of the pretreatment standards contained in this chapter.

(B) The user will be notified of the proposed termination of its discharge, in writing, and be provided two calendar days to show cause why the proposed action should not be taken. The issuance of a proposed termination notice by the Superintendent shall not be a bar to, or a prerequisite for, taking any other action against the user.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.109 INJUNCTIVE RELIEF.

(A) When the Superintendent finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Superintendent may petition a court of competent jurisdiction through the City Attorney for the issuance of a temporary or permanent injunction, as appropriate, which compels the specific performance of the wastewater discharge permit, or prohibits the discharge of wastewater or for any order, or other requirement imposed by this chapter on activities of the user.

(B) The Superintendent may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A

petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.110 REMEDIES NONEXCLUSIVE.

The remedies provided for in this chapter are not exclusive. The Superintendent may take any, all, or any combination of these actions against a non-compliant user. Enforcement of pretreatment violations will generally be in accordance with the city's Enforcement Response Plan. However, the Superintendent may take other action against any user that the circumstances warrant. Further, the Superintendent is empowered to take more than one enforcement action against any non-compliant user.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.111 PUBLIC NUISANCES.

A violation of any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the Superintendent. Any person(s) creating a public nuisance shall be subject to the provisions of the City of Butler's Code of Ordinances governing such nuisances, including reimbursing the city for any costs, including attorney's fees, incurred in removing, abating, or remedying that nuisance.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

Cross-reference:

Nuisances, see Chapter 93

AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

§ 52.120 UPSET.

(A) For the purposes of this section, "UPSET" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An "UPSET" does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(B) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of division (C) of this section are met.

(C) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and the user can identify the cause(s) of the upset;

(2) The facility was at the time being operated in a prudent, professional and workman-like manner and in compliance with applicable operation and maintenance procedures; and

(3) The user had submitted through verbal communication the following information to the Superintendent within 24 hours of becoming aware of the upset, with a written submission provided within five calendar days of the upset:

(a) A description of the indirect discharge and cause of noncompliance;

(b) The period of noncompliance, including exact dates and times when it began and ended or, if not corrected, the anticipated time the noncompliance is expected to continue; and

(c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(D) The user seeking to establish the occurrence of an upset shall have the burden of establishing the elements of the upset by a preponderance of evidence and proof in any enforcement proceeding.

(E) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(F) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.121 PROHIBITED DISCHARGE STANDARDS.

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in this chapter if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

(A) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or

(B) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the city was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.122 BYPASS.

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

(1) "BYPASS" or "BYPASSING." The intentional diversion of waste streams from any portion of a user's treatment facility.

(2) "SEVERE PROPERTY DAMAGE." Substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable or ineffective, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass.

(3) “SEVERE PROPERTY DAMAGE” does not mean economic loss caused by delays in production.

(B) A user may allow a bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation of the process. These bypasses are not subject to the provision of sections (C) and (D) of this section.

(C) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Superintendent, at least ten days before the date of the bypass, if possible. A user shall submit oral notice to the Superintendent of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Superintendent may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(D) Bypassing is prohibited, and the Superintendent may take an enforcement action against a user for a bypass, unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The user submitted notices as required under division (C) of this section.

(E) The Superintendent may approve an anticipated bypass, after considering its adverse effects, if the Superintendent determines that it will meet the three conditions listed in division (D) (1) of this section.

(Ord. 1476, passed 6-18-07; Am. Ord. 1639, passed 12-19-16) Penalty, see § 52.999

MISCELLANEOUS PROVISIONS

§ 52.130 PRETREATMENT CHARGES AND FEES.

(A) This section establishes uniform charges for the industrial wastewater pretreatment program.

(B) This section shall apply to all users of the publicly owned treatment works.

(C) Unless stated otherwise, the terms and phrases used in this section are the same as the terms and phrases defined in this chapter.

(Ord. 1476, passed 6-18-07; Am. Ord. 1489, passed 5-5-08; Am. Ord. 1584, passed 8-19-13; Am. Ord. 1639, passed 12-19-16)

§ 52.131 METERED RATES, MINIMUM CHARGES AND SURCHARGES.

(A) Metered rates. Sewage rates and charges for industrial users served by the Wastewater Department shall be based on the consumption of water as determined and billed by the Water Department or if the industry is not served by the Water Department by the measurement of effluent discharged through a non-resettable flow measurement device as designated in the user's industrial wastewater permit. Sewer use volume rates shall be set periodically by the City Council as detailed in this chapter.

(B) Excessive strength surcharges. Excessive strength wastewater can cause problems with the treatment processes at the wastewater treatment plant, which may cause the wastewater treatment plant to be in violation of the terms and conditions of its National Pollutant Discharge Elimination System (NPDES) Permit issued by the Indiana Department of Environmental Management (IDEM). Excessive strength wastewater is not desirable and entities discharging excessive strength wastewater will be surcharged as outlined below.

(1) Excessive strength wastewater containing total suspended solids (TSS) in excess of 225 mg/l shall be billed at \$0.27 per pound, each month, for the TSS in excess of 225 mg/l.

(2) Excessive strength wastewater with a carbonaceous biochemical oxygen demand (CBOD₅) concentration in excess of 200 mg/l shall be billed at \$0.31 per pound, each month, for the CBOD₅ in excess of 200 mg/l.

(3) Excessive strength wastewater with a chemical oxygen demand (COD) concentration in excess of 500 mg/l shall be billed at \$0.12 per pound, each month, for the COD in excess of 500 mg/l.

(4) Excessive strength wastewater with a total ammonia-nitrogen (NH₄-N) concentration in excess of 20 mg/l shall be billed at \$3.08 per pound, each month, for the NH₄-N in excess of 20 mg/l.

(5) Excessive strength wastewater with a phosphorous content in excess of 10 mg/l shall be billed at \$6.16 per pound, each month, for the phosphorous in excess of 10 mg/l.

(6) Excessive strength wastewater may be surcharged for CBOD or COD but not for both.

(7) Invoices for excessive strength surcharges will be sent monthly for each month a surcharge may occur. Payment of the surcharge must be within 30 days of receipt of the surcharge invoice or a 10% penalty will be added for each 30 days that the invoice is not paid. The 10% penalty will be added to the invoice, said 10% penalty shall be calculated on the total amount due, not just on the initial excessive strength surcharge.

(Ord. 1320, passed 12-22-98; Am. Ord. 1459, passed 6-5-06; Am. Ord. 1489, passed 5-5-08; Am. Ord. 1584, passed 8-19-13; Am. Ord. 1639, passed 12-19-16)

§ 52.132 PERMIT FEE AND MISCELLANEOUS CHARGES.

(A) Annual invoice. The Industrial Wastewater Permit required by the city is issued for a five-year period. The Wastewater Department will invoice each permitted industry by December 1 of each year for the permit for the following year. Payment in full is due by December 31 of each year for the following year for the permittee's industrial wastewater permit.

(B) Permit fees. Permit fees shall be divided into three categories.

(1) Category 1. For those permitted industrial users whose combined process and sanitary discharge to the wastewater system comprises more than 25% of the total wastewater flow

received by the wastewater system or constitutes greater than 25% of the total pollutant loading to the wastewater system and annual industrial wastewater permit fee of \$1,500 will be assessed.

(2) Category 2. For those permitted industrial users whose combined process and sanitary discharge to the wastewater system comprises more than 10% but less than 25% of the total wastewater flow received by the wastewater system or constitutes greater than 10% but less than 25% of the total pollutant loading to the wastewater system an annual industrial wastewater permit fee of \$1,000 will be assessed.

(3) Category 3. For those permitted industrial users whose combined process and sanitary discharge to the wastewater system comprises less than 10% of the total wastewater flow received by the wastewater system or constitutes less than 10% of the total pollutant loading to the wastewater system an annual industrial wastewater permit fee of \$500 will be assessed.

(C) Miscellaneous activities.

(1) Extraordinary costs for miscellaneous activities which may include but are not limited to surveillance inspections, noncompliance monitoring and inspection, review of construction plans, appeals, whole effluent toxicity tests, special studies and priority pollutant analyses, and the like, shall be billed directly to the industry involved per the following:

(2) Surveillance inspections at all Category I, Category II and Category III permitted industries shall be billed on a quarterly basis at a rate of \$300 per calendar quarter.

(3) All other extraordinary costs associated with noncompliance monitoring and inspection, review of construction plans, appeals, special studies, discharge evaluations, toxicity studies, priority pollutant analyses, and the like will be billed upon completion of the identified activity, per the rates in the following activity charge table.

ACTIVITY CHARGE TABLE	
Superintendent	\$45/hour
Assistant Superintendent	\$35/hour
Wastewater Operator	\$28/hour
Technician	\$23.50/hour
Clerical	\$18/hour
Consultant(s)	Actual Cost
Legal	Actual Cost
Butler WWTP Laboratory Analysis	Technician time plus actual cost of supplies
Contract Laboratory Analyses	Actual Cost
Sewer Camera Truck	\$80/hour
Sewer Vactor	\$80/hour
Vehicle Mileage	\$0.60/mile

(Ord. 1320, passed 12-22-98; Am. Ord. 1459, passed 6-5-06; Am. Ord. 1489, passed 5-5-08; Am. Ord. 1584, passed 8-19-13; Am. Ord. 1639, passed 12-19-16)

§ 52.133 WASTEWATER DEPRECIATION FUND CREATED; PURPOSE.

There is hereby created a Wastewater Depreciation Fund. Funds to be placed in this Fund shall be excess revenues from the operation from the city wastewater utility. Out of such excess revenues there shall be deposited in the Fund, on or before the first day of each calendar month, not less than the sum of \$1,000 until such time as the Fund shall contain the sum of \$150,000. This amount may be modified or changed by resolution of the City Council upon recommendation of the Board. After accumulation of the amount in the Fund, no further deposits need be made therein except to the extent necessary to maintain the minimum balance of the Fund of \$150,000. The purpose of this Fund is for the extraordinary expenses of replacement of equipment of the wastewater utility. Money deposited in the Fund may be used to maintain the general welfare of the city wastewater utility. In the event expenditures are made from this Fund, further deposits, if any, shall be made at the rate of not less than \$1,000 per month from such excess revenue until the minimum balance shall have again been attained.

(Ord. 1639, passed 12-19-16)

§ 52.134 WASTE WATER CASH RESERVE FUNDS CREATED; PURPOSE.

(A) There is hereby created and established the Wastewater Cash Reserve Fund, for the purpose of depositing the surplus earnings of the wastewater utility.

(B) "SURPLUS EARNINGS" are defined as those cash earnings remaining after provisions have been made to take care of current obligations, including:

- (1) Operating and maintenance expense;
- (2) Depreciation or replacement fund;
- (3) Bond and interest sinking fund;
- (4) Retirement fund; or
- (5) Any other priority fund requirements fixed by law.

(C) The Wastewater Cash Reserve Fund shall be funded with an amount equal to at least three months operating expense of the wastewater utility excluding sums needed for principal and interest payments on bonds of the utility.

(D) The cash reserve account can only be used in the case of an emergency to operate the utility or purchase needed equipment for which no other funds are available. Said funds shall be replenished by said utility as is possible.

(E) All expenditures from the fund shall be approved by the Board after proper appropriation.

(F) The City Council may, with approval of the Board, transfer surplus earnings of either of said utilities to the General Fund from said cash reserve fund as authorized by IC 8-1.5-3-11.

(G) Any interest earned by either of these cash reserve funds may be transferred by the Clerk-Treasurer to the operating fund of either of the city's utilities.

(H) Cash reserve funds may be used to make loans to any utility owned by the city for periods not to exceed five years and at any interest rate. If one utility borrows money from another, repayment of said loan shall be within five years. The term of said loan shall not exceed five years from the date of said loan. The interest shall be returned to the cash reserve fund of the utility loaning the money.

(Ord. 1639, passed 12-19-16)

§ 52.135 RATES FOR USE OF THE WASTEWATER SYSTEM.

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 city’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 city, which rates and charges shall be payable as hereinafter provided, and shall be in an amount as follows:

(A) 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 subject to such rates and charges, as the same is measured by the water meter in use. Water meters will be read monthly and sewage bills rendered monthly.

(B) In the event that a sewer customer is not using city water but discharges into the city sewage system, the city shall install a meter measuring device either on the customer’s wells or potable service line, and/or on the outflow of the utility customer’s discharge to determine the proper charge based on the schedule set forth in division (C) of this section.

(C) There are established for the use of and the services rendered by the sewage works system of the city, the following rates and charges based on the water supplied by the water works system to each billing unit.

SCHEDULE OF RATES AND CHARGES			
<i>Across the board increase</i>	25%	22%	3%
Consumption per month (per 1,000 gallons)	March 1,2009 - December 31, 2009	January 1,2010 - December 31, 2010	January 1,2011 - and thereafter
First 10,000 gallons	\$11.04	\$13.47	\$13.87
Next 20,000 gallons	\$8.53	\$10.41	\$10.72
Over 30,000 gallons	\$7.28	\$8.88	\$9.15

(1) The minimum charge for any user shall be based on meter sizes as follows:

MINIMUM CHARGES			
<i>Meter Size</i>	<i>March 1,2009 - December 31, 2009</i>	<i>January 1,2010 - December 31,2010</i>	<i>January 1, 2011 - and thereafter</i>
5/8 - 3/4 inch	\$27.60	\$33.68	\$34.62
1 inch	\$40.15	\$48.98	\$50.45
1 1/2 inch	\$100.30	\$122.37	\$126.04
2 inch	\$167.15	\$203.92	\$210.04
3 inch	\$250.71	\$305.87	\$315.05
4 inch	\$401.14	\$489.39	\$504.07

6 inch	\$601.71	\$734.09	\$756.11
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(2) Monthly unmetered residential user.

	<i>March 1, 2009 - December 31, 2009</i>	<i>January 1, 2010 - December 31, 2010</i>	<i>January 1, 2011 - and thereafter</i>
Unmetered Residential User	\$32.65	\$39.83	\$41.02

(D) In the event two or more buildings, or lots, are served by a single water meter, the quantity of water used shall be averaged for each user, and rates and charges for the average use shall apply to the each user.

(E) Multiple users, such as trailers or apartments, served by one water meter, shall pay not less than the number of dwellings times the minimum monthly charge for a 5/8 - 3/4 inch meter of \$17 from the date of passage to June 2001, and \$18 from July 2001 and thereafter.

(F) In order that domestic and residential users of sewage services shall not be penalized for sprinkling lawns during the months of June, July, and August, the billing for sewage services for residential or domestic users for these months shall be based on the water usage for the previous months of January, February, and March, if such usage is lower than the summer months.

(G) Charges to users outside the corporate limits of the city will be billed at 100% of the rates and charges to users within the corporate limits.

(H) Rates and charges provided by this section shall become effective for all service rendered on and after November 1, 1993.

(I) The rates and charges shall be reviewed every two (2) years and a rate study commissioned upon recommendation of the Superintendent or City Clerk Treasurer to the Board.

(J) Any recommended rate or fee changes must be acted upon by the Council and adopted, by ordinance, after public hearing by the Council.

(Ord. 1639, passed 12-19-16)

§ 52.136 DEPOSITS.

(A) When any owner, renter, or contract purchaser of real estate makes application for services from the Wastewater Department, a deposit of \$50 shall be made to the Wastewater Department for services made available to the property in which the owner, renter, or contract purchaser is located. In no event will services be provided to any renter or contract purchaser unless the owner of the real estate signs the application and agrees to be responsible for any wastewater services rendered to his or her property in the event the renter or contract purchaser vacates the premises without paying his or her water/wastewater bills.

(B) If the owner, renter, or contract purchaser of the real estate shall pay all service charges for wastewater for 12 consecutive months, on time, with no bills becoming past due, then, in that event, the \$50 deposit shall be refunded to the owner, renter, or contract purchaser who originally made the deposit, without interest thereupon.

(C) If the owner, renter, or contract purchaser fails to pay charges for wastewater service on time for a 12 consecutive-month period, then the deposit shall be retained by the Wastewater Department until such time as all service charges for wastewater have been paid on time, with no bill becoming past due, for 12 consecutive months.

(D) In the event an owner, renter, or contract purchaser of real estate becomes delinquent in the payment of charges for wastewater, and service is discontinued because of late payment, then the deposit shall be applied on delinquent charges for wastewater, unless the owner, renter, or contract purchaser makes payment in full of all delinquencies due the Wastewater Departments, including service charges, before service is resumed. If all of the deposits are applied on delinquent charges, then new deposits will be required before service is resumed.

(E) No deposit will be required of a customer moving from one residence within the city to another if their bill has been paid promptly for the previous 36 months.

(Ord. 1639, passed 12-19-16)

§ 52.137 PAYMENT DATES.

(A) All wastewater bills shall be due and payable on the fifteenth day of each and every month. In any event, the owner of the property is ultimately responsible for the payment of all city services, including water and wastewater, which are furnished to his property, whether or not the owner actually occupies the property, leases the property, or has sold the property on contract. The failure of the tenant or contract purchaser to pay any overdue charges for water and wastewater services shall result in these services being withheld from his property until the charges have been paid in full.

(B) All charges for wastewater are due and payable on the fifteenth day of each and every month to the city shall be delinquent if not paid by the fifteenth day of each and every month. A penalty shall accrue thereupon as of the sixteenth day of each month, and every month thereafter for such period of time as the wastewater bill is not paid. Failure to pay any overdue water and wastewater bill within 30 days of the date the bill is due shall result in all services to the property being terminated.

(C) A 10% penalty shall be charged on all overdue wastewater fees after the fifteenth day of each and every month. Said penalties are cumulative.

(Ord. 1639, passed 12-19-16)

§ 52.138 APPEALS.

A decision made by the Superintendent under this chapter may be appealed to the Board by submitting a written appeal within ten days from the date of the decision. The written appeal should be addressed to the Mayor and sent by certified mail. In considering the appeal, the Board may affirm, modify, extend, or overrule the decision of the Superintendent in a manner that is consistent with the provisions of this chapter.

(Ord. 1639, passed 12-19-16)

§ 52.139 REPEAL OF CONFLICTING PROVISIONS AND ORDINANCES.

All the provisions of any ordinances previously or now in existence, and regulations which may be in conflict with this chapter are hereby repealed as of the date this chapter takes effect.

(Ord. 1476, passed 6-18-07; Am. Ord. 1584, passed 8-19-13; Am. Ord. 1639, passed 12-19-16)

§ 52.140 EFFECTIVE DATE.

The provisions of this chapter shall be in full force and effect with the signature by the Mayor of Butler and publication as required by law.

(Ord. 1476, passed 6-18-07; Am. Ord. 1584, passed 8-19-13; Am. Ord. 1639, passed 12-19-16)

WASTEWATER AND SEWER EXTENSION AND IMPROVEMENT POLICY

§ 52.150 DEFINITIONS.

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

“APPLICANT.” A person, firm, corporation, partnership or other entity who has the authority to act on behalf of the owner(s) or developer(s) of a new development or existing water and/or sewer service connection.

“CAPITAL IMPROVEMENT.” Land and/or facilities for the collection, treatment or disposal of sewage or sewage byproducts, or for the distribution, pumping, storage, raw water production or treatment of potable water.

“CAPITAL IMPROVEMENT PROGRAM.” The five-year capital improvement project list adopted by the Board. The list shall describe each project and the estimated cost of each capital improvement to be funded.

“COLLECTOR SEWER.” The sewer line to which sewer laterals are connected. Collector sewer lines shall be at least eight inches in diameter.

“DEVELOPMENT.” The construction of improvements to land which requires modification of existing water and/or sewer service connection or the construction of new water and/or sewer service connections to the city water and/or wastewater systems.

“MAJOR IMPROVEMENTS.” Improvements to wastewater treatment plant, interceptor sewers, trunk sewers, or sewage pump stations which are specified in the Wastewater Master Plan.

“MINOR IMPROVEMENTS.” Improvements required to connect a proposed development to existing water or wastewater systems’ facilities in compliance with the city’s specifications.

“NON-RESIDENTIAL DEVELOPMENT.” All development other than residential development and includes commercial and industrial development.

“RESIDENTIAL DEVELOPMENT.” The construction of improvements to property used for the construction of a dwelling unit or dwelling units.

“RESIDENTIAL EQUIVALENT UNIT (REU).” The basis for comparing different water and wastewater customers. One REU is equal to 300 gallons per day when calculating equivalency on flow basis. REU may also be calculated on a mass quantity basis when flow is not representative for calculation.

“SEWER LATERAL.” The sewer line that connects a building sewer to the public sanitary sewer.

“SEWER SERVICE.” A utility service provided by the city for a specific applicant upon approval of an application.

“SEWER SERVICE CONNECTION.” The connection between a customer’s building sewer to the collector sewer, including the sewer lateral pipe up to the fitting on the collector sewer to which the sewer lateral pipe connects.

“TRUNK SEWER.” The sewer line to which collector sewer lines are connected. Trunk sewer lines are at least 12 inches in diameter.

“WASTEWATER MASTER PLAN.” A document adopted by the Board of Public Works and the City Council, outlining a plan for the orderly growth of wastewater services, including the collection and treatment components.

“WASTEWATER SYSTEM CAPACITY FEE.” A fee charged to an applicant who is authorized to connect to the city’s wastewater system or who is authorized to increase the capacity of an existing sewer connection.

(Ord. 1639, passed 12-19-16)

§ 52.151 STATEMENT OF POLICY.

(A) It is the policy of the City Council to provide for the orderly growth and expansion of the city wastewater systems.

(B) All improvements to the city wastewater system shall be constructed in accordance with construction standards prepared by the wastewater department and adopted by the Board.

(C) The construction of minor improvements shall be at the sole cost of the applicant for wastewater service. The Board, at its sole discretion, may require an increase in the capacity of all, or part, of the improvements when such increased capacity is consistent with the adopted Wastewater Master Plan. The city shall only pay the incremental cost associated with increased capacity requirements specified by the Board. Nothing contained herein shall be construed to require the Board or the Council to increase the capacity of the proposed minor improvements.

(D) The construction of major improvements shall be at the sole discretion of the Board and Council subject to planning considerations and finance availability. Major improvements made to the water or wastewater systems may be paid with revenue generated by all customers of the utility upon approval of the Council.

(E) The Board and the Council may approve the extension of wastewater services outside of the city’s corporation limits, provided that all of the following conditions are satisfied:

(1) The Board and Council has passed a resolution authorizing the extension of services outside of the city limits which will contain the terms of service; and

(2) The extension of services does not conflict or interfere with any established service areas for the services requested; and

(3) The wastewater service extension does not cause the wastewater system to exceed its design or rated capacity; and

(4) The wastewater improvements constructed to the extension area are designed and built in compliance with city specifications, and the plans are reviewed and approved by the city prior to construction; and

(5) The proposed service area extension will be governed by the rules, regulations, ordinances and terms of service that govern all city customers.

(F) Nothing contained herein shall be construed to require the Board or City Council to approve extending water and/or wastewater service outside of the city's corporation limits.

(Ord. 1639, passed 12-19-16)

§ 52.152 RESIDENTIAL EQUIVALENT UNIT (REU).

(A) A residential equivalent unit (REU) shall be calculated for every new customer (residential, commercial, non-industrial, industrial) in the city or existing customer who is expanding a facility in the city to form the basis for comparing different water and wastewater customers to calculate the capacity fee as established by this chapter.

(B) One REU represents the volume of wastewater expected to be discharged by a single-family residence in the city. The wastewater REU in the city is equal to 300 gallons per day when calculating equivalency on flow basis. An REU may also be calculated on a situation specific basis on mass quantity when flow is not representative for calculation.

(C) The number of REUs for an entity other than a single-family residence shall be calculated by dividing the actual total daily flow (if known) or the projected total daily flow (from the information provided by the owner or determined by the city from the following Table: Typical Expected Wastewater Capacity from the entity) divided by 300 gallons.

TYPICAL WATER USE/EXPECTED WASTEWATER CAPACITY			
User	Unit	Flow (g/unit/day) Range	Flow (g/unit/day) Typical
Airport	Passenger	3-5	4
Apartment building	Person	100-200	100
Auto service station	Employee Vehicle served	8-15 8-15	13 10
Boarding house	Person	25-50	40
Department store	Toilet room Employee	400-600 8-13	550 10
Hotel	Guest Employee	40-60 8-13	50 10
Lodge/tourist home	Guest	30-50	40
Motel	Guest	25-40	35
Motel w/kitchen	Guest	25-60	40
Self serve laundry	Machine Wash	400-650 45-55	550 50
Office	Employee	8-20	15
Public Lavatory	User	3-6	5
Restaurant (w/lavatory)	Customer	8-10	9

Conventional Short-Order	Customer	3-8	6
Bar/cocktail lounge	Customer Seat	2-4 15-25	3 20
Shopping center	Parking space Employee	1-3 8-13	2 10
Theater	Seat	2-4	3
Indoor	Car	3-5	4
Outdoor			
Assembly hall	Seat	2-4	3
Hospital (medical)	Bed Employee	130-260 5-15	150 10
Hospital (mental)	Bed Employee	80-150 5-15	120 10
Prison	Inmate Employee	80-150 5-15	120 10
Rest Home	Resident Employee	5-120 5-15	90 10
School(day)	Student	15-30	25
Cafeteria, gym	Student	10-20	15
Showers cafeteria only no cafeteria or gym	Student	5-15	10
Resort apartment	Person	50-70	60
Resort cabin	Person	8-50	40
Bowling alley	Alley	150-250	200
Camp	Person	15-30	25
Pioneer type	Person	35-50	45
Children's w/toilet, bath	Person	10-20	15
Day, w/meals	Person	8-18	13
Day, w/out meals	Person	75-100	90
Luxury, private baths	Trailer	75-150	125
Trailer			
Campground (developed)	Person	20-40	30
Country club	Member (Present) Employee	60-125 10-15	100 12
Dormitory	Person	20-45	35
Fairground	Visitor	1-2	2
Picnic park (flush toilets)	Visitor	5-10	8
Swimming Pool	Customer Employee	5-15 8-15	10 10

Visitor Center	Visitor	4-8	6
1. Industrial Building (Sanitary Only)	Employee	7-16	13

Source: Wastewater Engineering-Treatment, Disposal and Reuse. Third Edition, Metcalf and Eddy, Inc. 1991

(1) Example #1. New Commercial Customer "X" - Projected daily wastewater flow of 2,400 gallons per day. ($2,400/300 = 8$ REUs for wastewater use.)

(2) Example #2. New Industrial Customer "Y" - Projected daily wastewater flow only of 240,000 gallons per day. ($240,000/300 = 800$ REUs for wastewater.)

(3) Example #3. Existing Customer "Z" - Expanding and projected daily water use and wastewater flow to increase by 3,000 gallons per day. ($3,000/300 = 10$ REUs increase for wastewater.)

(4) Example #4. New Customer "A" - School with cafeteria, gym and showers and 600 students (Table: Typical Expected Wastewater Capacity - 25 gallons per student per day = 15,000 gallons per day water use/wastewater discharge) ($15,000/300 = 50$ REUs).

(C) No user shall discharge any wastewater in excess of its permitted or purchased capacity. Such excess discharge shall be cause for a permit modification and / or an enforcement action.

(Ord. 1639, passed 12-19-16)

§ 52.153 WASTEWATER SYSTEM CAPACITY FEE.

(A) Establishment.

(1) A wastewater system capacity fee is required to be paid to the city prior to the connection of any new sewer service to the city wastewater system, issuance of any new permit to discharge, or the modification of an existing sewer service or discharge permit which would increase its capacity.

(2) The wastewater system capacity fee shall be as set forth in the following Wastewater System Capacity Fee Schedule.

WASTEWATER SYSTEM CAPACITY FEE SCHEDULE	
WASTEWATER SYSTEM CUSTOMER	AMOUNT
Residential Customers	
Single-family	\$1,200
Multi-family	\$1,200/unit
Hotel/motel, lodging houses	\$1,200/REU
Mobile homes	\$1,200/site
Non-Residential Customers	
Commercial and Non-industrial	\$1,200/REU
Industrial	\$1,200/REU

(B) The Superintendent shall review the Wastewater System Capacity Fee Schedule at least once every two years and report to the Council any recommended adjustments to the Wastewater System Capacity Fee Schedule.

(C) There are established for the use of and the services rendered by the sewage works system of the city, the following rates and charges based on the water supplied by the water works system to each billing unit.

SCHEDULE OF RATES AND CHARGES			
<i>Across the board increase</i>	3%	3%	3%
<i>Consumption per month (per 1,000 gallons)</i>	<i>June 1, 2018 thru May 31, 2019</i>	<i>June 1, 2019 thru May 31, 2020</i>	<i>June 1, 2020 and thereafter</i>
First 10,000 gallons	\$14.29	\$14.72	\$15.16
Next 20,000 gallons	\$11.04	\$11.37	\$11.71
Over 30,000 gallons	\$9.42	\$9.70	\$9.99

(1) The minimum charge for any user shall be based on meter sizes as follows:

MINIMUM CHARGES			
<i>Meter Size</i>	<i>June 1, 2018 thru May 31, 2019</i>	<i>June 1, 2019 thru May 31, 2020</i>	<i>June 1, 2020 and thereafter</i>
5/8 - 3/4 inch	\$35.66	\$36.73	\$37.83
1 inch	\$51.96	\$53.52	\$55.13
1 1/2 inch	\$128.82	\$132.68	\$136.66
2 inch	\$216.34	\$223.14	\$229.83
3 inch	\$324.50	\$334.24	\$344.27
4 inch	\$519.19	\$534.77	\$550.81
6 inch	\$778.79	\$802.15	\$826.21

(2) Monthly unmetered residential user.

	<i>June 1, 2018 thru May 31, 2019</i>	<i>June 1, 2019 thru May 31, 2020</i>	<i>June 1, 2020 and thereafter</i>
Unmetered residential user	\$42.25	\$43.52	\$44.83

(D) Use of Wastewater System Capacity Fee.

(1) The wastewater system capacity fee shall only be used for payment of capital project costs associated with major improvements or expansion of the city wastewater collection, pumping or treatment system components.

(2) Capital project costs include legal fees, financing fees, engineering fees, construction costs, or any other costs directly associated with the development and/or implementation of improvements to the wastewater system.

(3) Expansion of collection, pumping or treatment systems is considered:

(a) The expansion of existing systems or construction of new systems in order to provide transport or treatment capacity (either hydraulic processing or waste load treatment capacity); or

(b) The upgrade of existing systems to meet federal, state or local treatment requirements. (Ord. 1639, passed 12-19-16; Am. Ord. 1656, passed 1-15-18; Am. Ord. 1657, passed 1-15-18)

§ 52.154 WASTEWATER SYSTEM CAPACITY FEE ACCOUNT.

(A) A Wastewater System Capacity Fee Deposit Account shall be established for the deposit of all wastewater system capacity fees collected. All interest earned on the deposits of this Account shall remain in the Account and may be used in the same manner as the Account's deposits. The Wastewater System Capacity Fee Deposit Account shall be audited and reported to the City Council consistent with the auditing of other city financial accounts.

(B) Expenditure of Wastewater System Capacity Fee Deposit Account funds by the Board shall only be upon the approval of the City Council as documented by the passage of a City Council resolution authorizing the capital project, the uses of the funds being authorized, and the amount of the funds authorized for expenditure. Nothing contained herein shall require the City Council to authorize the expenditure of Wastewater System Capacity Fee Account funds.

(Ord. 1639, passed 12-19-16)

§ 52.155 CONSTRUCTION REQUIREMENTS; PERMITS.

(A) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without obtaining a written permit signed by the Clerk-Treasurer and the Superintendent. Each application for a permit shall contain the following information:

(1) The person who will make the connections;

(2) The source of the discharge, such as single-family residential, commercial, and the like;

(3) The maximum amount of discharge for any discharge into the city sanitary sewers, other than single-family residential; and

(4) Such other information as the Superintendent may need in order to determine if the discharge can be handled by the Utility's sewer.

(B) Tap/connection fee. The fee for sewer taps/connections, established by the Board and approved by the Council shall be \$200.

(C) Any person who wishes to connect to the city sewer system shall make application to the Wastewater Department in the form required by the Department. The permit application shall be

supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent.

(1) All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(2) The materials and specifications listed here shall be considered as minimum requirements. All materials used in building sanitary sewers shall meet these minimum standards:

(a) ASA - American Standards Association, 70 East 45th Street, New York, New York;

(b) ASTM - American Society for Testing Materials, 1916 Race Street, Philadelphia, Pennsylvania;

(c) FS - Federal Spec., General Services Administration, Washington, D.C.; and

(d) CS - Commercial Standards, U.S. Department of Commerce, Government Printing Office, Washington, D.C.

(3) Each length of pipe and each fitting and piece shall have cast stamped or otherwise indelibly marked on it the maker's name or mark, weight, type, and class of the product when such marking is necessary to properly identify the material, and is approved by the applicable standard.

(4) The following is a list of approved materials and applicable standards, followed by additional requirements to be met by all materials:

<i>BUILDING SANITARY SEWER MATERIAL</i>	<i>ASTM</i>
(a) Clay sewer pipe	ASTM C700 (Extra Strength)
(b) Cast-iron sewer pipe	ASTM C-74
(c) Ductile-iron sewer pipe	ANSI 21.10 class 350
(d) Polyvinyl chloride (PVC)	ASTM D303, SDR-35 or Schedule 40

(D) All of the above pipe and any other pipe material that may be considered shall meet the following requirements:

(1) Inside diameters shall be a full six inches;

(2) Minimum crushing strength shall be 1,500 pounds per lineal foot;

(3) The pipe and fittings shall be capable of withstanding the action of a motor device sewer cleaner or Roto-Rooter without damage;

(4) No building sewer shall be less than six inches inside diameter, and shall be continued undiminished in size from the building drain to the street sewer, and in no case shall it be smaller; and

(5) Building sewers shall be set at the minimum grade outlined below:

<i>DIAMETER OF BUILDING MINIMUM GRADE IN</i>	
<i>Sewer (inches)</i>	<i>Feet per 1,000 feet</i>

6	6.0
8	4.0
10	2.6
12	2.2
14	1.6
15	1.4

(E) Joints and connections shall be watertight and capable of meeting the water or air tests specified in this code. The joints shall also be capable of holding a ten-foot head of water for 96 hours at a 5° deflection without leakage.

(1) Cast-iron and ductile-iron rubber ring joint. A rubber ring joint meeting ANSI 21.11 for Type II and Type III pipe shall be used.

(2) Clay pipe joints. All clay pipe joints shall meet the requirements of ASTM C425.

(3) PVC pipe joints. All PVC pipe joints shall meet the requirements of ASTM D-1869.

(4) Impermissible joints. Cold-poured joints, taper-fit joints, precast bituminous joints (slip seal), hot-poured joints, and cement mortar joints are specifically prohibited, as are all other jointing methods not specifically permitted above.

(F) 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 such building drain shall be lifted by an approved means and discharged to the building sewer.

(G) No person shall connect roof downspouts, exterior foundation drains, area 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 sanitary sewer.

(H) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the state, county and city, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gaslight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

(I) The applicant for the building sewer permit 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 Superintendent or his representative.

(J) All excavations for building sewer installations 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 city.

(Ord. 1639, passed 12-19-16)

§ 52.156 SEWER LINES NEAR WATER WELLS.

(A) No person, firm, or corporation shall construct any building or buildings which will require a sanitary sewer line in connection with the building or buildings closer than 380 feet from the water

wells owned and operated by the Butler Water Department located between Willow Street and Penn Central Railroad in the city.

(B) Any person, firm, or corporation who attempts to construct a sanitary sewer line closer than 380 feet from the water wells designated above shall be enjoined by an action at law from attempting to construct said sanitary sewer line, and shall be liable for all damages, costs and fines resulting therefrom.

(C) Any attempt to construct or lay a sanitary sewer line closer than 380 feet from the water wells designated in division (A) of this section shall be in violation of this chapter and the city, through its Water Department shall take the necessary steps to remove the same. The costs and expenses in removing the sanitary sewer lines shall be assessed against the person, firm, or corporation who violates this section. All damages sustained by said violation and the payment thereof shall be enforced by proceedings as provided by law.

(Ord. 1639, passed 12-19-16) Penalty, see § 52.999

§ 52.999 PENALTY.

If injunctive relief, per this chapter is sought, the following penalties shall apply.

(A) Civil penalties.

(1) A user who has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the city for a civil penalty of not less than \$1,000 nor more than \$2,500 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(2) The Superintendent may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, or any other type of litigation expenses, including sampling and monitoring expenses, and the cost of any actual damages incurred by the city.

(3) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(4) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

(B) Criminal penalties.

(1) Any person who knowingly or willfully makes any false statement, representation or certification in any application, report or other document required by this chapter or other regulations adopted by the Board, or who tampers with or knowingly or willfully renders inaccurate any monitoring device so as to render false information shall be subject to the provisions of IC 35-44-2-1. The Board's Counsel shall refer such matters to the DeKalb County prosecutor for consideration of criminal prosecution. The Board also reserves the right to refer suspected knowing or willful violations to the Indiana Department of Environmental Management or the U.S. Environmental Protection Agency, Region 5 for criminal prosecution.

(2) All reports and other documents required to be submitted or maintained pursuant to this chapter are subject to:

(a) The provisions of 18 U.S.C. § 1001 relating to fraud and false statements, as amended from time to time;

(b) The provisions of § 309(c)(4) of the Clean Water Act, as amended, governing false statements, representations or certification; and

(c) The provisions of § 309(c)(6) of the Clean Water Act regarding responsible corporate officers.

(Ord. 1476, passed 6-18-07; Am. Ord. 1584, passed 8-19-13; Am. Ord. 1639, passed 12-19-16)

CHAPTER 53: STORMWATER OPERATIONS, MAINTENANCE AND MANAGEMENT

Section

General Provisions

53.01 Stormwater utility established

53.02 Purpose and policy

53.03 Administration

53.04 Abbreviations

53.05 Definitions

53.06 Installation and responsibility

Financial - Fees and Rates

53.20 Stormwater management fee

53.21 Calculation of the stormwater management fee

Storm Sewer System

53.35 Storm sewer system and use

53.36 Inspection of connections and services

Enforcement

53.50 Notification of violation

53.51 Compliance orders

53.52 Injunctive relief

53.53 Remedies nonexclusive

53.54 Administrative fees

53.55 Appeals

GENERAL PROVISIONS

§ 53.01 STORMWATER UTILITY ESTABLISHED.

(A) The Butler Stormwater Utility is hereby created as a municipal utility and it shall be under the control, management, and supervision of the Board of Public Works and Safety.

(B) The Stormwater Utility is responsible for the operation, maintenance and management of all stormwater management infrastructure, including the stormwater collection system, within the corporate limits of the City of Butler.

(Ord. 1625, passed 6-6-16)

§ 53.02 PURPOSE AND POLICY.

(A) This chapter sets forth uniform requirements for all properties and property owners that benefit from the proper operation, maintenance and management of the stormwater collection system in the City of Butler, Indiana.

(B) The objectives of this chapter are:

(1) To reduce the quantity and improve the quality of the stormwater runoff that can affect local surface waters and ground water through pollution prevention and best management practices;

(2) To reduce the rate of runoff to minimize the effect of the runoff on the local environment;

(3) To protect the residential, commercial, institutional and industrial properties from localized flooding and runoff within the corporate limits of Butler;

(4) To insure that construction activities within the corporate limits are properly managed and that runoff from the construction sites is controlled to reduce or eliminate the negative effects of said runoff;

(5) To reduce the frequency, duration and volume of, and/or eliminate, combined sewer overflows and basement flooding;

(6) To reduce and prevent the introduction of contaminants from stormwater runoff into local waterways and the water supply system owned and operated by the Butler Department of Waterworks;

(7) To provide for rates and fees for the payment of the cost of operation, maintenance, management and improvement of the stormwater collection system; and

(8) To enable the City of Butler, Indiana to effectively comply with the federal and state clean water act requirements and all associated regulations and any other Federal or State laws to which the Storm water Utility may be subject.

(C) This chapter shall apply to all properties and property owners within the corporate limits of the City of Butler, Indiana.

(Ord. 1625, passed 6-6-16)

§ 53.03 ADMINISTRATION.

Except as otherwise provided herein, the Superintendent, appointed by the Mayor , shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or duties

imposed upon the Superintendent may be delegated by the Superintendent to other Stormwater Utility personnel, such delegation(s) shall be in writing and available for public review.

(Ord. 1625, passed 6-6-16)

§ 53.04 ABBREVIATIONS.

The following abbreviations, when used in this chapter, shall have the designated meanings:

- (A) CFR Code of Federal Regulations
 - (B) EPA U.S. Environmental Protection Agency
 - (C) gpd gallons per day
 - (D) IAC Indiana Administrative Code
 - (E) IC Indiana Code
 - (F) IDEM Indiana Department of Environmental Management
 - (G) mg/L milligrams per liter
 - (H) CWA Clean Water Act
- (Ord. 1625, passed 6-6-16)

§ 53.05 DEFINITIONS.

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

"BEST MANAGEMENT PRACTICES (BMPS)." Means the following measures to prevent or reduce the pollution of local, state and federal waters. BMPs may be employed, for example, to control plant site runoff; spills, leaks and slug discharges; sludge or waste disposal; or drainage from raw materials storage areas resulting from manufacturing; commercial; mining or related activities.

- (1) Schedule of activities;
- (2) Prohibition of a specific practice;
- (3) Treatment requirements;
- (4) Operation and maintenance procedures;
- (5) Use of containment facilities;
- (6) Other practices as approved by the Board.

"BOARD." The Board of Public Works and Safety for the City of Butler, Indiana.

"BUILDING DRAIN - STORM." A drain which conveys storm water or other clean water drainage from a residence, business, institution or industry to a City storm sewer and contains no sanitary wastewater.

"COMMISSION." The Public Service Commission of the State of Indiana.

“CONSTRUCTION SITE.” The area associated with new development and redevelopment during construction.

“COUNCIL.” The Common Council for the City of Butler, Indiana.

“CUSTOMER.” The person, firm, corporation, governmental agency, or association having interest, whether legal or equitable, sole or only partial, either as tenant or owner, in any property which is, or is to be, the beneficiary of and subject to the stormwater collection and management activities, either temporarily or permanently, of the Utility and all those having such interest.

“EQUIVALENT RESIDENTIAL UNIT (ERU).” The basis for determining the stormwater service charge. The ERU is an average of impervious surface area located on a single-family residential property in Butler. One ERU is equal to 2,500 square feet of impervious surface. Single-family residential properties are considered to be one ERU. Residential properties larger than single-family residences and non-residential properties can be assigned multiple ERUs, based on the total area of impervious surface, as determined by the city, but not less than one ERU.

“ILLCIT DISCHARGE.” Generally any discharge into the storm drain system that is not composed entirely of stormwater, which may be the result of illegal activity (i.e. dumping materials into a storm drain or connecting a wastewater pipe into the storm drain system) or lack of knowledge (i.e. a care washing fundraiser held in a public parking lot). These illicit discharges are prohibited under various state and local laws. Exceptions may include water from fire-fighting activities and discharges from facilities already approved by IDEM.

“IMPERVIOUS SURFACE.” A surface that prevents the infiltration of stormwater into the soil. Impervious surface area allows stormwater to accumulate and run off as concentrated discharge. The city considers all developed property to contain impervious surface area, such as driveways, building rooftops, parking lots, patios, sidewalks, private roadways, pavement, rooftops, and other structures. The city measured impervious areas on all residential and non-residential property and has determined an average area (2,500 square-feet) of impervious surface area for single-family residential properties.

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

“POLLUTION PREVENTION.” To prevent or reduce pollutant runoff associated with municipal, residential, commercial, institutional or industrial activities.

“PLUMBER.” A person or firm licensed by the State of Indiana and recognized as qualified to perform plumbing - installation of pipes, fixtures, devices, appurtenances, and the like - services.

“SANITARY SEWER.” A sewer installed to transport sanitary wastewater to the publically owned treatment works and to which storm, surface and ground waters are not intentionally admitted.

“SANITARY WASTEWATER.” The liquid or water-carried waste discharged from the sanitary conveniences of dwellings including apartment houses and hotels), office buildings, factories, or institutions, and free from storm water, surface water, and industrial wastes.

“SERVICE AREA.” The area within which Utility services are provided to residential, commercial, institutional and industrial customers by the City of Butler. This area is within the corporate limits of the City of Butler.

“STORM SEWER.” A pipe installed for the sole purpose of collecting and transporting stormwater runoff.

“STORM WATER.” That part of precipitation which reaches the sewers as runoff from the natural land surface, building roofs, or pavements, or as ground water infiltration.

“STORMWATER MANAGEMENT.” The infrastructure, processes and/or techniques used to allow the discharge of stormwater to meet Clean Water Act objectives.

“STORMWATER MASTER PLAN.” A document adopted by the Board and the Council, outlining a plan for the orderly growth of stormwater collection, operation, maintenance and management services.

“STORMWATER UTILITY.” A department of the City of Butler, Indiana, having its principal office at 215 S. Broadway, Butler, IN 46721 and engaged in the proper collection, management and disposal of the stormwater within the City of Butler.

“SUPERINTENDENT.” The Superintendent of the Stormwater Utility of the City of Butler, Indiana appointed by and under the direction of the Mayor of the City.

“SURFACE WATER.” The water, such as a stream, river, lake, wetland, or precipitation runoff that is on the surface and open to the atmosphere.

“WATERCOURSE.” Any river, stream, creek, brook, branch, natural or man-made drainage way in or into which stormwater runoff or floodwaters flow either continuously or intermittently.

(Ord. 1625, passed 6-6-16; Am. Ord. 1658, passed 4-2-18)

§ 53.06 INSTALLATION AND RESPONSIBILITY.

(A) The Utility shall determine the placement of any building drain and connection to a Stormwater Utility storm sewer. All properties and property owners (customers) shall submit a written plan to the Board and obtain written approval from the Superintendent prior to installation of any storm sewer connection. Plans shall include full details of the proposed location and installation.

(B) The customer is responsible for the proper installation of a building’s stormwater drain and for the costs of installation, maintenance and repair of the building drain between their premises and the storm sewer connection point. If the Utility completes the installation, the customer shall pay the Utility for the cost of any labor and materials incurred for the connection installed by the Utility.

(C) Building drain piping shall be grey cast or ductile cast iron, type “K” copper or approved plastic materials. No building drain shall be less than four-inch nominal diameter, and all pipes shall be installed with a minimum of four feet of ground cover. The Superintendent shall provide a list of all materials that are approved for installation to the property owner, owner’s agent, contractor, or developer as required.

(D) New piping between a property and a Utility storm sewer shall be run in a straight or direct line when practicable, without bends, at a slope to insure draining and at a depth of not less than four feet. Pipes with joints shall be dug and properly backfilled, not driven. Pipes shall not be placed in trenches with potable water service lines. Pipes may be placed in the same trench with sanitary sewers or other piping in accordance with state, local, and applicable standards, codes, regulations, and ordinances.

(Ord. 1625, passed 6-6-16)

FINANCIAL - FEES AND RATES

§ 53.20 STORMWATER MANAGEMENT FEE.

(A) The Council, upon the recommendation of the Board, shall establish the fees to be paid by each owner, lessee, occupant or user (customer) of real property in the city.

(B) The stormwater management fee shall be \$1.00 per equivalent residential unit ("ERU") beginning on April 1, 2018. The stormwater management fee shall be increased to three dollars (\$3.00) per ERU, effective July 1, 2018; increased to four dollars (\$4.00) per ERU, effective July 1, 2019; and increased to five dollars (\$5.00) per ERU, effective July 1, 2020.

(C) The stormwater management fee provided for in this section is to be collected from properties containing measurable impervious area within the district, unless such parcels are exempt as stated in the following sections.

(D) The following impervious areas are exempt from measurement and calculation of a stormwater user fee:

- (1) Public streets, public roads, and public highways;
- (2) Railway beds, ties, and rails in operation or an operational state; and
- (3) Open water.

(E) If a nonresidential property is situated so that stormwater from a property is captured, used up in a process and never returned to the stormwater system of the city, the property may be partially exempt from the stormwater user fee. This is not intended to be all-inclusive and exemptions may be granted by the Board in response to a fee adjustment review pursuant to the procedures described in the following sections.

(F) The Utility shall periodically review the stormwater management fee for the Council to determine if the fees are adequate to address the operation, maintenance and management responsibilities of the Utility and shall make recommendations to the Council on any amendments to the fee or the method used to calculate the fee.

(G) Changes to the fees or the method(s) for calculating fees shall be made by Council ordinance, upon recommendation of the Board, after the public readings and public hearings required by law to establish or change said fees.

(H) The Clerk-Treasurer shall collect and retain such fees in a separate storm water management fund.

(I) Said fee shall be billed on a quarterly basis and shall be paid in the same manner as other city utility bills.

(J) In the event land or property changes ownership in the middle of the quarterly billing cycle, said fee will be pro-rated between the owners of the land or property.

(K) The stormwater management fee shall be used to pay for the design, planning, regulation, education, administration, coordination, construction, operation, maintenance, inspection and enforcement activities of the stormwater system of the district.

(L) All stormwater bills shall be due and payable within thirty (30) days from the date of the bill. All charges shall be delinquent if not paid by within thirty (30) days. A penalty shall accrue thereupon after thirty (30) days. Failure to pay any overdue stormwater bill within 30 days of the date the bill is due shall result in a ten percent (10%) penalty being assessed to the overdue stormwater bill.

(Ord. 1625, passed 6-6-16; Am. Ord. 1658, passed 4-2-18)

§ 53.21 CALCULATION OF THE STORMWATER MANAGEMENT FEE.

(A) The stormwater management fee shall be calculated as follows:

(1) Residential properties. Each single-family residential property, as defined in this article, shall be assessed a monthly stormwater management fee based on one (1) ERU. An ERU, as defined herein, shall be established at two thousand five hundred (2,500) square feet of impervious surface.

(2) Multiple residential and non-residential property (commercial, institutional and industrial) stormwater management fees shall be calculated as follows:

(a) The quarterly stormwater user fee for each multiple family and all non-residential properties, as defined herein, shall be calculated by determining and assigning to that property an ERU multiple based upon the property's individually measured square footage of impervious area, divided by two thousand five hundred (2,500) square feet, which is one (1) ERU. This division shall be calculated to the first decimal place.

(b) The user fee shall be based on the nearest whole ERU. Rounding necessary to determine the nearest ERU shall be done according to mathematical convention, zero (0.0) to four-tenths (0.4) rounded down to the nearest whole ERU and five-tenths (0.5) to nine-tenths (0.9) rounded up to the nearest whole ERU.

(B) Exemptions from the assignment of ERUs shall be as stated herein.

(C) Credits to the stormwater management fee shall be governed by the following.

(1) Residential. A credit to the stormwater management fee imposed on residential parcels may be available, upon application to the department, for parcels that meet the following criteria:

(a) A single residential credit up to, but not more than, 50% is available to applicants who own and reside at a parcel and show that an approved stormwater management facility has been constructed and effectively implemented on the parcel. Approved stormwater management facilities eligible for the credit include:

1. Rain gardens;
2. On-site stormwater storage; and
3. Vegetated filter strips.

(2) Nonresidential. A credit to the stormwater management fee imposed on nonresidential property may be available, upon application to the department, for parcels that meet one (1) or more of the following criteria:

(a) Construction in compliance with or exceeding the required County, state or federal stormwater specifications Credit shall be granted from the total monthly stormwater management fee for applicant owned stormwater facilities, such as retention/detention and water quality facilities, constructed either prior to the effective date or after the effective date of the stormwater management fee, if those facilities either meet or exceed:

1. The requirements of the identified stormwater specifications; and
2. The requirements of the ordinance in effect at the time of construction.

(b) Property owners of applicant owned stormwater facilities, such as retention/detention and water quality facilities, eligible for credit under subsection (a) may, at their option, apply for a credit as set forth below. Details relating to applying for and receiving credits shall be included in

the stormwater credit procedures.

(c) Credit is intended for construction of stormwater management facilities that meet the requirements of the stormwater specification manual and code. A 10% credit may be granted from the total monthly stormwater user fee for a parcel having approved stormwater facilities that meet the requirements of the stormwater specification manual and code.

(d) 1. Credit is intended for construction of stormwater management facilities that are designed and constructed to exceed the requirements of the identified stormwater specifications. A 50% credit may be granted from the total monthly stormwater user fee for a parcel having approved stormwater facilities that exceed the requirements of the identified stormwater specifications.

2. Application process: Detailed technical information shall be supplied by the owner and the owner's engineer. Such information shall include as-built data, routing the storm event for the two (2), ten (10), twenty-five (25), and one hundred (100) year-storm events, comparison of pre-development and post-development conditions, total storage volume and emergency spillway configuration. To receive a credit, stormwater facilities must provide control to a pre-development level for all the above storm events. Water quality volume and post construction treatment data shall be supplied. To receive 50% credit, approved stormwater facilities must provide both control to a pre-development level for all the above storm events and provide post construction stormwater quality treatment that exceeds the requirements detailed in the stormwater specifications by ten (10) percent. Credits shall be awarded as provided in the stormwater credit procedures.

(e) 1. Additional water quality and/or quantity control. An additional water quality and/or quantity control credit is intended to utilize the construction of approved Green Infrastructure (infiltrative) practices to reduce overall stormwater discharge volume from the property. An additional credit up to 25% may be granted for an approved plan and successful construction and implementation of Green Infrastructure (infiltrative) practices that reduce discharge volume.

2. Application process: Applicant must first qualify for credit, as defined in Section 3(B)(3) or (4) to receive the additional water quality and/or quantity control credit. Final approved level of credit shall be based on an approvable plan that demonstrates the use of acceptable infiltrative practices approved by the City. Submission shall include design plans and details and hydrologic and hydraulic calculations necessary for review. Credit shall be granted as provided in the stormwater credit procedures.

(3) All parcel owners may apply for and be eligible for credit under this section.

(4) The descriptions in this section of circumstances in which credit may be granted are not intended to be all inclusive. The stormwater credit procedures may allow credit for stormwater facilities and circumstances not described in this section.

(5) The board, upon recommendation from the Public Works Manager, shall approve the stormwater credit procedures. The stormwater department shall follow the provisions of the stormwater credit procedures in reviewing and acting upon applications for credit. Copies of the stormwater credit procedures shall be available from the department.

(6) Each credit granted shall be conditioned on the continuing compliance with the design, operation maintenance and reporting requirements of the ordinance.

(D) Credit procedures.

(1) Application for credit or an appeal of a credit determination shall not constitute a valid reason for non-payment of the stormwater management fee for which a credit is being requested.

(2) Application for credit shall be made on forms provided by the department and shall be

accompanied by the applicable application submittal fee.

(3) The board, upon recommendation of the department, may set reasonable credit application submittal and review fees. Such fees shall be reasonably related to the cost of reviewing credit applications.

(a) Application and/or renewal submittal fees shall not exceed one hundred fifty dollars (\$150.00) per application and shall include up to three (3) hours of review by the department. If an application requires more than three (3) hours of review by the department, the applicant shall reimburse the department for such additional review time at a rate not to exceed fifty dollars (\$50.00) per hour.

(b) Application submittal fees and all review fees shall not exceed a total of three hundred dollars (\$300.00).

(4) The department shall be responsible for reviewing credit applications and shall provide a written determination of the credit application within thirty (30) days of receipt of a complete credit application. The written determination shall set forth the effective date of the credit and any conditions applicable to receipt of an approved credit.

(5) Appeals of credit determinations shall follow the procedures set forth herein.

(6) All application and/or renewal submittal fees are non-refundable.

(E) Maximum credit, effective date, expiration and termination.

(1) The maximum total credit for any parcel shall be seventy-five percent (50%) of the stormwater management fees assessed against the parcel.

(2) If granted by the department, a credit shall have an effective date as follow:

(a) For credit applications approved on or between January 1 and/or on June 30 the effective date shall be July 1 of the same year; and

(b) For credit applications approved on or between July 1 and/or on December 31 the effective date shall be January 1 of the following year.

(c) Credits approved by the department on or after the date of Board approval of the articles herein, shall expire, unless earlier terminated as provided in division (E)(2)(d) of this section, three (3) years from the effective date.

(d) Upon written notice to the property owner or other person designated by the property owner to receive such notice, the department may terminate a credit for good cause, including, but not limited to, the reasons set forth below. The department's termination of a credit may be appealed by following the review procedures set forth herein.

1. At the written request of the owner;
2. Property or land alteration that affects drainage or impervious area;
3. Change of ownership;
4. Failure to maintain facilities; and
5. Failure to report as required.

(e) If a credit expires or is terminated, the property owner may submit a new or renewal credit application subject to all conditions herein.

(F) Adjustments and appeals to the stormwater management fee shall be governed by the following.

(1) Any person subject to this article may petition the director for an adjustment of the stormwater management fees assessed against him/her, provided:

(2) That the petitioner has paid the disputed stormwater management fees in full;

(3) That the petitioner:

(a) Has good cause to believe that such stormwater management fees were erroneously assessed against him/her; or

(b) That because of extraordinary circumstances unique to his/her parcel equity can be served only by adjusting the stormwater management fees assessed against his/her parcel.

(G) Petition for review.

(1) That within six (6) months of the petitioner's receipt of the bill for the disputed stormwater management fees, the Board receives from the petitioner a written petition for adjustment of fees and a brief statement of fact demonstrating the petitioner's right to an adjustment. The petitioner may include with his/her petition any additional information he/she deems relevant. If the petitioner wishes to have an informal hearing on his/her petition, a request for a hearing must be included with his/her petition.

(2) The Board shall appoint a review officer (RO) to review and resolve petitions for adjustment of fees.

(a) The RO may be a qualified independent contractor or an employee of the city who serves as a hearing officer as part of his/her duties.

(b) The RO shall consider the petitioner's statement of fact, as well as any other relevant and material evidence available in determining whether the petitioner is entitled to an adjustment of the stormwater management fee.

(c) If a hearing has been requested as provided in this section, the hearing shall be before the RO and shall be held within thirty (30) days of the receipt of the request for hearing, unless a continuance is requested by the petitioner or requested by the department and agreed to by the petitioner. At the hearing the petitioner and the department may present any evidence that is, in the RO's view, relevant and material to the dispute.

(d) Based on the petitioner's statement of fact, evidence presented at the hearing, if one was requested, and any other relevant and material evidence available, the RO shall issue a written decision on the petition. The RO may grant, deny or modify the petition.

(e) The RO's decision shall be final and binding and shall be issued to the petitioner within ninety (90) days of receipt by the Board of the petition for adjustment if no hearing was requested, or ninety (90) days from the conclusion of the hearing.

(3) The petitioner may appeal the RO's final determination to the Board, provided that the Board has received written notice of appeal within thirty (30) days of the petitioner's receipt of the RO's final determination.

(4) The Board shall notify the petitioner of the time and place of the hearing on the petitioner's appeal. The petitioner shall have the burden of proving that he/she is entitled to an adjustment of the stormwater management fees.

(5) At the hearing, the Board shall consider any relevant and material evidence available in determining whether the petitioner is entitled to an adjustment of the stormwater management fees. The hearing shall be recorded by audiotape.

(6) The Board may grant, deny or modify the petition for adjustment. If the Board determines that the petitioner is entitled to an adjustment of the stormwater management fees, the Board

may, in its sole discretion, make such adjustment in the form of a refund or a credit against future stormwater management fees, or both.

(7) Persons applying for credits as provided herein shall follow the procedures set out in that section, Appeals of credit determinations and appeals of termination of credits shall be governed by the procedures in this section except that a petition for review of a credit determination or a petition for review of a credit termination must be received by the Board within sixty (60) days of receipt of the credit determination or termination.

(Ord. 1658, passed 4-2-18)

STORM SEWER SYSTEM

§ 53.35 STORM SEWER SYSTEM AND USE.

(A) Where a Utility storm sewer is available on the customer's property or within 100 feet of the property's owner's property line and does not cross adjacent private property which would require an easement, the customer shall, at their expense, install a connection to convey collected stormwater from the property to the storm sewer.

(B) No person, organization, or institution shall discharge or cause to be discharged into any storm sewer anything other than storm water, pursuant to divisions (E) through (F), of this section.

(C) Before connecting to a Utility storm sewer, designated by the Board, the property owner shall obtain a permit from the Utility.

(D) An application for a permit shall have:

(1) A drawing and description of the specifics for the connection;

(2) The type and size of pipe being used;

(3) Depth and slope of the pipe and the fill material to be used; and

(4) The location of the connection to the designated storm sewer or point of release at the natural outlet or watercourse.

(5) Description of any easements, deed restrictions or other property owner agreements, if applicable.

(6) Verification of compliance with any applicable DeKalb County Drainage rules.

(7) Any other information that may be necessary or required by the Utility to allow issuance of the permit.

(E) Any person who desires a permit to discharge other than surface water runoff into a storm sewer, natural outlet or watercourse shall be required to have the water they wish to discharge analyzed by a qualified laboratory, with the parameters to be analyzed identified by the Superintendent, and provide a report with the results of the analysis indicating the concentration of constituents in the proposed discharge to the Utility, prior to any permit being issued by the Utility.

(F) If a permit to discharge water other than stormwater runoff into a storm sewer, natural outlet or watercourse is issued by the Utility, an annual water quality analysis of the discharge shall be provided to the Utility for review.

(G) If at any time the Utility deems that the water discharged into a Utility storm sewer needs

to be treated before discharge, the Utility shall require treatment or if a permit was issued shall revoke the permit and require the permittee to discharge its water through the sanitary sewer.

(H) Any illicit discharge into a Utility owned storm sewer will constitute a violation of this chapter and shall result in enforcement action, disconnection of the illicit discharge and proper connection to a sanitary sewer to be designated by the Superintendent.

(I) All construction activities, including that performed or contracted by the city, shall be in compliance with the applicable federal and state regulations governing said activities, and shall, at a minimum, implement pollution prevention and best management practices to the extent possible.

(J) Every owner of property through which a watercourse passes 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. The property owner shall maintain existing privately owned structures within or adjacent to the watercourse so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(Ord. 1625, passed 6-6-16)

§ 53.36 INSPECTION OF CONNECTIONS AND SERVICES.

(A) The Utility shall inspect each pipe run made by a plumber, contractor, or individual, to insure that the materials and depth of the service complies with the plan or documents submitted to the Utility. Inspections are to be completed before the service trench is backfilled. However, the quality or material and workmanship shall be the customer's responsibility and must conform to applicable plumbing codes and standards as if specifically mentioned.

(B) Failure by the customer to provide or allow access to the customer's premises for the purpose of inspecting the aforementioned work, after written notice of the purpose, may be cause for discontinuance of other City services.

(Ord. 1625, passed 6-6-16)

ENFORCEMENT

§ 53.50 NOTIFICATION OF VIOLATION.

(A) When the Superintendent finds that a customer has violated, or continues to violate, any provision of this chapter, a stormwater permit or other requirement, the Superintendent may serve upon the user a written notice of violation (NOV) that clearly states the violation, the corrective action(s) necessary and the time frame to bring the customer back into compliance with this chapter or may have the Utility file a petition with a court of competent jurisdiction per § 53.52.

(B) Within 30 days of the receipt of a NOV, the customer shall provide the Superintendent a plan and schedule for the satisfactory correction of the problem causing the NOV to be issued. The plan shall also include provisions describing actions to be taken by the customer to prevent future violations. Submission of this plan does not relieve the customer of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the Superintendent to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(Ord. 1625, passed 6-6-16)

§ 53.51 COMPLIANCE ORDERS.

(A) When the Superintendent finds that a customer has violated, or continues to violate, any provision of this chapter, a stormwater permit or other requirement, the Superintendent may issue a compliance order (CO), in lieu of an NOV, to the customer responsible for the violations, directing that the customer to come into compliance within a specified time.

(B) If the customer does not come into compliance within the time described in the CO, other Utility services provided by the City may be discontinued. Compliance orders may contain other requirements to address the noncompliance, including self-monitoring and management practices designed to minimize the effect of any stormwater discharged to the storm sewer or natural outlet. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(Ord. 1625, passed 6-6-16)

§ 53.52 INJUNCTIVE RELIEF.

(A) When the Superintendent finds that a customer has violated, or continues to violate, any provision of this chapter, a stormwater permit, or other requirement, the Superintendent may, in lieu of issuance of an NOV or a CO, petition a court of competent jurisdiction through the City Attorney or the designated legal counsel for the City for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the stormwater discharge permit, order, or other requirement imposed by this chapter on activities of the customer.

(B) The Superintendent shall also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the customer to conduct environmental remediation, payment of all fines and costs including the recovery of attorney fees.

(C) A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a customer.

(Ord. 1625, passed 6-6-16)

§ 53.53 REMEDIES NONEXCLUSIVE.

The remedies provided for in this chapter are not exclusive. The City may take any, all, or any combination of these actions against a non-compliant customer. The City may take other action against any customer when the circumstances warrant. Further, the City is empowered to take more than one enforcement action against any non-compliant customer.

(Ord. 1625, passed 6-6-16)

§ 53.54 ADMINISTRATIVE FEES.

When the Superintendent or a court finds that a customer has violated, or continues to violate, any provision of this chapter, a stormwater permit or other requirement, the Superintendent may fine such customer in an amount not to exceed \$1,000. Each day a violation exists shall constitute a separate violation. Such fines may be assessed for each day of a violation. The Superintendent shall also recover all costs including attorney's fees associated with the assessment and collection of any fine or the prosecution of any violation.

(Ord. 1625, passed 6-6-16)

§ 53.55 APPEALS.

Any person or entity to whom any provision of this chapter, other than a lawsuit, has been applied may appeal, in writing, to the Board, not later than 10 days after the action or decision being appealed. Any such appeal shall identify the matter being appealed and the basis for the appeal. The Board shall consider the appeal and make a decision to affirm, reject or modify the action being appealed. In considering an appeal the Board may consider the recommendations of the DeKalb County Drainage Board, the Superintendent or technical persons retained by the Board for such matters.

(Ord. 1625, passed 6-6-16)

TITLE VII: TRAFFIC CODE

Chapter

- 70. PARKING
- 71. TRAFFIC SCHEDULES
- 72. SNOW EMERGENCY

CHAPTER 70: PARKING

Section

- 70.01 Definitions
- 70.02 Congested area
- 70.03 Designation of individual parking spaces
- 70.04 Parking of wide vehicles
- 70.05 Parking fine schedule
- 70.06 Parking in residential areas

- 70.99 Penalty

Cross-reference:

Parking schedules, see Ch. 71, Scheds. III-V
Parades, see Chapter 96
Engine compression brakes prohibited, see § 97.04

§ 70.01 DEFINITIONS.

"INDIVIDUAL PARKING SPACE." A portion of the paved portion of the street of sufficient length and depth from the sidewalk curb to accommodate a vehicle to be parked, as shall be specified and marked off by the Police Department and the Common Council.

"PARKING." The standing of a vehicle on a street whether such vehicle be accompanied or not by an operator for a period of time in excess of two minutes.

"VEHICLES." Any device in, on, or by which any person or property is or may be transported on a public highway, except such as are used exclusively by human power.

(Ord. 354, passed 10-17-55)

§ 70.02 CONGESTED AREA.

For the purpose of this chapter, the "congested traffic area" is declared to be on North Broadway Street between Green Street and Main Street; on South Broadway Street between Main Street and Depot Street; on Main Street between Pearl Street on the East and John Street on the West; on East Oak Street between Pearl Street on the East and South Broadway Street on the West; on West Oak Street between South Broadway Street on the East and Eastern Avenue on the West. Because of the flow of traffic on the streets and portions of streets within such area, parking shall or may be subject to the provisions of this chapter.

(Ord. 354, passed 10-17-55)

§ 70.03 DESIGNATION OF INDIVIDUAL PARKING SPACES.

The Common Council is authorized and directed to designate and mark off such individual parking spaces as it deems proper along the streets in the congested traffic area for the parking of vehicles. At such places where individual parking spaces are so marked off, each vehicle shall be parked entirely within an individual parking space.

(Ord. 354, passed 10-17-55)

§ 70.04 PARKING OF WIDE VEHICLES.

During the hours between 1/2 hour after sunset and 1/2 hour before sunrise, it shall be unlawful for any person, firm, or corporation to park or cause to be parked on the public streets within the corporate limits of the city any motor vehicle, tractor-trailer, mobile home, housetrailer, or mobile platform carrier, measuring 7-1/2 feet in width or more without first affixing or attaching to the left rear side of the motor vehicle, tractor-trailer, mobile home, housetrailer, or mobile platform carrier a red clearance light or a lighted flare visible for a distance of 500 feet from the parked vehicle.

(Ord. 541, passed 7- -65)

§ 70.05 PARKING FINE SCHEDULE.

The fine for violation of the city's parking ordinance is increased to \$5, and all parking fines shall be doubled for every two-hour period a vehicle remains in violation of any parking ordinance. Examples would be as follows.

- (A) A two-hour parking violation - \$5.

- (B) A four-hour parking violation - \$10.
- (C) A six-hour parking violation - \$20.
- (D) An eight-hour parking violation - \$40.
- (E) Parking in a no-parking zone - \$40.

(Ord. 1008, passed 6-21-82; Am. Ord. 1207, passed 10-18-93)

§ 70.06 PARKING IN RESIDENTIAL AREAS.

(A) Introduction. The only vehicles permitted to be parked in residential areas of the City shall be:

(1) Operable automobiles, vans, motorcycles and trucks (panel or pickup, one ton or less), which shall be only be parked in the driveway or on a street (where permitted) of a residential area and no other place.

(2) Operable recreational vehicles, campers, boats, construction equipment and certain trucks which shall only be parked as noted in Table 1 of this chapter.

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

"AUTOMOBILE." A four-wheeled, self-propelled vehicle, designed for transporting passengers inside a metal body.

"BUS." A large, enclosed motor vehicle built and used for the purpose of transporting over ten passengers.

"COMMERCIAL VEHICLES." Vans, trucks (panel or pick-up) of any size, that are owned or leased and used as a commercial vehicle by either a licensed contractor or a business.

"DRIVEWAY." A driveway is as defined in Article 10 of the Butler Zoning Ordinance, to wit: "A vehicular access to a development site other than one which has or shall be dedicated to the public, including private streets or roads."

"BOAT (OVER 12 FEET IN LENGTH AND MOTORIZED)." A water-going vessel that is longer than 12 feet in length, and which is typically powered by an internal combustion engine or an electric motor.

"BOAT (UNDER 12 FEET IN LENGTH AND NON-MOTORIZED)." A water-going vessel that is less than 12 feet in length, and which is typically human-powered.

"CAMPING TRAILER/TENT TRAILER." A vehicular portable structure mounted on wheels constructed with collapsible, partial side walls of fabric, plastic or other pliable materials for folding compactly while being transported.

"CONSTRUCTION EQUIPMENT." Backhoes, front loaders, bulldozers and other mechanized equipment used to move dirt, dig trenches, chip wood, or otherwise used in construction and excavation work.

"MOTORCYCLE." A two or three-wheeled motorized device where the operator, and any passengers, are exposed and not covered by a metal body.

"MOTOR VEHICLE, COMMERCIAL." A motor vehicle used or designed to be used for business or commercial purposes.

"MOTOR VEHICLE, INOPERABLE." Any motorized vehicle incapable of being immediately driven and one or not properly licensed in accordance with Indiana law or the laws of other states.

"MOTOR VEHICLE, OPERABLE." Any motorized vehicle capable of being immediately driven and properly licensed in accordance with Indiana law or the laws of other states.

"PARK STRIP." A strip of land, typically three to ten feet in width, in a public right-of-way, between a street surface and a sidewalk. The portion of a park strip adjacent to a street surface may or may not contain a curb.

"RECREATIONAL VEHICLE (RV)." A vehicular-type unit primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motor power or is mounted on or drawn by another vehicle, including trailers with wheels and camper units mounted on pick-up beds.

"TRACTOR." A motor vehicle designed and used primarily for towing other vehicles, equipment and farm implements.

"TRAILER." A wheeled device, either open or enclosed, designed and used for being drawn by a motor vehicle and so constructed that some part of its weight, and that of its load, rests upon or is carried by said motor vehicle.

"TRUCK, HEAVY." Trucks, including truck-tractors and similar vehicles with two or more rear axles.

"TRUCK, LIGHT." Trucks, and similar vehicles, with single rear axles and single rear wheels.

"TRUCK, MEDIUM." Trucks, and similar vehicles, with single rear axles and dual rear wheels.

"RESIDENTIAL AREA." Includes all those areas within the Corporate Limits of Butler carrying any residential zoning designation, as they now exist or as they may be amended in the future, and any other area, lot or location that has a residential structure thereon and has characteristics consistent with and similar with residential areas as described in the Butler Zoning Ordinance.

"VAN." A four-wheeled, box-type, self-propelled vehicle, designed for transporting passengers or cargo.

"YARD." A yard is as defined in Article 10 of the Butler Zoning Ordinance, to wit: "A space on the same lot with a principal building that is open and unobstructed except as otherwise authorized by this ordinance. All required yards shall be kept free of all material including but not limited to, buildings, structures, material for sale, storage, advertising or display to attract attention and parking lots."

(C) Table 1: Parking of Vehicles in Residential Areas.

(1) The following table illustrates the parking requirements for residential areas within the Butler corporate limits for various vehicles and trailers. Permitted and prohibited parking in residential areas is summarized as follows ("Y" means Yes; "N" means No).

(2) Narrative explanations of the various requirements follow this table:

Table 1 - Section 1-A	Driveway	Street	Yard
Operable automobiles	Y	Y	N
Operable vans	Y	Y	N
Operable motorcycles	Y	Y	N
Table 1 - Section 1-B	Driveway	Street	Yard

Operable recreational vehicles	Y	N	N
Operable light or medium trucks	Y	Y	N
Boat longer than 12 feet in length with trailer with current plate	Y	N	Y
Boat less than 12 feet in length	Y	N	Y
Operable construction equipment	Y	N	N
Camper / tent trailers	Y	N	Y
Table 1 - Section 2	Driveway	Street	Yard
Inoperable automobiles	N	N	N
Inoperable commercial vehicles	N	N	N
Inoperable vans	N	N	N
Inoperable motorcycles	N	N	N
Inoperable recreational vehicles	N	N	N
Inoperable trucks (panel or pickup, any size)	N	N	N
Operable commercial vehicles (less than one ton in size)	Y	N	N
Operable semi-tractors	Y	N	N
Operable or inoperable farm tractors	N	N	N
Operable or inoperable road tractors	N	N	N
Operable or inoperable semi-trailers	N	N	N
Operable or inoperable pull trailers of more than 30 feet in length	N	N	N
Operable pull trailers, 30 feet or less in length (must have current license plate & be free of debris)	Y	N	Y
Operable or inoperable, other commercial vehicles	N	N	N
Operable or inoperable school busses	N	N	N
Operable or inoperable church busses in residential areas (NOTE: operable church busses are allowed in "INS" zoning districts and on church properties)	N	N	N
Operable mini buses	Y	N	N

(D) Parking in alleys. Parking in an alley contrary to the requirement of the free movement of traffic is prohibited and a violation of this section.

(E) Parking in yards. Parking in yards is prohibited except as provided in this section.

(F) Trailer parking.

(1) Trailers that are allowed to be parked on driveways or in yards must have current license plates and be free of debris and trash.

(2) Occupying a trailer, tent-trailer or a truck camper as a permanent dwelling, or for more than seven consecutive days, is prohibited.

(G) Vehicles covered with tarps. Operable vehicles, as prescribed by Table 1, may be covered with serviceable tarps. Only one covered vehicle per address is allowed.

(H) Commercial vehicles. Commercial vehicles are permitted as provided in this sub-chapter, as follows:

(1) At a job site provided that permission has been obtained from the Chief of Police, which permission shall stipulate the location and length and time during which the commercial vehicle may be parked.

(2) In the driveway of the residence of the contractor provided such vehicle is one ton or less in size.

(I) Temporary parking with permit. Notwithstanding the provision of Table 1, Section 2 above, such permitted recreational vehicles, boats and campers may park upon a street in any residential area after obtaining permission from the Chief of Police, which permission shall stipulate the location and the length of time (not to exceed five days) during which the vehicle may be parked. The Chief of Police shall issue a written permit.

(J) Blocking driveways. No vehicles shall be parked in such a manner, on an adjoining street, so as to block a driveway.

(K) Blocking sidewalks. No vehicles shall be parked in a driveway in such a manner as to block an intersecting sidewalk.

(L) Side of street. No vehicles shall be parked on a side of a street in such a manner as to face oncoming traffic in the adjoining traffic lane.

(M) Accessing yard via park strip. Accessing a yard by vehicle across a grassed park strip instead of a driveway is prohibited.

(N) Parking of dumpsters.

(1) Dumpsters, roll-off boxes or other large trash/debris containers, may be parked on a property during a construction project. In the event of a new building construction, such containers must be removed from the property within 14 days after a "certificate of occupancy" is issued for the new building.

(2) When space is not available on a property for a trash container, such container may be parked in the street/public right-of-way, upon the issuance of a "dumpster permit" by the City of Butler. The permit fee shall be \$15 for properties where a building exists, and \$25 for properties where a new building is being constructed. The permit shall be valid for a 30 day period. A dumpster placed per a valid permit will need to be removed from the public right-of-way if a certificate of occupancy is issued for a new structure prior to said 30 day period.

(O) The following penalty, § 70.99 applies to all sections of Chapter 70, as well as Chapter 71, "Traffic Schedules," which is comprised of:

- (1) Speed limits;
- (2) Stop and yield streets;
- (3) Parking prohibited at all times;
- (4) Parking time limited; and
- (5) Truck routes.

(Ord. 1646, passed 11-20-17)

§ 70.99 PENALTY.

(A) Any person who shall violate any of the provisions of § 70.03 ("Designation of Individual Parking Spaces") and any person who aids, abets, or assists therein shall, on conviction, be

subject to a fine of not more than \$50 for each offense, plus all related court costs.

(Ord.354, passed 10-17-55)

(B) Any person, firm, or corporation who shall fail, refuse, or neglect to display a red clearance light or lighted flare, as specifically described in § 70.04 (“Parking of Wide Vehicles”) shall, on conviction, be fined in any sum not exceeding \$25 for each offense.

(Ord. 541, passed 7- -65)

(C) Violation of any of the provisions of Chapter 71, “Traffic Schedules” or any other general traffic rules or regulations within the city that have no specific penalties spelled out in the ordinance shall be punishable by a fine of not less than \$25 nor more than \$500, plus all related court costs.

(Ord. 1352, passed 5-1-00)

(D) Violation of § 70.06, “Parking in Residential Areas,” shall be punishable by a fine of not less than \$75 nor more than \$750, plus all related court costs, with each day constituting a separate violation.

(Ord. 1646, passed 11-20-17)

(Ord. 1352, passed 5-1-00; Am. Ord. 1646, passed 11-20-17)

CHAPTER 71: TRAFFIC SCHEDULES

Schedule

- I. Speed limits
- II. Stop and yield streets
- III. Parking prohibited at all times
- IV. Parking time limited
- V. Parallel parking required
- VI. Truck routes

SCHEDULE I: SPEED LIMITS.

<i>STREET</i>	<i>POSTED M.P.H.</i>	<i>HOURS</i>	<i>ORD. NO.</i>
Oak St. between Eastern Ave. and South Pearl St.	20	All times	369
Business District	20	All times	369
Residential District	30	All times	369
Parkview Addition	15	All times	534
R. E. Jones Rd.	35	All times	1087
Willow St.	20	All times	1566

SCHEDULE II: STOP AND YIELD STREETS.

<i>INTERSECTION</i>	<i>STREET THAT STOPS OR YIELDS</i>	<i>ORD. NO.</i>
Depot St. and Federal St.	Depot St. stops	343
North Ash St. and East Green St.	North Ash St. stops	343
North Canal St. and East Green St.	4-way stop	343
West Oak St. and Federal St.	West Oak St. stops	343
Eastern Ave. and Depot St.	Eastern Ave. stops on the north	371
Western Ave. and Depot St.	Western Ave. stops on the north	371
East Liberty St. and North Pearl St.	East Liberty St. yields	424
Eastern Ave. and West Cherry St.	Eastern Ave. yields	424
North Pearl St. and East Green St.	North Pearl St. yields	424
North Pearl St. and East Washington St.	North Pearl St. yields	424
South Ash St. and East Oak St.	South Ash St. yields	424
Eastern Ave. and West Walnut St.	Eastern Ave. yields	424
North Ash St. and East Liberty St.	North Ash St. yields	424
North Canal St. and East Liberty St.	North Canal St. yields	424
North James St. and West Green St.	North James St. yields	424
North James St. and West Liberty St.	North James St. yields on the south	424

North John St. and
West Green St.

North John St.
yields

424

North John St. and West Liberty St.	North John St. yields on the south	424
East Green St. and North Beech St.	4-way stop	425
East Washington St. and North Canal St.	East Washington St. stops on the west	425
North Beech St. and East Washington St.	East Washington St. stops	425
South Western Ave. and West Walnut St.	South Western Ave. stops on the north	425
East Liberty St. and North Beech St.	East Liberty St. stops on the west	513
East Monroe St. and North Beech St.	East Monroe St. stops on the west	513
Eastern Ave. and Willow St.	Eastern Ave. stops on the south	513
Erie St. and Federal St.	Erie St. stops on the west	513
North Canal St. and East Monroe St.	North Canal St. stops	513
North Elm St. and Meadowmere Drive	North Elm St. stops	513
North Pearl St. and East Monroe St.	North Pearl St. stops	513
Railroad St. and South Beech St.	Railroad St. stops on the west	513
South Ash St. and Railroad St.	South Ash St. stops on the north	513
South Canal St. and Railroad St.	South Canal St. stops on the north	513
Parklane and North Beech St.	Parklane yields on the east	514
Parklane and South Parklane	Parklane yields on the east	514
South Beech St. and East Oak St.	South Beech St. yields	514
South Pearl St. and East Oak St.	South Pearl St. stops	514
West Liberty St. and North Elm St.	West Liberty St. yields	514

West Washington St. and North Elm St.	West Washington St. yields on the east	514
West Washington St. and North James St.	West Washington St. yields	514
West Washington St. and North John St.	West Washington St. yields	514
North Ash St. and East Monroe St.	North Ash St. stops on the south	567
Maple St. and East Green St.	3-way stop	567
Walnut St. and Federal St.	4-way stop	567
Eastern Ave. and West Oak St.	4-way stop	691
West Green St. and Elm St.	4-way stop	691
North Parklane and Beech St.	North Parklane yields on the east	764
Parklane and North Parklane	Parklane stops	764
West Liberty St. Extended and Elm St.	West Liberty St. Extended yields	764
James St. and Liberty St.	James St. yields on the north	791
North Booster St. and Green St.	North Booster St. stops	791
West Depot St. and Commerce St.	West Depot St. stops	791
West Green St. and Booster St.	West Green St. stops	791
West Oak St. and Commerce St.	West Oak St. stops	791
North Ivy Lane and Beech St.	North Ivy Lane stops on the east	873
Maxton Drive and North Ivy Lane	Maxton Drive stops on the south	873
Maxton Drive and South Ivy Lane	Maxton Drive stops on the north	873
South Ivy Lane and Beech St.	South Ivy Lane stops on the east	873
West Oak St. and	4-way stop	881

Western Ave.		
Liberty St. and Canal St.	4-way stop	1003
(whoever violates this stop intersection provision shall be fined in any sum not to exceed \$100 for each offense).		
Booster St. and Green St.	Green St. stops on the east	1046
	Booster St. stops on the south	1046
Liberty St. and Elm St.	All east/west bound traffic on Liberty St.	1115
James St. and Green St.	All north/south bound traffic on James St.	1116
U.S. Highway 6 and County Road 61		Res. 99-304
West Green Street and John Street	All traffic on John Street	1438

SCHEDULE III: PARKING PROHIBITED AT ALL TIMES.

<i>STREET</i>	<i>RESTRICTED ZONE</i>	<i>SIDE</i>	<i>ORD. NO.</i>
Beech St.	From north boundary line of Green St. to Liberty St. from 7:30 a.m. to 4:30 p.m.	East	1380
Beech St.	From Liberty St. north to North Park Lane	East	1380
Beech St.	From Green St. north to a point directly opposite the north side of North Ivy Lane	West	1380
North Broadway	Intersection of Green St. and Broadway south for 60 feet	West	1216
Commerce St.	West Main St. to alley 62 feet south	West	399

Commerce St.	West Main St. to West Oak St.	Both	400	
Commerce St.	West Depot St. to West Oak St.	East	426	
Depot St.	South Broadway Ave. to Commerce St.	South	690	
Federal Ave.	West Oak St. to the right-of-way of N.Y.C.R.R. Co.	Both	426	
East Green St. and East Green St. Extended	Intersection of East Green St. and North Beech St. to a point 2250 feet east of said intersection	Both	790	
West Green St.	Approximately 30 feet from intersection of West Green St. and North Broadway	South	1216	
High Street		Both	1213 1660	
Independence St.	From the west boundary line of High St. to the end of Independence St., west of High St.	South	1661	
North Ivy Lane		North	1227	
South Ivy Lane (including the cul-de-sac)		North	1227	
W. Liberty St.	From the west boundary line of High St. to the end of W. Liberty St., west of High St.	North	1661	
Maxton Dr.	From South Ivy Lane to North Ivy Lane	Monroe Street Street and		Between Beech

	Canal Street	East	1227
		Both	1387
East Oak St.	Short St. to Pearl St.	North	687
Jake Street	Entire length	Both	1721

East Oak St.	South Pearl St. to South Canal St.	North	426
West Oak St.	Eastern Ave. to Commerce St.	North	687
West Oak St.	South Broadway Ave. to Federal Ave.	North	426
Park Lane	Intersection of Park Lane and Beech east for 185 feet	North	1227
Park Lane	From Beech east to South Park Lane continuing to intersection with North Park Lane	South	1227
Park Lane	Beginning at a point 56 feet south of the Y intersection of Park Lane and South Park Lane continuing on the south side of Park Lane to the intersection of North Park Lane	South	1227
North Park Lane	Until it swings to the south and connects with South Park Lane excluding lots 76 and 77 in Parkview Addition, Section II	North	1227
North Pearl St.	East Green St. to East Main St.	East	344, 367
South Pearl St.	East Main St. to alley north of Railroad St.	East	367
Walnut St.	South Broadway Ave. to Western Ave.	North	435
East Washington St.	Ash St. to a point 135 feet east	South	640

Cross-reference:

Parking fine schedule, see § 70.05

SCHEDULE IV: PARKING TIME LIMITED

STREET	RESTRICTED ZONE	TIME LIMIT	ORD. NO.
City Parking Lots		48 hours	460
East Main St.	Broadway Ave. and Pearl St.	2 hours between 8:00 a.m. and 6:00 p.m., except Sundays	594
East Oak St.	South Broadway to the alley on the north side the street.0p		594; 1209
North Broadway Ave.	Main St. to Green St.	2 hours between 8:00 a.m. and 6:00 p.m., except Sundays	594
	Main St. to N.Y.C.R.R. Co.	2 hours between 8:00 a.m. and 6:00 p.m., except Sundays	
South Broadway Ave.	track	2 hours between 8:00 a.m. and 6:00 p.m., except Sundays	594
West Main St.	Broadway Ave. to John St.	2 hours between 8:00 a.m. and 6:00 p.m., except Sundays	594
	On the north side of the street from South Broadway		
West Oak St.	to the alley. On the south side of the street from South Broadway to the alley.		594; 1209
Broadway St.	Green St. to Railroad St.	2:00 a.m. to 5:00 a.m.	878
Main St.	Canal St. to James St.	2:00 a.m. to 5:00 a.m.	878
		5:00 a.m. to	
Pearl Street	U.S. Hwy. 6 South and Oak St.	5:00 p.m. except Sundays	948

Cross-reference:

Parking fine schedule, see § 70.05

SCHEDULE V: PARALLEL PARKING REQUIRED.

STREET	RESTRICTED ZONE	ORD. NO.
East Oak St.	South Broadway Ave. to South Pearl St.	430
North Ash St.	East Green St. to East Liberty St.	430

Cross-reference:

Parking fine schedule, see § 70.05

SCHEDULE VI: TRUCK ROUTES.

Schedule VI is applicable to all semi-truck vehicles of 16,000 pounds gross weight or more. This includes cabs, trailers, or any combination thereof.

STREET	BETWEEN	ORD. NO.
Beech St.	East Oak St. and East Main St.	512
Beech St.	Railroad Street and East Liberty Street	1394
Cherry St.	Western Ave. and South Broadway St.	512
Commerce St.	West Main St. and Erie St.	512
Depot St.	South Broadway St. and the west line of lot 115 in the Original Plat of the City of Butler	512
East and West Main Sts.		512
East Oak St.	Pearl St. and South Broadway St.	512
Eastern Ave.	Pennsylvania RR and Cherry St.	512
Erie Street	Commerce Street and Federal Avenue	1394
Federal St.	West Main St. and N.Y.C.R.R.	512
North and South Broadway Sts.		512
Pearl St.	East Oak St. and Railroad St.	512
Railroad St.	Pearl St. and South Broadway St.	512
Railroad St.	South Broadway and South Beech St.	1394
RE Jones Road		1394

West Oak St.

South Broadway St. and the first
public alley

512

CHAPTER 72: SNOW EMERGENCY

Section

- 72.01 Definitions
- 72.02 Parking on snow emergency routes
- 72.03 Parking on secondary snow emergency routes
- 72.04 Condition of motor vehicles
- 72.05 Stalled vehicles
- 72.06 Declaration of snow emergency
- 72.07 Termination of parking prohibition
- 72.08 Interpretation
- 72.09 Signs
- 72.10 Impounding vehicles
- 72.11 Evidence
- 72.12 Primary snow emergency routes

- 72.99 Penalty

§ 72.01 DEFINITIONS.

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

"PRIMARY SNOW EMERGENCY ROUTES." Those streets generally traversing the city and which considered essential to the rapid movement of emergency vehicles which normally carry the heaviest traffic volumes.

"ROADWAY." That portion of a street or highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder.

"SECONDARY SNOW EMERGENCY ROUTES." Those streets which provide access to primary snow emergency routes and are frequently used by emergency vehicles.

"SNOW TIRES." Tires mounted on drive wheels of motor vehicles which are especially designed to give effective traction on snow, mud, or ice-covered streets by means of extra heavy-duty treads with special high-traction patterns; however, no tire so defined shall be construed to be a snow tire if it is damaged or worn to the extent that its performance would be substantially impaired.

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

"TIRE CHAINS." Any metal chains mounted on drive wheel tires of motor vehicles which cross the tread of each tire laterally in at least three different places.

(Ord. 945, passed 4-7-80)

§ 72.02 PARKING ON SNOW EMERGENCY ROUTES.

(A) Whenever the Mayor, the Superintendent of Streets, or the Chief of Police finds on the basis of falling snow, sleet, or freezing rain, or on the basis of a forecast by the United States Weather Bureau or other weather service of snow, sleet, or freezing rain that weather conditions will make it necessary that motor vehicle traffic be expedited and that parking on city streets be prohibited or restricted for snow plowing and other purposes, he shall put into effect a parking prohibition on primary snow emergency routes, as necessary, by declaring it in the manner prescribed in this chapter. This parking prohibition shall automatically go into effect on any part of any primary snow emergency route in the city when there has been or there is predicted an accumulation of snow of four inches or more or ice.

(B) Once in effect, a prohibition under this section shall remain in effect until terminated by announcement of the Mayor or Superintendent of Streets, in accordance with this chapter. While the prohibition is in effect, no person shall park or allow to remain parked any vehicle on any portion of a primary snow emergency route to which it applies.

(Ord. 945, passed 4-7-80) Penalty, see § 72.99

§ 72.03 PARKING ON SECONDARY SNOW EMERGENCY ROUTES.

(A) Whenever the Mayor finds on the basis of falling snow, sleet, or freezing rain, or on the basis of a forecast by the United States Weather Bureau or other weather service of snow, sleet, or freezing rain that weather conditions will make it necessary that motor vehicle traffic be expedited and that parking on city streets be prohibited or restricted for snow plowing, safety, or other purposes, he shall put into effect a parking prohibition on secondary snow emergency routes as necessary by declaring it in a manner prescribed by this chapter.

(B) Once in effect, a prohibition under this section shall remain in effect until terminated by announcement of the Mayor in accordance with this chapter. While the prohibition is in effect, no person shall park or allow to remain parked any vehicle on any portion of a secondary snow emergency route to which it applies.

(Ord. 945, passed 4-7-80) Penalty, see § 72.99

§ 72.04 CONDITION OF MOTOR VEHICLES.

It shall be unlawful for any person to operate a motor vehicle on a primary snow emergency route on which there is a covering of snow, sleet, or ice which shall allow the vehicle to become stalled wholly or partly because the drive wheels thereof are not equipped with effective tire chains or snow tires. It shall be unlawful for any person operating a motor vehicle on a primary snow emergency route on which there is a covering of snow, sleet, or ice on which there is a parking prohibition in effect to allow the vehicle to become stalled because the motor fuel is exhausted or the battery has become inoperative.

(Ord. 945, passed 4-7-80) Penalty, see § 72.99

§ 72.05 STALLED VEHICLES.

Whenever a vehicle becomes stalled for any reason, whether or not in violation of this chapter, on any part of a primary snow emergency route during a declared snow emergency when a parking prohibition is in effect, the person operating the vehicle shall take immediate action to have the vehicle pushed or towed off the roadway of the primary snow emergency route. No person shall abandon or leave his vehicle in the roadway of a primary snow emergency route regardless of whether he indicates, by raising the hood or otherwise, that the vehicle is stalled, except for the purpose of securing assistance during the actual time necessary to go to a nearby telephone or to a nearby garage, gasoline station, or other place of assistance and return without delay. In no event shall a vehicle be abandoned for the purpose of getting assistance for more than a period of 30 minutes.

(Ord. 945, passed 4-7-80) Penalty, see § 72.99

§ 72.06 DECLARATION OF SNOW EMERGENCY.

In the event the Mayor determines that because the weather conditions listed in § 72.02 make it necessary to have motor vehicle traffic expedited in the city and parking prohibited he may declare a snow emergency. The Mayor shall cause each declaration made pursuant to this chapter to be publicly announced by means of broad-casts or telecasts from stations with a normal operating range covering the city, and he may cause the declaration to be further announced in newspapers of general circulation when feasible. Each announcement shall describe the action taken by the Mayor, including the time it became or will become effective, and shall specify the streets or areas affected. A designation of primary, secondary, or snow emergency routes shall be sufficient designation of the streets to be affected. A parking prohibition declared by the Mayor shall specify whether it is applicable to primary snow emergency routes only or both primary and secondary snow emergency routes, and shall not go into effect until at least two hours after it has been announced at least two times between 6:00 a.m. and 11:00 p.m. on any day. However, one announcement in a newspaper of general circulation shall be sufficient. The Mayor shall make or cause to be made a record of each time and date when any declaration is announced to the public in accordance with this section.

(Ord. 945, passed 4-7-80)

§ 72.07 TERMINATION OF PARKING PROHIBITION.

Whenever the Mayor shall find that some or all of the conditions which give rise to a parking prohibition in effect because of the snow emergency declared pursuant to the terms of this chapter no longer exists, he may declare the prohibition terminated, in whole or in part, in a manner prescribed by this chapter, effective immediately upon announcement.

(Ord. 945, passed 4-7-80)

§ 72.08 INTERPRETATION.

Any provision of this chapter which becomes effective by declaration of the Mayor or upon the occurrence of certain weather conditions shall, while temporarily in effect, take precedence over

other conflicting provisions of law normally in effect. However, it shall not take precedence over provisions of law relating to traffic accidents, emergency travel of authorized emergency vehicles, or emergency traffic directions by a police officer.

(Ord. 945, passed 4-7-80)

§ 72.09 SIGNS.

On each street designated by this chapter or by resolution as a primary or secondary snow emergency route, such street shall be posted with appropriate signs at intervals not exceeding 400 feet. Signs posted in accordance with this section shall be distinctive and uniform in appearance and shall be plainly visible and readable to persons traveling on the street or highway.

(Ord. 945, passed 4-7-80)

§ 72.10 IMPOUNDING VEHICLES.

Any vehicle parking on any primary or secondary snow emergency route in violation of any of the provisions of this chapter may be impounded by the city police and no person shall recover any vehicle removed pursuant to this section without first paying the cost of removal and the cost of storage. Any payments required by this section shall not be construed as a penalty so as to preclude prosecution for violation of any of the provisions of this chapter.

(Ord. 945, passed 4-7-80)

§ 72.11 EVIDENCE.

In any prosecution with regard to a vehicle parked or left in a place or in a condition in violation of any provision of this chapter, proof that the particular vehicle described in the complaint was parked or left in violation of a provision of this chapter, together with proof that the defendant named and the complaint was at the time the registered owner of the vehicle, shall constitute prima facie evidence that the defendant was the person responsible for having the vehicle parked or left in violation of this chapter. It is the specific intent of this provision to make the owner of a motor vehicle responsible for the use and operation of the motor vehicle regardless of who actually parks the vehicle in violation of this chapter, for it is the owner who has control over who drives or operates his motor vehicle.

(Ord. 945, passed 4-7-80)

§ 72.12 PRIMARY SNOW EMERGENCY ROUTES.

(A) The following streets or portions of streets within the city are designated as primary snow emergency routes: all of U.S. Highway No. 6 (Main Street) located within the city limits; all of State Highway No. 1 (Broadway Street) location within the city limits; Beech Street from Railroad Street to Monroe Street; Monroe Street to State Highway No. 1; Meadowmere Drive from State Highway No. 1 to Elm Street; Elm Street from Meadowmere Drive to U.S. Highway No. 6 (Main Street); Federal Street from U.S. Highway No. 6 (Main Street) south to Walnut Street; Walnut Street from Federal Street to State Highway No. 1 (Broadway Street); and Liberty Street from Elm Street west to the Nursing Home.

(B) Primary and secondary snow emergency routes may be designated by resolution of the City Council.

(Ord. 945, passed 4-7-80)

§ 72.99 PENALTY.

Any person, firm, or corporation violating any provision of this chapter shall be fined not less than \$25 nor more than \$500 for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(Ord. 945, passed 4-7-80)

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. ANIMALS
- 91. STREETS AND SIDEWALKS
- 92. FIRE PREVENTION
- 93. NUISANCES
- 94. PARKS AND RECREATION; CEMETERY
- 95. BILLIARD AND POOL ROOMS
- 96. PARADES
- 97. NOISE
- 98. TREES
- 99. FAIR HOUSING
- 100. MISCELLANEOUS FEES
- 101. OUTDOOR HYDRONIC (WOODBURNIGN) HEATERS

CHAPTER 90: ANIMALS

Section

General Provisions

- 90.01 Definitions
- 90.02 Humane Officer
- 90.03 (Reserved)
- 90.04 Resistance or obstruction
- 90.05 Striking animals with motor vehicles

Control of Dogs

- 90.10 License and registration
- 90.11 Tag and collar
- 90.12 Dogs running at large
- 90.13 Dangerous dogs
- 90.14 Capturing dogs
- 90.15 Dogs disturbing the public peace
- 90.16 Control of dog pollution
- 90.17 Procedure to report offense

Control of Other Animals

- 90.19 Control of cats
- 90.20 Selling baby fowls or rabbits
- 90.21 Animals running at large

Miscellaneous

- 90.22 Number of dogs and cats per residence
- 90.23 Raising other miscellaneous animals
- 90.24 Rental properties without yards

Impoundment

- 90.25 Procedure for dogs
- 90.26 Procedure for other animals
- 90.27 Notice required
- 90.28 (Reserved)
- 90.29 Rabies control

Animal Control and Pet Waste

- 90.40 Purpose
- 90.41 Definitions
- 90.42 Requirements for disposal
- 90.43 Exemptions
- 90.44 Enforcement

- 90.99 Penalty

Cross-reference:

Hunting prohibited within city limits, see § 130.02

GENERAL PROVISIONS

§ 90.01 DEFINITIONS.

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

“ANIMAL.” Any mammal of either sex or neutered, such as, but not limited to, a dog, cat, goat, pig, horse, cow, chicken, rooster, mare, colt, mule, jackass, jenny, bull, ox, calf, sheep, swine, or reptile.

“AT LARGE.” Off the premises of the owner and not under the control of the owner or a member of his immediate family, either by leash, cord, chain, or under reasonable control of some competent person.

“DOG.” Member of the canine species, male, female, or neutered.

“FREQUENTLY BARKING DOG.” A dog which barks on a regular basis disturbing the peace and quiet of adjoining premises.

“HABITUALLY BARKING DOG.” A dog which is observed to be barking for more than an hour a day for two or more days in a seven-day period.

“HARBORING.” Any person who shall suffer or permit any animal to frequent or remain on or within his or her house, building, premises, or enclosure shall be deemed to be harboring the animal within the meaning of this chapter.

“HARBORING A DOG.” Allowing a dog to habitually remain and to be lodged within a person’s house, store, enclosure, or yard.

“KEEPER.” Any person who owns, permits, or maintains any dog on any premises.

“OWNER.” Any person keeping or harboring an animal.

“PERSON.” A human being who owns or maintains a dog on any premises located within the city.

“PROPER SHELTER.” A structure that has at least three sides and a roof.
(Ord. 952, passed 10-6-80; Am. Ord. 1197, passed 3-1-93)

§ 90.02 HUMANE OFFICER.

(A) The position of Humane Officer is created. The Humane Officer shall be appointed by the Mayor for a term of one year. The Mayor shall retain the authority to discharge the Humane Officer for any reason whatsoever at his or her discretion. The officer’s duties shall be the carrying out and the supervision of the enforcement of this chapter. The Humane Officer shall hold office under the provisions of the regulations of this city and shall be a member of the police force. However, the Officer shall not have any powers other than those granted hereunder and shall not be required to meet the requirements of a regular officer of the City Police Department.

(B) The method of compensation and the amount of compensation for the Humane Officer shall be fixed by the Board of Public Works and Safety of the city and approved by the Common Council.

(Ord. 952, passed 10-6-80; Am. Ord. 1197, passed 3-1-93)

§ 90.03 (RESERVED).

§ 90.04 RESISTANCE OR OBSTRUCTION.

No person shall resist or obstruct the law officer or any employee of the DeKalb Animal Shelter in the exercise of his duties.

(Ord. 952, passed 10-6-80; Am. Ord. 1197, passed 3-1-93) Penalty, see § 90.99

§ 90.05 STRIKING ANIMALS WITH MOTOR VEHICLE.

(A) Any person driving a motor vehicle in the city whose vehicle strikes a domestic animal shall report to the DeKalb Animal Shelter or to the Police Department the following.

- (1) The description of the animal struck.
- (2) The location of the striking.
- (3) An opinion of the condition of the animal struck.

(B) This person shall not be required to identify himself.

(Ord. 952, passed 10-6-80; Am. Ord. 1197, passed 3-1-93) Penalty, see § 90.99

CONTROL OF DOGS

§ 90.10 LICENSE AND REGISTRATION.

(A) All dogs kept, harbored, or maintained by their owners in the city shall be licensed and registered if over six months of age. A dog license shall be issued by the Wilmington Township Trustee upon payment of a license tax as required by law. No license shall be issued unless the owner shows, at the time it is requested, a certificate that the vaccination required has been made. The owner shall state at the time the application is made for the license and upon printed forms provided for such purposes his name and address and the name, breed, color, and sex of each dog owned or kept by him.

(B) The provisions of this section shall not apply to dogs whose owners are nonresidents temporarily within the city, to dogs brought into the city for the purpose of participating in any dog show, nor to dogs properly trained to assist blind persons when such dogs are actually used by blind persons for the purposes of aiding them in going from place to place. Licenses issued under the provisions of this section shall be valid until January 1 next after the issuance.

(Ord. 952, passed 10-6-80; Am. Ord. 1197, passed 3-1-93) Penalty, see § 90.99

§ 90.11 TAG AND COLLAR.

(A) Upon the payment of the license fee required by § 90.10, the Wilmington Township Trustee shall issue to the owner a license certificate and a metallic tag for each dog licensed. The tag shall have stamped thereon the year it was issued and the number corresponding with the number on the certificate. Every owner shall provide each dog with a collar to which the license tag shall be affixed and shall see that the collar and tag are constantly worn. In case a dog tag is

lost or destroyed, a duplicate will be issued by the Township Trustee upon presentation of a receipt showing the payment of the license fee for the current year and the payment of a fee for the duplicate. Dog tags shall not be transferable from one dog to another, and no refunds shall be made on any dog license because of the death of the dog or the owner leaving the city before expiration of the license period.

(B) No person shall remove either the collar or the check from any dog or any similar animal except on consent or order of the owner or person to whom the license has been issued. No person harboring a dog shall refuse, upon request, to exhibit the dog's license and proof of vaccination for rabies to the Humane Officer, any officer of the Police Department of the city, any employee of the DeKalb Animal Shelter, any employee of the DeKalb Humane Society, or to any other person having legal authority to inquire into the matter.

(Ord. 952, passed 10-6-80; Am. Ord. 1197, passed 3-1-93) Penalty, see § 90.99

§ 90.12 DOGS RUNNING AT LARGE.

No person owning or having charge, care, custody, or control of any dog shall cause, permit, or allow the dog to run at large upon any street, alley, or other public place, or upon any private property or premises other than those of the person owning or having charge, care, custody, or control of the dog, within the city.

(Ord. 952, passed 10-6-80; Am. Ord. 1197, passed 3-1-93) Penalty, see § 90.99

§ 90.13 DANGEROUS DOGS.

Any police officer that has probable cause to suspect any dangerous, fierce, or vicious dog found at large, cannot be safely taken up and impounded, may kill the dog. This type of action, however, shall only be taken as a last resort. Observations of the police officer or reports from any party concerning their observations of the actions of the dog which would lead a reasonable and prudent person to believe the dog is fierce or dangerous and constitute a threat to any person in any way whatsoever shall constitute probable cause for destruction of the dog.

(Ord. 952, passed 10-6-80; Am. Ord. 1197, passed 3-1-93)

§ 90.14 CAPTURING DOGS.

No person shall invade the private premises of another to capture, entice, or take any licensed dog out of the enclosure of the person harboring it, molest, or seize any dog while it is accompanied by its owner, keeper, or custodian, or bring within the city any dog for the purposes of impounding it or collecting any reward for the return thereof, except as provided in this chapter.

(Ord. 952, passed 10-6-80; Am. Ord. 1197, passed 3-1-93) Penalty, see § 90.99

§ 90.15 DOGS DISTURBING THE PUBLIC PEACE.

No person shall keep or harbor any dogs which by frequent or habitual barking, howling, or yelping, cause the peace and quiet of adjoining premises and occupants thereof to be unreasonably disturbed. Proof that any dog is heard or observed barking and disturbing the adjoining property more than three times in a one-week period shall be prima facie evidence of violation of the provisions of this chapter.

(Ord. 1197, passed 3-1-93) Penalty, see § 90.99

§ 90.16 CONTROL OF DOG POLLUTION.

It shall be unlawful for any person to harbor or keep any dog which shall cause pollution from its excrement which can be detected by sight or smell from the adjoining premises and occupants thereof.

(Ord. 1197, passed 3-1-9) Penalty, see § 90.99

Cross-reference:

Pet waste, see §§ 90.40 to 90.44

§ 90.17 PROCEDURE TO REPORT OFFENSE.

Violations of §§ 90.15 or 90.16 shall be reported to the Police Department and a citizen's complaint shall be made out listing the name of the owner or keeper of the dog, the address of the property where the dog is kept, and the time and date of the offenses. The Police Department shall conduct an investigation in an attempt to determine whether or not the dog violates the provisions of §§ 90.15 or 90.16, to determine ownership of the dog or the premises where the dog is kept, and to determine the location of the dog. The report of the Police Department and the citizen's complaint shall be turned over to the City Attorney for prosecution.

(Ord. 1197, passed 3-1-93)

CONTROL OF OTHER ANIMALS

§ 90.19 CONTROL OF CATS.

Cats shall not be subject to the license provisions of this chapter that are provided for dogs but shall be subject to all of the remaining sections of this chapter, including impounding and disposal provisions and including the restrictions concerning running at large as specified in § 90.12. Cats shall be required to be vaccinated for rabies. Cat owners shall be required to present proof of vaccination for rabies to the Humane Officer, any officer of the Police Department of the city, any employee of the DeKalb Animal Shelter, any representative of the DeKalb Humane Society, or to any other person of legal authority to inquire into the matter.

(Ord. 952, passed 10-6-80; Am. Ord. 1197, passed 3-1-93)

§ 90.20 SELLING BABY FOWLS OR RABBITS.

No person shall sell, offer for sale, barter, or give away baby chickens, ducklings, or other fowl under three weeks of age, or rabbits under two months of age, as pets, toys, premiums, or novelties. Nor shall any person color, dye, stain, or otherwise change the natural color of baby chickens, ducklings, other fowl, or rabbits, or bring or transport them into the city. This section shall not be construed to prohibit the sale or display of baby chickens, ducklings, other fowl, or rabbits in proper facilities by breeders or stores engaged in the business of selling for purposes of commercial breeding and raising.

(Ord. 952, passed 10-6-80; Am. Ord. 1197, passed 3-1-93) Penalty, see § 90.99

§ 90.21 ANIMALS RUNNING AT LARGE.

No person shall permit their animal to run at large within the city nor shall any person have any animal not permitted under the zoning laws of the city.

(Ord. 952, passed 10-6-80; Am. Ord. 1197, passed 3-1-93) Penalty, see § 90.99

MISCELLANEOUS

§ 90.22 NUMBER OF DOGS AND CATS PER RESIDENCE.

No person living within the city limits in a residential zoned area shall have more than two dogs and two cats; except if those animals have litters, then they shall have 60 days from birth to reduce the number of dogs or cats at the residence to two.

(Ord. 1075, passed 12-2-85; Am. Ord. 1109, passed 9-21-87; Am. Ord. 1197, passed 3-1-93) Penalty, see § 90.99

§ 90.23 RAISING OTHER MISCELLANEOUS ANIMALS.

(A) No person shall own or raise bees, rabbits, geese, ducks, chickens, or other insects or fowl within the city limits other than in areas zoned for agriculture. The Butler Day Care Center, however, shall be allowed to have one pet rabbit.

(B) No person shall raise livestock within the city limits other than in areas zoned for agriculture.

(Ord. 1075, passed 12-2-85; Am. Ord. 1197, passed 3-1-93; Am. Ord. 1406, passed 5-5-03) Penalty, see § 90.99

§ 90.24 RENTAL PROPERTIES WITHOUT YARDS.

No person who owns residential rental facilities within the city shall be permitted to allow animals of any kind in the residential facilities unless the facility has a yard of some sort. Sidewalks, streets, and alleys will not constitute a yard.

(Ord. 1075, passed 12-2-85; Am. Ord. 1197, passed 3-1-93) Penalty, see § 90.99

IMPOUNDMENT

§ 90.25 PROCEDURE FOR DOGS.

(A) Dogs found to be running at large and not under restraint, as provided herein, shall be taken by the Humane Officer or a police officer and impounded at the DeKalb Animal Shelter, to be confined therein in a humane manner for a period of not less than three working days. In the

event the animal is not claimed within three working days, it shall thereafter be sold or disposed of in a humane manner.

(B) The person in charge of the DeKalb Animal Shelter shall, upon receiving any dog, make a complete registry entering the breed, color, sex of the dog, and whether the dog is licensed. If the dog is licensed, the name and address of the owner and the number of the license tag shall be entered in the registry.

(C) Any animal so impounded under the provisions of this chapter and not reclaimed by the owner or agent thereof within the three working day period may be placed in the custody of some suitable person who will pay the impounding fee and who will agree to comply with the provisions of this chapter and provide a good home for the animal. The impounding fee will be established by the DeKalb Animal Shelter and will include license, rabies inoculation, costs and expenses of capture and impoundment. As part of the costs and expenses of capture, there shall be assessed a \$10 fee to be paid to the Police Department if it transports the animal to the DeKalb Humane Shelter. If no suitable person is found for the animal, the animal may be humanely destroyed and disposed of.

(D) When, in the judgment of the DeKalb Animal Shelter or DeKalb Humane Society, it is deemed that an animal should be destroyed for humane, health, or safety reasons, it shall be his duty to see that the animal is destroyed and not permitted to be redeemed by any person. An appeal from the judgment of the DeKalb Animal Shelter or DeKalb Humane Society may be taken to the Board of Public Works and Safety within five days, during which time the animal shall not be destroyed. It shall be the duty of the Board to affirm or disaffirm the decision of the DeKalb Animal Shelter or DeKalb Humane Society as to whether or not the dog shall be destroyed.

(Ord. 952, passed 10-6-80; Am. Ord. 1182, passed 2-17-92; Am. Ord. 1197, passed 3-1-93)

§ 90.26 PROCEDURE FOR OTHER ANIMALS.

(A) The Humane Officer or any police officer, on finding any animal running at large within the city, shall take up and impound the animal in the DeKalb Animal Shelter and give immediate notice in writing of the impounding by posting one notice in a public place describing in the notice the animal taken up and impounded. If the owner thereof does not appear within 72 hours from the posting of the notice and pay to the caretaker of the DeKalb Animal Shelter all expenses incurred by the city in taking up, impounding, keeping, and feeding the animal, and his fees therefor, the DeKalb Animal Shelter may sell the animal to defray the expenses of the impounding.

(B) A copy of the notice shall be served on the owner of the animal, if known, either by certified mail or by leaving a copy thereof at his last and usual place of residence.

(Ord. 952, passed 10-6-80; Am. Ord. 1197, passed 3-1-93)

§ 90.27 NOTICE REQUIRED.

(A) Immediately upon the impounding of a dog or other animal, the DeKalb Animal Shelter shall make reasonable effort to notify the owner of the dog or other animal, if known, of the impoundment and of the conditions under which he may regain custody of his animal.

(B) The owner of any animal impounded under the provisions of this chapter shall be entitled to resume possession of the animal upon the payment of the impounding fee and any extraordinary expenses incurred by the DeKalb Animal Shelter in providing proper care for the animal.

(Ord. 952, passed 10-6-80; Am. Ord. 1197, passed 3-1-93)

§ 90.28 (RESERVED).

§ 90.29 RABIES CONTROL.

(A) A captured animal, other than a crime prevention animal for which a current permit has been issued by the city, known to have bitten a person shall be quarantined for such a period as is specified in such cases by the Health and Hospital Corporation of DeKalb County. In the sole discretion of the quarantining authority, the quarantine may be on the premises of the owner, at the city animal shelter or those of its contractors, if any, or, at the owner's expense, in a kennel or veterinary hospital. The owner of an animal which is suspected by the quarantining authority of having bitten a person or been exposed to rabies, shall promptly surrender the animal upon demand by the authority for purposes of quarantine and observation, at the expense of the owner of the animal.

(B) When a quarantined animal has been found rabid or is suspected of being rabid by a licensed veterinarian and dies while under observation, the quarantining authority shall take such action as is specified in such cases by the State Board of Health and shall notify the proper public health officials of reports of human contacts made by and the diagnosis made of the animal.

(Ord. 952, passed 10-6-80; Am. Ord. 1197, passed 3-1-93)

ANIMAL CONTROL AND PET WASTE

§ 90.40 PURPOSE.

The purpose of this subchapter is to establish requirements for the proper disposal of pet solid waste in Butler, Indiana, so as to protect public health, safety and welfare, and to prescribe penalties for failure to comply.

(Ord. 1530, passed 9-7-10)

Cross-reference:

Control of dog pollution, see § 90.16

§ 90.41 DEFINITIONS.

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

“IMMEDIATE.” The pet solid waste is removed at one, without delay.

“OWNER/KEEPER.” Any person who shall possess, maintain, house, or harbor any pet or otherwise have custody of any pet, whether or not the owner of such pet. In the case of a minor, the parent shall be deemed the “OWNER.”

“PERSON.” Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

“PET.” A domesticated animal such as a dog or cat (other than a disability assistance animal).

“PET SOLID WASTE.” Biological waste matter expelled from the bowels of the pet; excrement.

“PROPER DISPOSAL.” Placement in a waste receptacle, or other suitable container, and discarded in a refuse container which is regularly emptied by the municipality or some other refuse collector; or disposal into a system designed to convey domestic sewage for proper treatment and disposal.

(B) When not inconsistent with the context, words in the present tense include the future, words in the plural number include the singular number, and words used in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

(Ord. 1530, passed 9-7-10)

§ 90.42 REQUIREMENTS FOR DISPOSAL.

All pet owners and keepers are required to immediately and properly dispose of their pet’s solid waste deposited on any property, public or private, not owned or possessed by that person.

(Ord. 1530, passed 9-7-10) Penalty, see § 90.99

§ 90.43 EXEMPTIONS.

Any owner or keeper who requires the use of a disability assistance animal such as a seeing eye dog, shall be exempt from the provisions of this subchapter while such animal is being used for that purpose.

(Ord. 1530, passed 9-7-10)

§ 90.44 ENFORCEMENT.

The provisions of this subchapter shall be enforced by the Butler Police Department.

(Ord. 1530, passed 9-7-10)

§ 90.99 PENALTY.

(A) Except as otherwise provided herein, any person who violates any provisions of this chapter shall be fined not less than \$25 nor more than \$100 for each offense. Each day a person remains in violation of any of the provisions of this chapter shall constitute a separate violation.

(B) Except as otherwise provided herein, any person convicted of a second offense under these sections shall be fined not less than \$100 and not more than \$500. The judge shall assess court costs to any fine rendered. The fines called for by this section are nonsuspendible.

(C) Any person(s) who is found to be in violation of the provisions of §§ 90.40 through 90.44 shall be subject to a fine not to exceed \$25 for the first offense and a maximum of \$250 for subsequent offenses. This applies to the owner, not the animal. If an owner violates the provisions of §§ 90.40 through 90.44 with different animals, it shall be considered a second or subsequent offense.

CHAPTER 91: STREETS AND SIDEWALKS

Section

- 91.01 Excavations
- 91.02 Dumping prohibited
- 91.03 Moving buildings
- 91.04 Accumulation of ice and snow on sidewalks
- 91.05 Repair and maintenance of sidewalks
- 91.06 Bicycles, skateboards and in-line skates

Cross-reference:

Parades, see Chapter 96

§ 91.01 EXCAVATIONS.

(A) No excavations shall be made in any street in the city by any person, firm, or corporation for the purpose of making sewer connections, or any repair thereof, or for any other purpose, without obtaining a permit from the Superintendent of Streets.

(B) Whenever any excavation is made in any street in the city, it shall not be refilled until the excavations and any connections made are inspected and approved by the Superintendent of Streets. The excavation shall be refilled with bank gravel under the supervision and approval of the Superintendent of Streets.

(C) Any person, firm, or corporation violating any of the provisions of this section shall, on conviction, be fined not less than \$100 nor more than \$500 for each offense.

(Ord. 376, passed 9-4-56; Am. Ord. 398, passed 1-20-58)

§ 91.02 DUMPING PROHIBITED.

(A) It shall be unlawful for a property owner or tenant to dump, place, spread, or deposit, or cause to be dumped, placed, spread, or deposited, any dirt, gravel, sand, or ashes in and on any of the public streets and alleys of the city.

(B) Any property owner or their tenant violating this section shall, on conviction, be fined not more than \$500.

(Ord. 372, passed 6-4-56)

§ 91.03 MOVING BUILDINGS.

(A) Permit.

(1) Any person or entity wanting to move a building or structure, larger than 250 square feet in size, within the Corporate Limits of the City of Butler must first obtain a "Moving Permit" from the City of Butler.

(2) The permit fee shall be as prescribed by Chapter 100 of the Butler City Code of Ordinances. The form of the permit shall include:

- (a) Property from which the building is to be moved;
- (b) The name of the person or entity performing the move;
- (c) The proposed moving activity;
- (d) The proposed route of the moving activity;
- (e) The proposed date and timeframe of the move;
- (f) Proof of insurance or bonding to cover any damages caused by the moving activity; and
- (g) Any other information deemed necessary by the City of Butler.

(3) Time-frame. The applicant must apply for a moving permit at least two weeks prior to their proposed moving activity. The City of Butler, Indiana reserves the right to delay issuance of a moving permit if it determines that additional time is needed to move utilities, signage or to prepare special traffic plans or security in preparation for the move.

(B) Notification. As part of the moving permit application, the applicant is required to contact "Indiana Underground - 811" and have any utilities, public and private, that may be located along the proposed route of the moving activity, marked. All affected utilities will be given proper time to arrange for the required moving of any utilities.

(C) Bonding/certificate of insurance. The applicant, or an authorized agent acting on their behalf, must provide proof of liability insurance in an amount determined to be adequate by the City of Butler. The applicant may also be required to submit a bond in an amount determined to be adequate for moving the proposed structure along the proposed route, and on forms approved by the City of Butler.

(D) Notification. The Zoning Administrator shall notify other parties that may be affected by the proposed moving activity (utilities, property owners, governmental entities) as they may deem necessary before the start of the moving activity.

(E) Fees, inspections and evidence of insurance. Before a permit is issued the applicant shall pay to the Clerk-Treasurer the permit fee, as established in Chapter 100 of this Code of Ordinances, plus a scaled fee for moving any municipal utility facilities, street signage or other city assets. A late permit fee of \$250 plus fee scale for moving any utility facilities will be charged for any moving activity commenced without a moving permit.

(F) Issuance of permit. The Zoning Administrator may issue a Moving Permit upon submittal of an appropriate application and compliance with § 91.03 (A) through (E).

(G) Inspection of property before moving.

(1) To ensure that the structure proposed for moving is in a proper and safe condition prior to the moving activity, the property site of the structure shall be inspected by an authorized representative of the City of Butler.

(2) Such inspection shall ascertain that provision for proper care has been made so as not to endanger any sewer or water connections with the city's sewer and water systems.

(H) Care and protection during moving. The moving activity shall be performed in a competent manner and with the least amount of noise possible. Care shall be taken to protect neighboring structures, vehicles, street and road surfaces, and persons. Adequate protection shall be provided to prevent injury to any municipal or private utility assets. The Zoning Administrator may limit the hours during the day in which the moving activity may occur.

(I) Site restoration following moving. Following the moving activity, the site from which the structure was moved from shall be restored to a suitable appearance. Any resulting excavation, basement walls, etc. shall be remedied according to the "excavation and filling" standards prescribed by § 157.006 of the Butler City Code of Ordinances. Any water or sewer connections shall also be properly capped.

(J) Post moving inspection by an authorized representative of the City of Butler. An authorized representative of the City of Butler shall inspect the site from which the building was moved to observe any resulting filling, removal of basement walls, and the required capping of taps, or abandoned sewer or water lines.

(K) Enforcement. If the inspection performed by the city determines that the applicant is not in full compliance with the requirements of the demolition permit and this chapter, the Zoning Administrator shall advise the applicant in writing of the terms of non-compliance. The applicant shall have 30 days from the date of the notice to comply. In the event that the applicant fails to comply within 30 days of the notice given pursuant to § 91.03 (L), the applicant shall be in violation of this ordinance which violation shall be treated as a nuisance subject to abatement and enforcement as all other nuisance violations.

(L) Penalty. Any person, firm or corporation violating any provisions of this Chapter shall be fined not less than \$100 nor more than \$500 for each offense, plus court costs and other expenses incurred in the enforcement of the said sections. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(Ord. 291, passed 8-6-45; Am. Ord. 1644, passed 5-1-17)

§ 91.04 ACCUMULATION OF ICE AND SNOW ON SIDEWALKS.

(A) No owner or occupant of any premises within the corporate limits of the city and bordering on any street thereof within 12 hours after a fall of snow shall fail to clear the sidewalk of all snow and ice. Any person neglecting and refusing to do so shall pay the expense for having the same removed and cleared away.

(B) It shall be the duty of any police officer to clear away all snow and ice accumulated on the sidewalks of the city or cause the same to be cleared away after the lapse of 12 hours, after the fall of the snow, unless the owner or occupant of the property adjoining the street shall have cleared the same away prior to the time. The expense of clearing away the snow and ice shall be charged to the owner of the adjoining lot or lots and shall be a lien on the property.

§ 91.05 REPAIR AND MAINTENANCE OF SIDEWALKS.

(A) All property owners abutting the public ways of the city shall keep their respective sidewalks, curbs, or gutters in repair, in safe condition, and in compliance with this code.

(B) Any property owner who fails to repair or replace his sidewalks, curbs, or gutters abutting the public ways of the city may be notified by the Superintendent of Streets to repair the same. If, after 30 days from posting by United States mail with proper postage affixed a notice to the owner as determined by the tax duplicates in the office of the Auditor of DeKalb County, State of Indiana,

the property owner fails to make the necessary repairs, the city may do so and charge the property owner.

(C) Upon failure of the owner to pay the charge for repair or replacement of sidewalks, curbs, or gutters levied by the city within ten days after completion of the work, the Clerk-Treasurer shall file in the office of the Recorder of DeKalb County, Indiana, for recordation in the miscellaneous records a notice that the city claims a lien on the real estate on which work was done, and from and after the filing of the notice, such charge shall be a lien on the real estate and may be enforced by foreclosure in the same manner in which mechanic's and materialmen's liens are enforced under the laws of the state. Foreclosure proceedings shall be at the cost of the defendant owner or owners and with attorney fees.

(D) Any property owner repairing or replacing his sidewalks, curbs, or gutters abutting the public ways of the city so as to restore them to a safe condition in compliance with this code and pursuant to a notice according to the provisions of this section, may make the necessary repairs and replacements without a bond filed with the city and without obtaining a building permit on condition that the repair or replacement conforms to any building codes or ordinances then existing pursuant to specifications, size, and shape of sidewalks, curbs, or gutters; or in the alternative it may be replaced through the General Improvement Fund of the city.

(E) In determining that sidewalks, curbs, or gutters are in unsafe condition, the Superintendent of Streets shall consider, on inspection, including but not in limitation of, the following problems: high joints, weathered surface, chipped surface, scaled surface, poor alignment, and poor grade.

§ 91.06 BICYCLES, SKATEBOARDS AND IN-LINE SKATES.

(A) Riding on sidewalks and roads and streets. No person shall ride or operate a skateboard, roller skates or in-line skates upon a public sidewalk, road, street or parking lot within an area zoned for business, industry or institutional and office.

(1) However, a person may ride a skateboard, roller skates, in-line skates or a bicycle in these zones on private property, such as parking lots with the permission of the owner of said property.

(2) Whenever any person is riding a bicycle, skateboard, roller skates or in-line skates in areas where permitted, the person shall yield the right-of-way to any pedestrian or motor vehicle and shall refrain from damaging any personal property through such activity.

(3) Any person who roller skates or rides a skateboard or a bicycle on sidewalks or roads where permitted must at all times exercise due care for the safety of other persons using the sidewalks and roads.

(4) This section shall not apply to organized bicycle clubs that ride in a group as a club on the roads, streets, and highways located with the city.

(B) No person shall engage in trick riding or operate any bicycle upon any public street or highway of the city without maintaining full control of such bicycle by keeping both hands upon the handle grips except when necessary to give the required hand signal to change the course of such bicycle.

(C) It shall be unlawful to perform any trick riding or jump maneuver in which one or both wheels of a bicycle shall leave the surface of the public sidewalk, street, or highway of the city.

(D) It shall be unlawful to operate a bicycle at an excessive speed which would endanger the public.

(E) It shall be unlawful to operate a bicycle in a reckless manner or a manner in which the operator of the bicycle would be putting themselves or others in danger.

(F) Penalty. It shall be a violation of this section to ride or operate skateboards, roller skates, in-line skates, bicycles and scooters in violation of this section. Every person convicted of violation of any provision of this section shall be punished by a fine of \$25 to \$500. The parents or legal guardian of any person under the age of 18 who violates the provisions of this section shall be responsible for any fines and costs assessed, including attorney fees.

(Ord. 1493, passed 9-15-08; Am. Ord. 1596, passed 1-20-14)

CHAPTER 92: FIRE PREVENTION

Section

- 92.01 Fire limits defined
- 92.02 Outdoor fires
- 92.03 Storage of combustibles
- 92.04 Adoption of standards by reference
- 92.05 False fire alarms
- 92.06 Fireworks

§ 92.01 FIRE LIMITS DEFINED.

The fire limits of the city shall be all land located within the boundary lines of the city.
(Am. Ord. 1074, passed 12-2-85; Am. Ord. 1523, passed 5-3-10)

§ 92.02 OUTDOOR FIRES.

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

“CLEAN WOOD.” Natural wood which has not been painted, varnished, or coated with a similar material, has not been pressure treated with preservatives and does not contain resins or glues as in plywood or other composite wood products.

“FIRE.” A small outdoor fire intended for recreation. The fire must be properly contained as described below in this division (A) and cannot exceed two feet in height.

“PROPER FIRE RECEPTACLE.” Means, but not limited to, chimeneas, commercially purchased patio wood burning units, patio warmers, or other portable wood burning devices that have grated tops and sides which cover the entire fire and do not exceed 36 inches in diameter. Natural gas and propane burning units do not require grated tops and sides.

“PROPER OFFICIAL.” The Butler Fire Chief, Butler Police Chief, Butler police officer, or any other agent authorized by the city to issue a fire permit or inspect a fire receptacle and sign off on a fire permit, or to issue warnings or citations for violations of this section.

“REFUSE.” Any waste material except clean wood or charcoal.

(B) Patio burning units. Patio burning units may be installed and used in the city only in accordance with all of the following provisions:

- (1) The patio burning unit shall not be used to burn refuse.
- (2) The patio burning unit shall only burn clean wood, charcoal, propane or natural gas.
- (3) The patio burning unit shall be located at least ten feet from any combustible materials.
- (4) The patio burning unit shall not cause a nuisance to neighbors.
- (5) No patio unit shall be allowed to produce a continuous flame over two feet in height.
- (6) All patio wood burning units shall be kept in good condition.

(C) Burning permits.

(1) Any person within the municipality of Butler who wishes to have any type of fire must come to the Clerk-Treasurer’s office and complete an application for a permit.

(2) The application must be filled out in its entirety and a fee of \$15 paid before the location can be inspected for compliance.

(3) After the applicant has paid for and completed the application, they must then either contact the Butler Fire Department or the Butler Police Department to make arrangements for an onsite inspection of the location where they will burn and the receptacle in which the fire will be located.

(a) The Fire Department can be contacted at 868-2044.

(b) The Police Department can be contacted at 868-2171.

(4) Once it has been determined that the applicant’s fire receptacle complies with this section, the inspecting official will sign the permit and the permit holder will then be allowed to have a proper fire at the authorized location in the authorized receptacle. All burning permits expire on December 31 of the year of issue.

(5) If it is found that the proposed fire receptacle will not comply with this section, it will then be the applicant’s responsibility to correct any deficiencies noted and then contact the city official for a reinspection.

(D) Liability. Any person utilizing or maintaining an outdoor fire shall be responsible for all fire suppression costs incurred by the Fire Department if it is necessary to put out the fire and any other liability resulting in damage or injury caused by the fire.

(E) Right of entry and inspection. The Fire Chief, Police Chief, police officer or any other designated agent, employee or representative of the city may inspect any property in the Butler city limits for the purpose of ascertaining compliance with the provisions of this section.

(F) Enforcement penalties.

(1) The Fire Chief, Chief of Police or their authorized representatives are authorized to enforce the provisions of this section.

(2) Any person, firm, association, partnership, corporation or governmental entity who or that violates this section may be subject to the following penalties:

(a) A minimum fine of \$25, not to exceed \$500.

(b) Court costs.

(c) Attorney fees

(3) The City of Butler also reserves the right to revoke a burn permit for any reason.

(G) The application fee shall be deposited into the equipment fund of the department that inspects the location and signs the permit. (Ord. 368, passed 6-4-56; Am. Ord. 1074, passed 12-2-85; Am. Ord. 1184, passed 6-1-92; Am. Ord. 1523, passed 5-3-10)

§ 92.03 STORAGE OF COMBUSTIBLES.

(A) It shall be unlawful for any person, firm, or corporation to store gasoline and all other inflammable fluids above or below ground on premises situated within residential areas of the city.

(B) It shall be unlawful for any person, firm, or corporation to store gasoline or any other inflammable fluids in tanks above or below the ground on premises within the residential areas of the city for industrial or commercial use.

(C) Any person, firm, or corporation who violates any of the provisions of this section shall, on conviction, be fined in any sum not exceeding \$100.

(Ord. 539, passed 5-17-65)

§ 92.04 ADOPTION OF STANDARDS BY REFERENCE.

(A) All of the National Fire Prevention Association Standards, by reference, are hereby made a part of and incorporated into the laws of the city.

(B) The National Fire Prevention Association Standards are the standards to be used by Fire Department personnel in making inspections required by state statutes.

(Ord. 1111, passed 10-5-87)

§ 92.05 FALSE FIRE ALARMS.

(A) Fee imposed. Fees and charges as set forth in the fee schedule in this section may be imposed for reimbursement of services rendered by the Fire Department in the following cases:

(1) For responses made to a fire alarm which occurred as a result of a negligent or intentional act or an alarm caused by improper installation or improper maintenance or for a response to a drill or test of which the Fire Department was not previously notified, the fee shall be imposed against the owner of the property; and

(2) For responses made as a result of repeated false alarms, the fee shall be imposed against the owner of the property or occupant for the false alarm.

(B) Fee schedule. The following fee schedule shall apply:

(1) Initial service charge: \$20 per truck used.

(2) Subsequent service charge for false alarms in the same calendar year: \$250 per truck used.

(C) Fire Chief to administer. The Fire Chief shall make the determination as to when the fees set forth in this section shall be assessed and which individual or individuals shall be responsible for the payment of said fees.

(D) Penalty. Failure to pay fines assessed by the Fire Chief shall be governed by and collected pursuant to the Board of Public

Works and Safety. Any penalties and fines collected for violations of this section shall be credited to the Fire Cost Recovery Fund. Any person who fails to pay the fines and penalties provided for in this section shall be responsible for all fees and expenses incurred in the collection of said fines and penalties, including attorney fees.

(Ord. 1436, passed 2-21-05)

§ 92.06 FIREWORKS.

(A) Definitions. For purposes of this section the following definition shall apply unless the context clearly indicates or requires a different meaning.

“AUTO BURGLAR ALARM.” A tube that contains pyrotechnic composition that produces a loud whistle or smoke when ignited. A small quantity of explosive, not exceeding 50 milligrams, may also be used to produce a small report. A squib is used to ignite the device.

“BOOBY TRAP.” A small tube with string protruding from both ends, similar to a party popper in design. The ends of the string are pulled to ignite the friction sensitive composition, producing a small report.

“CHASER.” A device, containing 50 milligrams or less of explosive composition, that consists of a small paper or cardboard tube that travels along the ground upon ignition. A whistling effect is often produced, and a small noise may be produced.

“CIGARETTE LOAD.” A small wooden peg that has been coated with a small quantity of explosive composition. Upon ignition of a cigarette containing one of the pegs, a small report is produced.

“CONE FOUNTAIN.” A cardboard or heavy paper cone which contains up to 50 grams of pyrotechnic composition, and which produces the same effect as a cylindrical fountain.

“CONSUMER FIREWORK.” A small firework that is designed primarily to produce visible effects by combustion, and that is required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 C.F.R. 1507. The term also includes some small devices designed to produce an audible effect, such as whistling devices, ground devices containing 50 milligrams or less of explosive composition, and aerial devices containing 130 milligrams or less of explosive composition. Propelling or expelling charges consisting of a mixture of charcoal, sulfur, and potassium nitrate are not considered as designed to produce an audible effect. “CONSUMER FIREWORKS”:

(a) Include:

1. Aerial devices, which include sky rockets, missile type rockets, helicopter or aerial spinners, roman candles, mines, and shells;
2. Ground audible devices, which include firecrackers, salutes, and chasers; and
3. firework devices containing combinations of the effects described in clauses divisions (a)1. and 2. of this definition; and

(b) Do not include the items referenced in IC 22-11-14-8(a), as amended.

“CYLINDRICAL FOUNTAIN.” A cylindrical tube not exceeding three-quarters (3/4) inch in inside diameter and containing up to 75 grams of pyrotechnic composition. Fountains produce a shower of color and sparks upon ignition, and sometimes a whistling effect. “CYLINDRICAL FOUNTAINS” may contain a spike to be inserted in the ground (spike fountain), a wooden or plastic base to be placed on the ground (base fountain), OF a wooden handle or cardboard handle for items designed to be hand held (handle fountain).

“DIPPED STICK” or “WIRE SPARKLER.” A stick or wire coated with pyrotechnic composition that produces a shower of sparks upon ignition. Total pyrotechnic composition does not exceed 100 grams per item. Those devices containing chlorate or perchlorate salts do not exceed five grams in total composition per item. Wire sparklers that contain no magnesium and that contain less than 100 grams of composition per item are not included in the category of consumer fireworks.

“DISTRIBUTOR.” A person who sells fireworks to wholesalers and retailers for resale.

“EXPLOSIVE COMPOSITION.” A chemical or mixture of chemicals that produces an audible effect by deflagration or detonation when ignited.

“FIRECRACKER” or “SALUTE.” A device that consists of a small paper wrapped or cardboard tube containing not more than 50 milligrams of pyrotechnic composition and that produces, upon ignition, noise, accompanied by a flash of light.

“FIREWORK.” Any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, items referenced in IC 22-11-14-8(a), as amended, and special fireworks. The following items are excluded from the definition of “FIREWORKS”:

- (a) Model rockets.
- (b) Toy pistol caps.
- (c) Emergency signal flares.
- (d) Matches.
- (e) Fixed ammunition for firearms.
- (f) Ammunition components intended for use in firearms, muzzle loading cannons, or small arms.
- (g) Shells, cartridges, and primers for use in firearms, muzzle loading cannons, or small arms.
- (h) Indoor pyrotechnics special effects material.
- (i) M-80s, cherry bombs, silver salutes, and any device banned by the federal government.

“FLITTER SPARKLER.” A narrow paper tube filled with pyrotechnic composition that produces color and sparks upon ignition. These devices do not use a fuse for ignition, but rather are ignited by igniting the paper at one end of the tube.

“GROUND SPINNER.” A small spinning device that is similar to wheels in design and effect when placed on the ground and ignited, and that produces a shower of sparks and color when spinning.

“HELICOPTER” or “AERIAL SPINNER.” A spinning device:

- (a) That consists of a tube up to one-half (1/2) inch in inside diameter and that contains up to 20 grams of pyrotechnic composition;
- (b) To which some type of propeller or blade device is attached; and
- (c) That lifts into the air upon ignition, producing a visible or audible effect at the height of flight.

“ILLUMINATING TORCH.” A cylindrical tube that:

- (a) Contains up to 100 grams of pyrotechnic composition;
- (b) Produces, upon ignition, a colored fire; and
- (c) Is either a spike, base, or handle type device.

“IMPORTER.”:

- (a) A person who imports fireworks from a foreign country; or
- (b) A person who brings or causes fireworks to be brought within this state for subsequent sale.

“INDOOR PYROTECHNICS SPECIAL EFFECTS MATERIAL.” A chemical material that is clearly labeled by the manufacturer as suitable for indoor use (as provided in National Fire Protection Association Standard 1126 (2001 edition)).

“INTERSTATE WHOLESALER.” A person who is engaged in interstate commerce selling fireworks.

“MANUFACTURER.” A person engaged in the manufacture of fireworks.

“MINE” or “SHELL.” A device that:

- (a) Consists of a heavy cardboard or paper tube up to two and one-half inches in inside diameter, to which a wooden or plastic base is attached;
- (b) Contains up to 40 grams of pyrotechnic composition; and
- (c) Propels, upon ignition, stars (pellets of pressed pyrotechnic composition that burn with bright color), whistles, parachutes, or combinations thereof, with the tube remaining on the ground.

“MISSILE-TYPE ROCKET.” A device that is similar to a sky rocket in size, composition, and effect, and that uses fins rather than a stick for guidance and stability.

“MUNICIPALITY.” Has the meaning set forth in I.C. 36-1-2-11.

“PARTY POPPER.” A small plastic or paper item containing not more than 16 milligrams of explosive composition that is friction sensitive. A string protruding from the device is pulled to ignite it, expelling paper streamers and producing a small report.

“PERSON.” An individual, an association, an organization, a limited liability company, or a corporation.

“PYROTECHNIC COMPOSITION.” A mixture of chemicals that produces a visible or audible effect by combustion rather than deflagration or detonation. “PYROTECHNIC COMPOSITIONS” will not explode upon ignition unless severely confined.

“RESPONDING FIRE DEPARTMENT.” The paid fire department or volunteer fire department that renders fire protection services to a political subdivision.

“RETAIL SALES STAND.” A temporary business site or location where goods are to be sold.

“RETAILER.” A person who purchases fireworks for resale to consumers.

“ROMAN CANDLE.” A device that consists of a heavy paper or cardboard tube not exceeding three-eighths inch in inside diameter and that contains up to 20 grams of pyrotechnic composition. Upon ignition, up to ten stars (pellets of pressed pyrotechnic composition that burn with bright color) are individually expelled at several second intervals.

“SKY ROCKET.” A device that:

(a) consists of a tube that contains pyrotechnic composition;

(b) contains a stick for guidance and stability; and

(c) rises into the air upon ignition, producing a burst of color or noise at the height of flight.

“SMOKE DEVICE.” A tube or sphere containing pyrotechnic composition that produces white or colored smoke upon ignition as the primary effect.

“SNAKE” or “GLOW WORM.” A pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning. The ash expands in length as the pellet burns. These devices do not contain mercuric thiocyanate.

“SNAPPER.” A small, paper wrapped item containing a minute quantity of explosive composition coated on small bits of sand. When dropped, the device explodes, producing a small report.

“SPECIAL DISCHARGE LOCATION.” A location designated for the discharge of consumer fireworks by individuals in accordance with rules adopted under IC 22-11-14-3.5, as amended.

“SPECIAL FIREWORKS.” Fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation, including firecrackers containing more than 130 milligrams of explosive composition, aerial shells containing more than 40 grams of pyrotechnic composition, and other exhibition display items that exceed the limits for classification as consumer fireworks.

“TRICK MATCH.” A kitchen or book match that has been coated with a small quantity of explosive or pyrotechnic composition. Upon ignition of the match, a small report or a shower of sparks is produced.

“TRICK NOISEMAKER.” An item that produces a small report intended to surprise the user.

“WHEEL.” A pyrotechnic device that:

(a) Is attached to a post or tree by means of a nail or string;

(b) Contains up to six driver units (tubes not exceeding one-half inch in inside diameter) containing up to 60 grams of composition per driver unit; and

(c) Revolves, upon ignition, producing a shower of color and sparks and sometimes a whistling effect.

“WHOLESALE.” A person who purchases fireworks for resale to retailers.

(B) Use of consumer fireworks. No person within the corporate boundaries of the city shall use, ignite or discharge or permit to be used, ignited or discharged any type of consumer fireworks on any date or time other than the following:

(1) June 29, June 30, July 1, July 2, July 3, July 5, July 6, July 7, July 8, and July 9 between the hours of 5:00 p.m. and two hours after sunset;

- (2) July 4 between the hours of 10:00 a.m. and midnight;
- (3) Between the hours of 10:00 a.m. on December 31 and 1:00 a.m. on January 1; and
- (4) Between the hours of 10: a.m. and 11:00 p.m. on January 1.

(C) Enforcement. The Police Department shall be charged with enforcing the provisions of this section.

(D) Penalties.

(1) A person who recklessly, knowingly, or intentionally violates this section commits a Class A misdemeanor.

(2) A person who ignites, discharges, or uses consumer fireworks at a site other than:

- (a) A special discharge location;
- (b) The property of the person; or
- (c) The property of another who has given permission to use the consumer fireworks;

commits a Class C infraction. However, if a person recklessly, knowingly, or intentionally takes an action described in this subsection within five years after the person previously took an action described in this subsection, whether or not there has been a judgment that the person committed an infraction in taking the previous action, the person commits a Class C misdemeanor.

(3) A person less than 18 years of age who possesses or uses a firework when an adult is not present and responsible at the location of the possession or use commits a Class C infraction. However, if a person possesses or uses a firework when an adult is not present and responsible at the location of the possession or use within five years after a previous possession or use by the person as described in this subsection, whether or not there has been a judgment that the person committed an infraction in the previous possession or use, the person commits a delinquent act under I.C. 31-37.

(4) A person who ignites, discharges, or uses consumer fireworks:

(a) after 11:00 p.m. except on a holiday (as defined in I.C. 1-1-9-1(a)) or December 31, on which dates consumer fireworks may not be ignited, discharged, or used after midnight; or

(b) Before 9 a.m.;

commits a Class C infraction. Any person, firm or corporation violating the terms of this section commits a Class C infraction and shall be fined in the amount of \$100 for each violation. Violations of this section shall be prosecuted through the City Court.

(5) However, if a person recklessly, knowingly, or intentionally takes an action described in this subsection within five years after the person previously took an action described in this subsection, whether or not there has been a judgment that the person committed an infraction in taking the previous action, the person commits a Class C misdemeanor.

(6) A person who recklessly, knowingly, or intentionally uses consumer fireworks and the violation causes harm to the property of a person commits a Class A misdemeanor.

(Ord. 1495, passed 7-21-08; Am. Ord. 1629, passed 10-3-16)

CHAPTER 93: NUISANCES

Nuisances Generally

- 93.01 Definitions
- 93.02 Nuisances prohibited
- 93.03 Notice to abate nuisance
- 93.04 Action on noncompliance
- 93.05 Lien
- 93.06 Recordation of lien
- 93.07 Alternatives to liens

Junk Cars

- 93.10 Definition
- 93.11 Declared a nuisance
- 93.12 Removal

Abandoned Vehicles

- 93.15 Purpose
- 93.16 Definitions
- 93.17 Exceptions
- 93.18 Responsibility of owner
- 93.19 Vehicles in possession of person other than owner
- 93.20 Complaint of property owner
- 93.21 Removal of abandoned vehicles
- 93.22 Disposal of abandoned vehicles
- 93.23 Maximum towing and storage charges
- 93.24 Towing contracts
- 93.25 Liability for loss or damage
- 93.26 Costs charged to abandoned vehicle account

Junkyards

- 93.30 Junkyards prohibited

- 93.99 Penalty

§ 93.01 DEFINITIONS.

For the purpose of §§ 93.01 through 93.07 the following definitions shall apply unless the context clearly indicates or requires a different meaning.

“CODE ENFORCEMENT OFFICER.” An employee, Police Officer, City Planner, Clerk-Treasurer, City Attorney, or Superintendent of Utilities, Superintendent of Streets, Public Works Manager, or Code Enforcement Officer of the city, or their designee who serves or posts any notice authorized by this subchapter.

“NUISANCE.” Any person doing an unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition, or thing either:

- (1) Injures or endangers the comfort, repose, health, or safety of others;
- (2) Offends decency;
- (3) Is offensive to the senses;
- (4) Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch, or drainage;
- (5) In any way renders other persons insecure in life or the use of property; or
- (6) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

“WEEDS, GRASS, OR RANK VEGETATION.” Any vegetation whatsoever, including grass, which is allowed to exist, grow, or accumulate without being cut or maintained which constitutes a health hazard or a public nuisance. These terms are interchangeable.

(Ord. 883, passed 9-5-78; Am. Ord. 1073, passed 12-2-85; Am. Ord. 1395, passed 9-16-02; Am. Ord. 1490, passed 5-5-08; Am. Ord. 1663, passed 4-2-18)

§ 93.02 NUISANCES PROHIBITED.

(A) (1) The maintaining, using, placing, depositing, leaving, or permitting to be or remain on any public or private property of any of the following items, conditions, or actions, are hereby declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting, or restrictive:

- (a) Noxious weeds and other rank vegetation;
- (b) Accumulation of rubbish, trash, refuse, junk, and other abandoned materials, metals, lumber, or other things;
- (c) Any condition which provides harborage for rats, mice, snakes, insects, and other vermin;
- (d) Any building or other structure which is in such dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, serves as an attractive nuisance, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located;
- (e) All unnecessary or unauthorized noises and annoying vibrations, including man-made and animal noises;

- (f) All disagreeable obnoxious odors or stenches, as well as the conditions, substances, or other causes which give rise to the emission or generation of such odors or stenches;
- (g) The carcasses of animals or fowl not disposed of within a reasonable time after death;
- (h) The pollution of any public well, public infrastructure, stream, lake, canal, or body of water by sewage, dead animals, creamery, industrial wastes, or other substances;
- (i) Any building, structure, or other place or location where any activity which is in violation of local, state, or federal law is conducted, performed, or maintained;
- (j) Any accumulation of stagnant water maintained on any lot or piece of ground;
- (k) Dense smoke, noxious fumes, gas, soot, or cinders, in unreasonable quantities; and/or
- (l) Any grass or weeds obtaining the height of nine inches or more.

(2) No owner or occupant of any property, their agent, and tenant, or contract purchaser, shall permit any of the above-described conditions on their real estate at any time. Said conditions are deemed a public nuisance and are subject to the provisions of this subchapter. The owner or occupant are jointly liable for the condition of the property.

(B) The City Council hereby specifically adopts the provisions of IC 36-7-10.1-1 through 36-7-10.1-5, and any amendments thereto.

(Ord. 883, passed 9-5-78; Am. Ord. 1073, passed 12-2-85; Am. Ord. 1160, passed 7-16-90; Am. Ord. 1395, passed 9-16-02; Am. Ord. 1490, passed 5-5-08; Am. Ord. 1663, passed 4-2-18)

§ 93.03 NOTICE TO ABATE NUISANCE.

(A) In the event any property owner, tenant, or contract purchaser resides at, occupies or owns a place containing any of the conditions described in § 93.02(A), the Clerk-Treasurer, a Butler Police Officer, the City Planner, the City Attorney, the City Superintendent, or other designated employee or official of the city, shall notify, in writing, the owner or occupant of any such lot, place, or area within the city, or the agent of the owner, to abate such conditions located on the owner's property or on the sidewalk abutting these areas. Such notice shall be sent by certified mail, return receipt requested, addressed to the owner, occupant, or agent of the owner, at the last known address of the owner as shown by the records in the Courthouse of DeKalb County or at the address of the property in question. Such notice may also be posted in the yard or be personally served by an official of the city. If the notice is personally served, the person serving the notice shall prepare and file with the city a return of service showing the date notice was served, who it was served on, and signed by the person who served the notice. In the event the owner or occupant of the real estate shall refuse to accept the certified mail sent by the city, notice shall be given as provided in Rule 4.1 of the Indiana Trial Rules.

(B) In the event any property within the city limits contains a nuisance, the police, or any other city employee or official, shall notify the owner, tenant, or resident as the case may be, that they are in violation of the city ordinances and that they have seven days to remove the nuisance from the real estate.

(Ord. 883, passed 9-5-78; Am. Ord. 1073, passed 12-2-85; Am. Ord. 1160, passed 7-16-90; Am. Ord. 1309, passed 4-20-98; Am. Ord. 1395, passed 9-16-02; Am. Ord. 1490, passed 5-5-08; Am. Ord. 1568, passed 6-4-12; Am. Ord. 1663, passed 4-2-18)

§ 93.04 ACTION ON NONCOMPLIANCE.

(A) On the failure, neglect, or refusal of any owner or agent so notified to remove a nuisance growing, lying or located on such property or on the sidewalk abutting these areas within seven days after the giving of notice to the property owner or occupant as provided herein, the city may proceed to enforce the provisions of §§ 93.01 through 93.07 as provided in division (B) and §§ 93.05 through 93.07.

(B) In the event city employees are used to enforce this chapter, the hourly rate shall be \$100 per hour per employee for the first violation and said rate shall increase by \$50 per hour per employee for subsequent violations. In addition to the hourly rate, all costs involved with the disposal of any material removed from the property shall be assessed to the property owner. This hourly rate shall be adjusted from time to time by the City Council by resolution in order to be assured that the costs of such cutting, removal or destroying are completely paid for by the landowner, and not the taxpayer.

(Ord. 883, passed 9-5-78; Am. Ord. 1160, passed 7-16-90; Am. Ord. 1169, passed 5-20-91; Am. Ord. 1395, passed 9-16-02; Am. Ord. 1490, passed 5-5-08; Am. Ord. 1663, passed 4-2-18)

§ 93.05 LIEN.

When the city has effected the removal of such obnoxious growths or noxious matter, and has not been paid the actual costs thereof, at the rate specified in § 93.04, plus accrued interest at the rate of 8% per annum from the date of the completion of the work, such cost shall be charged to the owner of such property on the next regular tax bill forwarded to such owner by the county. This charge shall be due and payable by the owner at the time of payment of the tax bill.

(Ord. 883, passed 9-5-78; Am. Ord. 1395, passed 9-16-02; Am. Ord. 1490, passed 5-5-08)

§ 93.06 RECORDATION OF LIEN.

If the landowner fails to remove a nuisance within the time prescribed, the city may remove the nuisance. The Clerk-Treasurer must make a certified statement of the actual cost incurred by the city in the removal using the rates contained in § 93.04. The statement must be delivered to the owner of the property by a law enforcement officer of the city or by certified mail, return receipt requested, and the owner shall pay the amount to the Clerk-Treasurer. If the landowner fails to pay the amount within ten days after receiving the statement, a certified copy of the statement of costs shall be filed in the office of the Auditor of DeKalb County. The Auditor shall place the amount claimed on the tax duplicate against the property affected by the work, and the amount shall be collected as taxes are collected and shall be disbursed to the general fund of the city, all as provided by IC 36-7-10.1-1 through 36-7-10.1-5. In the event legal action is necessary to collect the lien or enforce the terms of §§ 93.01 through 93.07, the city shall be entitled to recover attorney fees and costs.

(Ord. 883, passed 9-5-78; Am. Ord. 1073, passed 12-2-85; Am. Ord. 1395, passed 9-16-02; Am. Ord. 1490, passed 5-5-08; Am. Ord. 1663, passed 4-2-18)

§ 93.07 ALTERNATIVES TO LIENS.

(A) In lieu of filing a lien as set out in §§ 93.05 and 93.06, the city may bring an action in City Court or any other court of concurrent jurisdiction, provided the defendant was notified pursuant to § 93.03. Said action may be brought on a uniform traffic ticket (UTT) alleging a violation of §§ 93.01 through 93.07. Any person notified pursuant to § 93.03 who fails or refuses to act as

directed therein shall, upon conviction, be fined \$25 for each day after the expiration of seven days, plus costs and attorney fees.

(B) Each day after the seven-day period expires shall constitute a separate offense. A new UTT need not be issued each and every day in order for each day to constitute a separate violation. Evidence may be presented to the court concerning the condition of the property from the date the UTT was issued until the date the hearing is held.

(C) The court shall determine the number of days said property is in violation. Any action brought pursuant to this section shall prohibit a lien being filed as set out herein for the same acts alleged in the complaint (UTT) by the city pursuant to this section. However, in lieu of the issuance of notices of violation of this subchapter, the city may file a suit for injunction against the offender seeking an injunction to prohibit such activity and to comply with the provisions of this subchapter. The suit may seek fines as provided for herein. Further, the city shall be entitled to recover all costs and expenses including attorney fees if the defendant is found to be in violation of the provisions of this subchapter.

(Ord. 883, passed 9-5-78; Am. Ord. 1309, passed 4-20-98; Am. Ord. 1395, passed 9-16-02; Am. Ord. 1490, passed 5-5-08; Am. Ord. 1663, passed 4-2-18)

JUNK CARS

§ 93.10 DEFINITION.

For the purpose of §§ 93.10 through 93.12 the following definition shall apply unless the context clearly indicates or requires a different meaning.

"JUNK CAR." A car which:

- (1) Is inoperative or unsafe for highway travel, or
 - (2) Is partially dismantled, or
 - (3) Does not bear a currently valid license plate, and is not housed or stored in a garage or within any other building on the premises.
 - (4) Is located in an area not properly zoned for the storage of automobiles.
- (Ord. 538, passed 5-17-65; Am. Ord. 1214, passed 1-17-94)

§ 93.11 DECLARED A NUISANCE.

Because of the danger to health from vermin and insects and to children attracted by such cars, junk cars are declared to be a nuisance except in lawfully operated junkyards or yards lawfully operated for vehicles awaiting permission for junking from the Bureau of Motor Vehicles or in areas properly zoned for the storage, maintenance or repair of automobiles.

(Ord. 538, passed 5-17-65; Am. Ord. 1214, passed 1-17-94)

§ 93.12 REMOVAL.

(A) Any member of the Police Department or the County Health Department may order any junk car removed within ten days.

(B) Notice of such order shall be placed on the junk car. Copies of such notice shall be served on any adult occupying the real estate on which the junk car is located and on the owner of the junk car, if known. If no occupant of the real estate or owner of the junk car can be found, a notice affixed to any building on the real estate shall constitute notice to the owner and occupant of the real estate and to the owner of the junk car. If there is no building on the real estate, the notice shall be affixed elsewhere on the real estate.

(C) If the junk car is not removed within the time fixed, the Police Department or Health Department may cause the motor vehicle to be removed at the expense of the owner of the real estate, which expense shall constitute a lien on the real estate.

(D) If the order is not obeyed within the time fixed, the owner of the junk car and the occupant and owner of the real estate on which it is located shall each, on conviction, be subject to a penalty of \$50. Each day on which the junk car is permitted to remain on the real estate after the time fixed in said order shall constitute a separate offense.

(Ord. 538, passed 5-17-65)

ABANDONED VEHICLES

§ 93.15 PURPOSE.

The Common Council finds that abandoned vehicles are a public nuisance and a safety and health hazard. The Police Department is given the responsibility for removal, storage, and disposal of abandoned vehicles.

(IC 9-22-1)

§ 93.16 DEFINITIONS.

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

"ABANDONED VEHICLE."

- (1) A vehicle located on public property illegally.
- (2) A vehicle left on public property without being moved for three days.
- (3) A vehicle located on public property in such a manner as to constitute a hazard or obstruction to the movement of pedestrian or vehicle traffic on a public right-of-way.
- (4) A vehicle that has remained on private property without the consent of the owner or person in control of that property for more than 48 hours.
- (5) A vehicle from which the engine, transmission, or differential has been removed or that is otherwise partially dismantled or inoperable and left on public property.
- (6) A vehicle that has been removed by a towing service or a public agency upon request of an officer enforcing a statute or ordinance other than this chapter, if the impounded vehicle is

not claimed or redeemed by the owner or the owner's agent within 20 days after the vehicle's removal.

(7) A vehicle that is at least three model years old, mechanically inoperable, and is left on private property continuously in a location visible from public property for more than 20 days.

"AUTHORIZED TOWING SERVICE." A business that engages in moving or removing disabled vehicles, and, once removed, storing or impounding vehicles; and that has been requested by the Bedford Police Department to tow vehicles.

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

"BUREAU." The Bureau of Motor Vehicles.

"FISCAL BODY." The Common Council.

"OFFICER." A regular member of the City Police Department.

"OWNER." The last known record titleholder of a vehicle, according to the records of the bureau under IC 9-17.

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

"PRIVATE PROPERTY." All property other than public property.

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

"VEHICLE." An automobile, motorcycle, truck, trailer, semi-trailer, tractor, bus, school bus, recreational vehicle, or motorized bicycle.

(IC 9-13-2)

§ 93.17 EXCEPTIONS.

This subchapter does not apply to:

(A) A vehicle in operable condition specifically adapted or constructed for operation on privately owned raceways.

(B) A vehicle stored as the property of a member of the armed forces of the United States who is on active duty assignment.

(C) A vehicle located on a vehicle sale lot.

(D) A vehicle located upon property licensed or zoned as an automobile scrapyard.

(E) A vehicle registered and licensed under IC 9-18-12 as an antique vehicle.

(F) A golf cart.

(G) An off-road vehicle.

(IC 9-22-1-1)

§ 93.18 RESPONSIBILITY OF OWNER.

(A) Except as provided in division (C) below, the owner of an abandoned vehicle or parts is:

(1) Responsible for the abandonment; and

(2) Liable for all of the costs incidental to the removal, storage, and disposal of the vehicle or the parts.

(B) The costs for storage of an abandoned vehicle may not exceed \$2,000.

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

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

(IC 9-22-1-4)

§ 93.19 VEHICLES IN POSSESSION OF PERSON OTHER THAN OWNER.

(A) When an officer discovers a vehicle in the possession of a person other than the owner and the person cannot establish his right to the possession of that vehicle, the vehicle shall be taken to and stored in a suitable place determined by the officer. The Bureau shall be notified within 72 hours of the location and description of the vehicle. Upon receipt of notification, the Bureau shall cause a search to be made to determine and notify the owner. (IC 9-22-1-5)

(B) If:

(1) The owner or lienholder under IC 9-22-1-8 does not appear and pay all costs; or

(2) The person who owns a vehicle cannot be determined by a search conducted under IC 9-22-1-19;

the vehicle shall be considered abandoned and must be disposed of under this subchapter. (IC 9-22-1-7)

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

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

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

1. Cash;
2. Certified check;
3. Insurance check; and
4. Money order.

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

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

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

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

(a) The name and address of:

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

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

(b) The signature of the individual to whom the vehicle was released;

(c) A description of the vehicle or parts;

(d) Costs paid; and

(e) The date of release.

(IC 9-22-1-8)

(D) If the vehicle is not released to the owner or lienholder, the Bureau shall declare the vehicle abandoned and provide for disposal in accordance with this subchapter.

§ 93.20 COMPLAINT OF PROPERTY OWNER.

Upon complaint of a private property owner or person in control of the property that a vehicle has been left on the property for 48 hours or more without the consent of the owner or person in control, an officer shall follow the procedures set forth in IC 9-22-1-11 - 9-22-1-14.

(IC 9-22-1-18)

§ 93.21 REMOVAL OF ABANDONED VEHICLES.

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

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

(2) That the vehicle or parts are considered abandoned.

(3) That the vehicle or parts will be removed after:

(a) 36 hours, if the vehicle is located on or within the right-of-way of an interstate highway or any highway that is designed as part of the state highway system under IC 8-23-4; or

(b) 72 hours, for any other vehicle.

(4) That the owner will be held responsible for all costs incidental to the removal, storage, and disposal of the vehicle.

(5) That the owner may avoid costs by removal of the vehicle or parts within:

(a) 36 hours, if the vehicle is located on or within the right-of-way of an interstate highway or any highway that is designed as part of the state highway system under IC 8-23-4; or

(b) 72 hours, for any other vehicle.

(IC 9-22-1-11)

(B) If the tagged vehicle or parts are not removed within the applicable period, the officer shall prepare a written abandoned vehicle report of the vehicle or parts including information on the condition and missing parts. Photographs may be taken to describe the condition of the vehicle or parts. (IC 9-22-1-12)

(C) (1) If the vehicle is a junk vehicle and the market value of an abandoned vehicle or parts is less than:

(a) One thousand dollars; or

(b) If the city has adopted an ordinance under division (2) below, the amount established by the ordinance;

the towing service shall immediately transfer the vehicle to a storage yard. A copy of the abandoned vehicle report and photographs, if applicable, relating to the abandoned vehicle shall be provided to the storage yard. A towing service or storage yard may dispose of an abandoned vehicle not less than 30 days after the date on which the towing service removed the abandoned vehicle. A city, county, or town that operates a storage yard under IC 36-9-30-3 may dispose of an abandoned vehicle to an automobile scrapyard or an automotive salvage recycler upon removal of the abandoned vehicle. The public agency or storage yard disposing of the vehicle shall retain the original records and photographs for at least two years. If the vehicle is demolished, a copy of the abandoned vehicle report shall be forwarded to the Bureau by the automobile scrap yard after the vehicle has been demolished.

(2) The Common Council may adopt an ordinance that establishes the market value below which an officer may dispose of a vehicle or parts under division (1). However, the market value established by the ordinance may not be more than \$750.

(3) When the Bureau receives the report described in division (1), the Bureau shall note the status of the vehicle in the records of the Bureau.

(IC 9-22-1-13)

(D) If, in the opinion of the officer, the market value of the abandoned vehicle or parts is at least:

(1) One thousand dollars; or

(2) If the city has adopted an ordinance under division (C)(2), the amount established by the ordinance;

the officer, before placing a notice tag on the vehicle or parts, shall make a reasonable effort to ascertain the person who owns the vehicle or who may be in control of the vehicle or parts. After 72 hours, the officer shall require the vehicle or parts to be towed to a storage yard or towing service.

(IC 9-22-1-14)

§ 93.22 DISPOSAL OF ABANDONED VEHICLES.

(A) Within three business days after removal of a vehicle to a storage yard or towing service under this subchapter or IC 9-22-6, the public agency or towing service shall conduct a search of the National Motor Vehicle Title Information System or an equivalent and commonly available data base, to attempt to obtain the last state of record of the vehicle in order to attempt to ascertain the name and address of the person who owns or holds a lien on the vehicle.

(B) A public agency or towing service that obtains the name and address of the owner of or lienholder on a vehicle shall, not later than three business days after obtaining the name and address, notify the person who owns or holds a lien on the vehicle of the following:

- (1) The name, address, and telephone number of the public agency or towing service;
- (2) That storage charges are being accrued and the vehicle is subject to sale if the vehicle is not claimed and the charges are not paid; and
- (3) The earliest possible date and location of the public sale or auction.

The notice must be made by certified mail or a certificate of mailing or by means of an electronic service approved by the Bureau. Notwithstanding § 93.18, a public agency or towing service that fails to notify the owner of or lienholder on the vehicle as set forth in this division (B) may not collect additional storage costs incurred after the date of receipt of the name and address obtained.

(IC 9-22-1-19)

(C) The Bureau shall dispose of the vehicle in accordance with IC 9-22-1-23.

§ 93.23 MAXIMUM TOWING AND STORAGE CHARGES.

The maximum amount that an authorized towing service may charge for towing or removing a vehicle, under this subchapter shall not exceed the amount set forth by the City Council, except where special equipment is required. The maximum amount that may be charged for storage shall not exceed the amount set forth by the City Council.

§ 93.24 TOWING CONTRACTS.

In order to facilitate the removal of abandoned vehicles or parts, the Police Department may employ personnel and acquire equipment, property, and facilities, and enter into towing contracts as necessary for the purpose of removal, storage, and disposition of abandoned vehicles and parts. The fiscal body may establish, by ordinance, procedures to accomplish the purposes of this section.

(IC 9-22-1-31)

§ 93.25 LIABILITY FOR LOSS OR DAMAGE.

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

- (A) A person who owns, leases, or occupies property from which an abandoned vehicle or parts are removed;
- (B) A public agency;
- (C) A towing service;
- (D) An automobile scrapyard; or
- (E) A storage yard.

(IC 9-22-1-32)

§ 93.26 COSTS CHARGED TO ABANDONED VEHICLE ACCOUNT.

The costs for removal and storage of an abandoned vehicle or parts not claimed by the owner or lienholder shall be paid from the abandoned vehicle account. The charge payable by the owner or lienholder for towing, storing, or removing an abandoned vehicle or parts may not exceed the limits established by ordinance adopted in IC 9-22-1-30.

(IC 9-22-1-25)

JUNKYARDS

§ 93.30 JUNKYARDS PROHIBITED.

(A) It shall be unlawful for any person, firm, or corporation to have, own, maintain or operate any yard, building, or establishment used for the purpose of wrecking, junking, or dismantling secondhand automobiles, trucks, or motor vehicles within the corporate limits of the city.

(B) Any person, firm, or corporation violating any of the provisions of this section shall, on conviction, be fined in a sum not exceeding \$500. Each day during which said person, firm, or corporation violates any of the provisions of this section shall be and constitute a separate offense.

(Ord. 245, passed 3-20-39)

§ 93.99 PENALTY.

- (A) Any violation of §§ 93.01 through 93.07 is deemed to be a public nuisance.
- (B) Every violation of §§ 93.01 and 93.02 shall be fined \$50 per day.
- (C) Each and every day a violation of any of the provisions of this chapter is committed or is permitted to continue shall constitute a separate offense and shall be punishable as such. All fines and penalties shall be governed by and collected pursuant to the provisions of this code.

(D) Any person who fails to pay the fines and penalties provided for in this section shall be responsible for all fees and expenses incurred in the collection of said fines, including attorney and court fees.

(Ord. 1663, passed 4-2-18)

CHAPTER 94: PARKS AND RECREATION; CEMETERY

Section

Parks and Recreation

- 94.01 Definitions
- 94.02 Motor vehicle regulations
- 94.03 Prohibited acts
- 94.04 Hours for public parks and cemetery
- 94.05 Dances to be operated through Board of Public Works
- 94.06 Park Authority; Recreation Board
- 94.07 South Side Park Fund
- 94.08 Park pavilion rental rates and fees

Cemetery

- 94.10 Permit required
- 94.11 (Reserved)
- 94.12 Duties of Sexton
- 94.13 Lot lines
- 94.14 Monuments
- 94.15 Shrubbery
- 94.16 Urns
- 94.17 Casket construction
- 94.18 Decorations
- 94.19 Lot sales
- 94.20 Compliance with state law
- 94.21 Cemetery Trust Fund

- 94.99 Penalty

PARKS AND RECREATION

§ 94.01 DEFINITIONS.

For the purpose of §§ 94.01 through 94.03 the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"MOTOR VEHICLES." Any vehicle including on-road and off-road vehicles such as automobiles, trucks, recreational vehicles such as four-wheel drive vehicles, motorcycles, snowmobiles, or power-driven bicycles which are primarily or secondarily propelled by a motor or engine of any kind.

"PARK" or "PUBLIC LANDS." Any property owned by the city or any of its agencies or subdivisions. Testimony of any police officer or other qualified city employee or official shall create a presumption of city ownership of said property. The court may also take judicial notice of city ownership of said property.

"ROAD." An area designed and designated for the use of an automobile by the city. No tracks, path, or other ways created by a person or other means shall constitute a "ROAD" in the meaning of §§ 94.01 through 94.03.

(Ord. 884, passed 9-18-78)

§ 94.02 MOTOR VEHICLE REGULATIONS.

(A) No person in a park or on public lands belonging to the city shall:

(1) Fail to comply with all applicable provisions of the state motor vehicle traffic laws in regard to equipment and operation of a vehicle, together with such regulations as are contained in this and other ordinances.

(2) Operate a motor vehicle on the public lands and parks of the city except where there is a road.

(3) Operate a motor vehicle on any road located on the public lands or parks of the city unless:

(a) The operator has a valid Indiana driver's license.

(b) The operation occurs during such times as the park or public lands are open to the public. Said hours of operation shall be determined by the Board of Public Works and Safety or any other designated agency of the city. Operation of a motor vehicle in the park or public lands of the city after said parks are closed to the public for the day shall be deemed a violation of this section.

(B) No person shall ride, drive, or operate a motor vehicle in the parks or public lands of the city at a speed in excess of 15 m.p.h.

(C) A violation of this section shall be punishable by a fine of not less than \$25 nor more than \$500, plus court costs. The fine may not be suspended. In addition, any person convicted of any provision of this section shall pay for any damage done to city property. Said damage shall include the costs of time, labor, equipment, and materials needed to repair such damage.

(Ord. 884, passed 9-18-78)

§ 94.03 PROHIBITED ACTS.

It shall be unlawful for any person, firm, or corporation using parks to perform or permit to be performed any of the following acts:

(A) Willfully mark, deface, disfigure, injure, tamper with, displace, or remove any building, bridge, table, bench, fireplace, railing, paving, paving material, waterline or other public utility or part or appurtenance thereof; sign, notice, placard, whether temporary or permanent; monument, stake, post, or other boundary marker; tree, bush, shrub, flower, grass, plant, or any other landscaping of any kind or character; or other structure, equipment, facility, park property, or appurtenance whatsoever, either real or personal.

(B) Throw, discard, or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream, or other body of water in or adjacent to any park or any tributary, stream, storm sewer, or drain flowing into such water, any substance, matter, or thing, liquid or solid, which will or may result in the pollution of said waters.

(C) Bring in or dump, deposit, or leave any bottles, broken glass, ashes, boxes, cans, dirt, rubbish, waste, garbage, refuse, or other trash. No such refuse or trash shall be placed in any waters in or contiguous to any park or left anywhere on the grounds thereof, but shall be placed in receptacles where these are provided. Where receptacles are not provided, all rubbish or waste shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.

(D) Disturb the peace or use any profane, obscene, or blasphemous language, or engage in rude, obscene, or indecent actions or conduct.

(E) Endanger the safety of any person by any conduct or act.

(F) Carry, possess, or drink any alcoholic liquor in any park, except by special permission of the Board of Public Works and Safety.

(G) Violate any rule for the use of the park, made or approved by the Board of Public Works and Safety.

(H) Prevent any person from using any park, or any of its facilities, or interfere with such use in the compliance with this ordinance and the rules applicable to such use.

(I) Swim, bathe, or wade in any water or waterways in or adjacent to any park, except in such waters and at such places as are provided therefor, and in compliance with such regulations as herein set forth or may be thereafter adopted.

(J) It shall be unlawful to bring any dangerous animal into any park, and it shall be unlawful to permit any dog to be in any park unless such dog is on a leash not more than six feet long. The Park Superintendent or Police Department or other city official is authorized to take up and impound any animal found in violation of this section.

(Ord. 884, passed 9-18-78)

§ 94.04 HOURS FOR PUBLIC PARKS AND CEMETERY.

(A) All public parks in the city, the City of Butler Cemetery and the Butler Memorial Gardens shall be closed from dusk to dawn.

(B) These restrictions shall not apply to an officially-sponsored activity, such as a little league baseball game or a girls' softball game, which may last beyond the hours of closing. In such

events, the park involved shall be closed as soon as reasonably possible after the activity has ended.

(C) The basketball court located on South Broadway shall close at 10:00 p.m. and reopen at dawn.

(Ord. 1102, passed 8-3-87; Am. Ord. 1628, passed 9-6-16) Penalty, see § 94.99

§ 94.05 DANCES TO BE OPERATED THROUGH BOARD OF PUBLIC WORKS.

The city hereby authorizes the Board of Public Works to have summertime dances to be scheduled, operated and supervised by the Board of Public Works pursuant to the powers of spelled out IC 36-10-2-2, which allows for a unit to establish, aid, maintain, and operate public parks, playgrounds, and recreation facilities and programs, and IC 36-10-2-4, which further allows the unit to establish community service facilities and programs.

(Ord. 1139, passed 7-3-89)

§ 94.06 PARK AUTHORITY; RECREATION BOARD.

(A) Pursuant to the powers enumerated in IC 36-10-5-2 the city hereby creates and establishes a Park Authority as defined in IC 36-10-5-2(b). As used in this section, "PARK AUTHORITY" means the municipal legislative body.

(B) Said statute authorizes the Park Authority to establish a Recreation Board. Pursuant to said authority, the Park Authority hereby creates a Recreation Board. The Recreation Board shall consist of five resident freeholders to be appointed by the city executive. At least one member of the Recreation Board must be a member of the governing body of the DeKalb County Eastern Community School District Corporation. No member of the Recreation Board may also be a member of the City Council. All members appointed to the Recreation Board must be qualified by an interest in and knowledge of the educational values of recreation. All members shall serve without compensation. Members shall be appointed for four-year terms, from January 1 of the year of their appointment until their successors are appointed. The initial terms of the Board members, however, are as follows:

- (1) One for a term of one year;
- (2) One for a term of two years;
- (3) One for a term of three years;
- (4) Two for terms of four years.

Any vacancy shall be filled by the appointing authority for the remainder of any unexpired term of any member.

(C) The Park Authority shall manage all public parks, including approaches, that belong to the city.

(D) The city, the Park Authority and the Recreation Board shall have all powers and limitations enumerated in IC 36-10-5-2, as amended from time to time. Any amendments to said code section are hereby incorporated by reference under the terms of this section, as said amendments shall be promulgated. Any conflict between the provisions of this section and IC 36-10-5-2 shall be controlled by the statute.

(Ord. 1251, passed 1-15-96)

§ 94.07 SOUTH SIDE PARK FUND.

There is hereby created the South Side Park Fund, Fund No. 707, in which all sums donated or received by the city for South Side Park shall be deposited.

(Res. 03-358, passed 1-20-03)

§ 94.08 PARK PAVILION RENTAL RATES AND FEES.

(A) (1) The following rates and fees shall be charged for renting a park pavilion:
Rental Rates Per Event

	<i>Resident</i>	<i>Non-Resident</i>	<i>Business</i>
South Side Park	\$25	\$50	\$100
Maxton Park Pavilion 1	\$25	\$50	\$100
Maxton Park Pavilion 2	\$15	\$30	\$60

(2) Fees do NOT include sales tax.

(3) A resident is anyone living within the city limits.

(4) All rentals must be paid in full prior to the rental date, or within 14 days after the reservation is placed - whichever date comes first. If payment is not received within this time frame, the reserved date will be released. A \$27.50 service charge will be assessed on all returned checks. Please make checks payable to "City of Butler". This agreement is not transferable. Cancellations made seven days or more in advance will receive a full refund.

(5) A deposit of \$50 is also required. The deposit is fully refundable if all rules and expectations are followed and met. Deposits can only be refunded on the Tuesdays following the Council meetings, which are on the first and third Mondays of each month.

(6) The Board of Works reserves the right to waive all fees for non-profit groups wishing to use the building.

(B) The following rates and fees be charged for renting the Thompson Block Building:

	<i>Weekday Rates (Monday-Thursday)</i>	<i>Weekend Rates (Friday-Sunday and Holidays)</i>
City of Butler residents	\$20 per event	\$20/hour \$100/day
Non-residents	\$50 per event	\$50/hour \$250/day
Businesses	\$ 100 per event	\$100/hour \$500/day

(1) Fees do NOT include sales tax.

(2) A resident is anyone living within the city limits.

(3) All rentals must be paid in full prior to the rental date, or within 14 days after the reservation is placed - whichever date comes first. If payment is not received within this time frame, the reserved date will be released. A \$27.50 service charge will be assessed on all returned checks. Please make checks payable to "City of Butler". This agreement is not transferable. Cancellations made seven days or more in advance will receive a full refund.

(4) A deposit of \$100 is also required. The deposit is fully refundable if all rules and expectations are followed and met. Deposits can only be refunded on the Tuesdays following the Council meetings, which are on the first and third Mondays of each month.

(5) The Board of Works reserves the right to waive all fees for non-profit groups wishing to use the building.

(C) The above rates and fees are charged to anyone making a reservation after January 1, 2018.

(Ord. 1653, passed 12-4-17)

CEMETERY

§ 94.10 PERMIT REQUIRED.

Before any person is buried in the Butler Cemetery, the funeral director shall obtain a permit from the office of the Clerk-Treasurer, and the permit delivered over to the Sexton of the Butler Cemetery prior to any burial.

(Res. 180, passed 4-15-74)

§ 94.11 (RESERVED).

§ 94.12 DUTIES OF SEXTON.

All graves shall be opened, closed, leveled, sodded, and cared for by or under the direction of the Sexton. All work, repair, and erection of buildings, monuments, bases, and base extensions shall also be under his supervision.

(Res. 179, passed 4-1-74)

§ 94.13 LOT LINES.

No lot line shall be defined by any fence, hedge, plants, shrubs, stones, or curbing of any kind, and no seats, benches, or trellises will be allowed on any lot.

(Res. 179, passed 4-1-74)

§ 94.14 MONUMENTS.

No monument, mausoleum, or other building shall be over 42 inches high unless approval is given by the City Council. Infant monuments in Babyland or that portion of the Cemetery set aside for burial of infants shall not exceed 8 inches in width, 16 inches in length, and 7-1/2 inches in height. Foundations for monuments shall extend three feet below the surface of the ground, be finished level with the ground, and shall be six inches wider than the monument on all sides.

(Res. 179, passed 4-1-74)

§ 94.15 SHRUBBERY.

Shrubbery, flowers, plants, or trees shall not be planted on any grave or lot.

(Res. 179, passed 4-1-74)

§ 94.16 URNS.

Urns and containers will be permitted in line with the monument on bases built for them. Base extensions shall be at least 12 inches long or to the lot line. Cut flowers will be permitted at any time in containers which stand alone in line with monuments.

(Res. 179, passed 4-1-74)

§ 94.17 CASKET CONSTRUCTION.

All caskets for burial in the Cemetery shall be enclosed within a metal or cement vault at the time of the interment.

(Ord. 462, passed 3-5-62)

§ 94.18 DECORATIONS.

(A) Artificial flowers, permanent sprays, toys, cases, boxes, globes, shells, jugs, buckets, wire baskets, tripods, or any other types of decorations shall not be placed on lots, graves, gravestones, or any other types of monuments except on Easter, Mother's Day, Father's Day, Memorial Day, and Christmas. The above restrictions are waived for a period of ten days before and ten days after these holidays. After this period of time, any vase or decoration may be removed and disposed of by the Sexton.

(B) In any event all decorations will be removed by the Sexton before March 1 of each calendar year.

(Res. 179, passed 4-1-74; Am. Ord. 1054, passed 5-21-84)

§ 94.19 LOT SALES.

(A) All lots are sold under perpetual care. Perpetual care includes cutting the grass at reasonable intervals, filling sunken graves, and such other work as may be necessary to keep lots in good and neat condition.

(B) The Clerk-Treasurer is authorized to execute deeds of conveyance to purchasers of lots on receipt of the price, securing the grounds to them and their families and heirs for a burial place forever, subject to such rules and regulations as are now in force or may be hereafter adopted for the government of the Cemetery.

(C) The city will take reasonable precaution to protect the property of lot and grave owners, but it disclaims liability for loss or damage beyond reasonable control, such as thieves, vandals, rioter, and all acts of God, such as wind, tornado, hail, and frost, whether the damage is direct or indirect.

(Res. 179, passed 4-1-74)

§ 94.20 COMPLIANCE WITH STATE LAW.

All graves and burials in the city shall comply with the laws of the state as they shall from time to time be amended. This shall apply to vaults, caskets, embalming, grave sites, or any other matters having to do with burials.

(Ord. 1055, passed 5-21-84)

Statutory reference:

Statutory regulations concerning cemeteries, see IC 23-14-1 et seq.

§ 94.21 CEMETERY TRUST FUND.

There is hereby created a Cemetery Trust Fund. The Cemetery Trust Fund will be operated as follows:

(A) Whenever a cemetery lot is purchased from the Clerk-Treasurer, 70% of the purchase price shall go to the General Fund and 30% shall go to the Cemetery Trust Fund.

(B) If a cemetery lot is purchased in "Babyland" for an infant, \$10 shall go to the General Fund and \$5 shall go to the Cemetery Trust Fund.

(C) The money that accumulates in the Cemetery Trust Fund shall be used for the following:

- (1) The acquisition of land and platting a cemetery.
- (2) Civil War Memorial monument restoration.
- (3) Administrative expenses of maintaining the trust.
- (4) Any other expenses incurred in maintenance of the cemetery.

(D) The money accumulated in the Cemetery Trust Fund shall be invested and the interest from said investments shall go to the General Fund.

(Ord. 1226, passed 9-19-94)

§ 94.99 PENALTY.

Any person caught violating the dusk to dawn closing of the parks provisions of § 94.04 may be fined not less than \$25 nor more than \$100.

(Ord. 1102, passed 8-3-87; Am. Ord. 1628, passed 9-6-16)

CHAPTER 95: BILLIARD AND POOL ROOMS

Section

95.01 General provisions

§ 95.01 GENERAL PROVISIONS.

(A) It shall be unlawful for any person who is the owner, proprietor, or person in charge of any billiard or pool room or place of any kind for sports and games, for hire or pay, in the city to obstruct the room or rooms where such games are played or the window or windows of any such room or rooms, fronting or opening on any public street or alley, with blinds, curtains, screens, or any other device of any nature whatsoever.

(B) It shall be unlawful for any person who is the owner, proprietor, or person in charge of any billiard or pool room or place of any kind for sports and games, for hire or pay, to keep open any such room or rooms between the hours of 11:00 p.m. and 5:00 a.m.

(C) Any person violating this section shall, on conviction, be fined in any sum not exceeding \$100.

(Ord. 90, passed 1-20-13)

CHAPTER 96: PARADES

Section

General Provisions

96.01 Short title

96.02 Definitions

96.03 Exemptions

Parade Permits

96.10 Permit required

96.11 Application; fee

96.12 Standards for issuance

96.13 Notice of rejection

96.14 Appeal procedure

96.15 Alternative permit

96.16 Copy of permit to be sent to certain city officials

96.17 Permit to contain certain information

96.18 Duties of permittee

96.19 Revocation

Public Conduct

96.25 Interfering with parades

96.26 Driving through parades

96.27 Parking on parade route

96.99 Penalty

GENERAL PROVISIONS

§ 96.01 SHORT TITLE.

This chapter shall be known and may be cited as the "Parade Ordinance of the City of Butler".
(Ord. 1029, passed 3-7-83)

§ 96.02 DEFINITIONS.

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

"CHIEF OF POLICE." The Chief of Police of the City of Butler.

"PARADE." Any parade, march, ceremony, show, exhibition, pageant, or procession of any kind, or any similar display, in or upon any street, park, or other public place in the city.

"PARADE PERMIT." A permit as required by this chapter.
(Ord. 1029, passed 3-7-83)

§ 96.03 EXEMPTIONS.

This chapter shall not apply to the following.

- (A) Funeral processions.
- (B) Students going to and from school classes or participating in educational activities, providing such conduct is under the immediate direction and supervision of the proper school authorities.
- (C) A governmental agency acting within the scope of its functions.
- (D) School activities such as homecoming except the restrictions of § 96.11(A)(1) shall apply.
- (E) Activities during Butler Days except the restrictions of § 96.11(A)(1) shall apply.
- (F) The Memorial Day parade which shall be permitted on U.S. Highway 6.

(Ord. 1029, passed 3-7-83)

PARADE PERMITS

§ 96.10 PERMIT REQUIRED.

(A) No person shall engage in, participate in, aid, form, or start any parade, unless a parade permit shall have been obtained from the Chief of Police.

(B) No permit shall be issued for a parade on U.S. Highway 6 because of the heavy volume of truck and vehicular traffic and the lack of sufficient numbers of police personnel to control a parade or traffic over and along said route.

(C) No parade shall be permitted on any sidewalk.
(Ord. 1029, passed 3-7-83) Penalty, see § 96.99

§ 96.11 APPLICATION; FEE.

(A) A person seeking issuance of a parade permit shall file an application with the Chief of Police on forms provided by such officer.

(1) Filing period. An application for a parade permit shall be filed with the Chief of Police not less than 21 days nor more than 60 days before the date on which it is proposed to conduct the parade.

(2) Contents. The application for a parade permit shall set forth the following information.

(a) The name, address, and telephone number of the person seeking to conduct the parade.

(b) If the parade is proposed to be conducted for, on behalf of, or by an organization, the name, address, and telephone number of the headquarters of the organization and of the authorized and responsible heads of the organization.

(c) The name, address, and telephone number of the person who will be the parade chairman and who will be responsible for its conduct.

(d) The date when the parade is to be conducted.

(e) The route to be traveled, the starting point, and the termination point.

(f) The approximate number of persons who, and animals and vehicles which, will constitute such parade; the type of animals, and description of the vehicles.

(g) The hours when the parade will start and terminate.

(h) A statement as to whether the parade will occupy all or only a portion of the width of the streets proposed to be traversed.

(i) The location by streets of any assembly areas for such parade.

(j) The time at which units of the parade will begin to assemble at any such assembly area or areas.

(k) The interval of space to be maintained between units of the parade.

(l) If the parade is designed to be held by, and on behalf of or for, any person other than the applicant, the applicant for such permit shall file with the Chief of Police a communication in writing from the person proposing to hold the parade, authorizing the applicant to apply for the permit on his behalf.

(m) Any additional information which the Chief of Police shall find reasonably necessary to a fair determination as to whether a permit shall issue.

(3) Late applications. The Chief of Police, where good cause is shown therefore, shall have the authority to consider any application hereunder which is filed less than 21 days but not less than ten days before the date such parade is proposed to be conducted.

(B) There shall be paid at the time of filing the application for a parade permit a fee of \$50. (Ord. 1029, passed 3-7-83)

§ 96.12 STANDARDS FOR ISSUANCE.

The Chief of Police shall issue a permit as provided for hereunder when, from a consideration of the application and from such other information as may otherwise be obtained, he finds that the following are true.

(A) The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route.

(B) The conduct of the parade will not require the diversion of so great a number of police officers of the city to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the city.

(C) The conduct of the parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the city other than that to be occupied by the proposed line of march and areas contiguous thereto.

(D) The concentration of persons, animals, and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such assembly areas.

(E) The conduct of the parade will not interfere with the movement of fire-fighting equipment en route to a fire.

(F) The conduct of the parade is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct, or create a disturbance.

(G) The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route.

(H) The parade is not to be held for the sole purpose of advertising any product, goods, or event, and is not designed to be held purely for private profit.

(Ord. 1029, passed 3-7-83)

§ 96.13 NOTICE OF REJECTION.

The Chief of Police shall act upon the application for a parade permit within five days after the filing thereof. If the Chief of Police disapproves the application, he shall mail to the applicant

within seven days after the date upon which the application was filed, a notice of his action, stating the reasons for his denial of the permit. (Ord. 1029, passed 3-7-83)

§ 96.14 APPEAL PROCEDURE.

Any person aggrieved shall have the right to appeal the denial of a parade permit to the City Council. The appeal shall be in writing and taken within 14 days after notice. The notice shall be given to the City Clerk-Treasurer. The City Council shall act upon the appeal at the first regular meeting after its receipt. Upon such appeal, the City Council may reverse, affirm, or modify in any regard the determination of the Chief of Police.

(Ord. 1029, passed 3-7-83)

§ 96.15 ALTERNATIVE PERMIT.

The Chief of Police, in denying an application for a parade permit, shall be empowered to authorize the conduct of the parade on a date, at a time, or over a route different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within seven days after notice of the action of the Chief of Police, file a written notice of acceptance with the Chief of Police. An alternate parade permit shall conform to the requirements of, and shall have the effect of a parade permit under this chapter.

(Ord. 1029, passed 3-7-83)

§ 96.16 COPY OF PERMIT TO BE SENT TO CERTAIN CITY OFFICIALS.

Immediately upon the issuance of a parade permit, the Chief of Police shall send a copy thereof to the following.

- (A) The Mayor.
- (B) The City Attorney.
- (C) The Fire Chief.
- (D) The Supervisor of the Department of Public Works.
- (E) The Clerk-Treasurer.

(Ord. 1029, passed 3-7-83)

§ 96.17 PERMIT TO CONTAIN CERTAIN INFORMATION.

Each parade permit shall state the following information.

- (A) Starting time.
- (B) Minimum speed.
- (C) Maximum speed.
- (D) Maximum interval of space to be maintained between the units of the parade.
- (E) The portions of the streets to be traversed that may be occupied by the parade.

(F) The maximum length of the parade in miles, yards, or feet, whichever is most appropriate.

(G) Such other information as the Chief of Police shall find necessary to the enforcement of this chapter.

(Ord. 1029, passed 3-7-83)

§ 96.18 DUTIES OF PERMITTEE.

(A) A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances.

(B) The parade chairman or other person heading or leading such activity shall carry the parade permit upon his person during the conduct of the parade.

(Ord. 1029, passed 3-7-83) Penalty, see § 96.99

§ 96.19 REVOCATION.

The Chief of Police shall have the authority to revoke a parade permit issued hereunder upon application of the standards for issuance as set forth in § 96.12 or said permit for a parade or motorcade issued pursuant to this chapter may be summarily revoked by the Chief of Police at any time when by reason of disaster, public calamity, riot, or other emergency, the Chief of Police determines that the safety of the public or property requires such revocation. Notice of such action revoking a permit shall be delivered in writing to the permittee by personal service or certified mail.

(Ord. 1029, passed 3-7-83)

PUBLIC CONDUCT

§ 96.25 INTERFERING WITH PARADES.

No person shall unreasonably hamper, obstruct, or impede, or interfere with any parade or parade assembly or with any person, vehicle, or animal participating or used in a parade.

(Ord. 1029, passed 3-7-83) Penalty, see § 96.99

§ 96.26 DRIVING THROUGH PARADES.

No driver of a vehicle, street car, or trackless trolley shall drive between the vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade.

(Ord. 1029, passed 3-7-83) Penalty, see § 96.99

§ 96.27 PARKING ON PARADE ROUTE.

The Chief of Police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a highway or part thereof constituting a part of the route of a parade. The Chief of Police shall post signs to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof. No person shall be liable for parking on a street that is unposted.

(Ord. 1029, passed 3-7-83) Penalty, see § 96.99

§ 96.99 PENALTY.

Any person, firm, or corporation who violates the provisions of this chapter or the terms and conditions of any parade permit issued hereunder shall be guilty of a class C infraction.

(Ord. 1029, passed 3-7-83)

Statutory reference:

*Infraction and ordinance violation enforcement proceedings, see IC 34-28-5-1 et seq.
Penalty for class C infraction, see IC 34-28-5-4*

CHAPTER 97: NOISE

Section

- 97.01 Designation of chapter
- 97.02 Violations
- 97.03 Exemptions
- 97.04 Engine compression brakes prohibited

- 97.99 Penalty

§ 97.01 DESIGNATION OF CHAPTER.

This chapter shall be known and designated as the "Noise Chapter".
(Ord. 1273, passed 11-4-96)

§ 97.02 VIOLATIONS.

It shall be a violation of this chapter to produce or cause to be produced any noise that by the manner of its production or its volume disturbs the peace or quiet enjoyment of any person and is audible at a distance of thirty feet or greater.

(Ord. 1273, passed 11-4-96)

§ 97.03 EXEMPTIONS.

The following shall be exempted from the prohibitions set forth in this chapter:

- (A) Sounds produced by sirens of authorized emergency vehicles;
- (B) 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 9:00 p.m.;
- (C) Sounds produced by burglar alarms or other warning devices when properly installed on publicly or privately owned property, provided that the cause of such alarm or warning device sound is investigated and turned off within a reasonable period of time;
- (D) Sounds produced in connection with celebrations on legal holidays;
- (E) Sounds produced in connection with permitted parades, festivals or concerts between the hours of 7:00 a.m. and 12:00 midnight;
- (F) Sounds produced in connection with the actual performance of athletic events and practices related to them;
- (G) Sounds produced by church bells;
- (H) Sounds produced in connection with 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;
- (I) Sounds produced for the purpose of alerting persons to the existence of an emergency, or for the performance of emergency work;
- (J) Sounds produced in connection with normal conduction of a legally established non-transient business when such sounds are customary, incidental and within the normal range appropriate for such use.

(Ord. 1273, passed 11-4-96)

§ 97.04 ENGINE COMPRESSION BRAKES PROHIBITED.

(A) No vehicle shall use engine compression brakes or an engine retarder system to stop or slow down said vehicles if the system causes the vehicle's motor to race in such a manner as to cause the exhaust system to emit loud, cracking, backfiring, or chattering noise unusual to its normal operation. This practice is commonly known as "jake braking."

(B) Violation of this section may be punishable by a fine not to exceed \$500.

(C) This prohibition must be designated by appropriate signs placed at or near the city limits.
(IC 9-20-1-3(C)(2))

(Ord. 1366, passed 1-2-01)

§ 97.99 PENALTY.

Any person who violates this chapter shall be fined not less than \$50 nor more than \$500 for each offense.

(Ord. 1273, passed 11-4-96)

CHAPTER 98: TREES

Section

- 98.01 Purpose of regulations
- 98.02 City Tree Commission
- 98.03 Applicability of regulations
- 98.04 Definitions
- 98.05 Street tree species
- 98.06 Spacing
- 98.07 Distance from curbs and sidewalks
- 98.08 Distance from street corners and fire plugs
- 98.09 Utilities
- 98.10 Public tree care
- 98.11 Tree topping
- 98.12 Pruning, corner clearance
- 98.13 Dead or diseased tree removal on private property
- 98.14 Removal of stumps
- 98.15 Interference with City Tree Commission

- 98.99 Penalty

§ 98.01 PURPOSE OF REGULATIONS.

The purpose of this chapter is to promote public health, safety, and general welfare of the city and its citizens by providing for the regulation of the planting, maintenance and removal of trees, shrubs and other plants within the public ways of the city.

(Ord. 1265, passed 7-1-96)

§ 98.02 CITY TREE COMMISSION.

(A) There is created a City Tree Commission for the city which shall consist of the Board of Public Works and Safety, the City Superintendent and one resident of the city who shall be appointed by the Mayor with the approval of the Common Council. Members of the City Tree Commission shall serve without compensation.

(B) The term of the person to be appointed by the Mayor shall be four years. In the event that a vacancy shall occur during the term of the appointed member, his or her successor shall be appointed for the unexpired portion of the term.

(Ord. 1265, passed 7-1-96)

§ 98.03 APPLICABILITY OF REGULATIONS.

This chapter provides full power and authority over all trees, plants and shrubs located within street rights-of-way, parks and public places of the city.

(Ord. 1265, passed 7-1-96)

§ 98.04 DEFINITIONS.

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

"PARK TREES." Trees, shrubs, bushes and all other woody vegetation in public parks and all areas owned by the city.

"STREET TREES." Trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the city.

(Ord. 1265, passed 7-1-96)

§ 98.05 STREET TREES SPECIES.

A current list of recommended trees, obtained from DeKalb County Extension Office, constitutes the official street tree species for the city. No species other than those included in this current list may be planted as street trees without written permission of the City Tree Commission.

(Ord. 1265, passed 7-1-96)

§ 98.06 SPACING.

The spacing of street trees will be in accordance with the three species size classes as designated in the current list of recommended trees by the DeKalb County Extension Office, and no trees may be planted closer together than the following:

Small trees at maturity 30 feet

Medium trees at maturity 40 feet

Large trees at maturity 50 feet

except in special plantings designated or approved by a landscape architect.

(Ord. 1265, passed 7-1-96)

§ 98.07 DISTANCE FROM CURBS AND SIDEWALKS.

The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes listed, and no trees may be planted closer to any curb or sidewalk than the following:

Small trees at maturity 2 feet

Medium trees at maturity 3 feet

Large trees at maturity 4 feet

(Ord. 1265, passed 7-1-96)

§ 98.08 DISTANCE FROM STREET CORNERS AND FIRE PLUGS.

No street tree shall be planted closer than 35 feet from any street corner, measured from the point of the nearest intersecting curbs or curblines. No street tree shall be planted closer than ten feet from any fire hydrant.

(Ord. 1265, passed 7-1-96)

§ 98.09 UTILITIES.

No street trees other than those species listed as small trees in the current list of recommended trees by the DeKalb County Extension Office may be planted under or within ten lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water line, sewer line, transmission line or other utility.

(Ord. 1265, passed 7-1-96)

§ 98.10 PUBLIC TREE CARE.

(A) The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of the public grounds.

(B) The City Tree Commission may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is infested with any injurious fungus, insect or other pest.

(Ord. 1265, passed 7-1-96)

§ 98.11 TREE TOPPING.

It shall be unlawful as a normal practice for any person, firm or city department to top any street tree, park tree or any other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

(Ord. 1265, passed 7-1-96)

§ 98.12 PRUNING, CORNER CLEARANCE.

The city shall be responsible for any tree overhanging any street or right-of-way within the city and shall prune the branches so that the branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection so that there shall be a clear space of eight feet above the surface of the street or sidewalk. The city shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to prune any trees or shrubs on private property when it interferes with the proper spread of light along the street from a street light or interferes with the visibility of any traffic-control device or sign.

(Ord. 1265, passed 7-1-96)

§ 98.13 DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY.

The city shall have the right to cause the removal of any dead or diseased trees on private property within the city, when the trees constitute a hazard to life and property, or harbor insects or disease which constitutes a potential threat to other trees within the city. The City Tree Commission will notify in writing the owners of the trees. Removal shall be done by the owners at their own expense within 60 days after the date of service of the notice. In the event of failure of the owners to comply with this provision, the city shall have the authority to remove the trees and charge the cost of removal on the owner's property tax notice.

(Ord. 1265, passed 7-1-96)

§ 98.14 REMOVAL OF STUMPS.

All stumps from street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. This shall be done at the same time the tree is cut down.

(Ord. 1265, passed 7-1-96)

§ 98.15 INTERFERENCE WITH CITY TREE COMMISSION.

It shall be unlawful for any person to prevent, delay or interfere with the City Tree Commission, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing any street trees, park trees or trees on private grounds, as authorized in this chapter.

(Ord. 1265, passed 7-1-96)

§ 98.99 PENALTY.

(A) Any person violating any provision of this chapter shall be, upon conviction or a plea of guilty, subject to a fine not to exceed \$50.

(B) If the owner fails to pay the amount within 30 days after receiving a statement, a copy of all costs shall be filed with the Clerk-Treasurer of the city in the office of the Auditor of DeKalb County for the purpose of placing the amount claimed on the tax duplicate against the property,

so that the amount claimed can be collected as taxes are collected, subject to the limitations above.

(Ord. 1265, passed 7-1-96)

CHAPTER 99: FAIR HOUSING

Section

99.01 Authority and responsibility

99.02 Complaints

99.03 Administration

99.04 Remedies

§ 99.01 AUTHORITY AND RESPONSIBILITY.

The authority and responsibility for properly administering this chapter and the referral of complaints hereunder to the Indiana Civil Rights Commission shall be vested in the Plan Commission of the City of Butler.

(Ord. 1290, passed 9-2-97)

§ 99.02 COMPLAINTS.

Notwithstanding the provisions of I.C. 22-9.5-4-8, the City of Butler because of a lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil right actions under this chapter, hereby elects to refer all formal complaints of violation of the articles of this chapter by complainants to the Indiana Civil Rights Commission for administrative enforcement actions pursuant to I.C. 22-9.5-6 and the Plan Commission of the City of Butler, as authorized in I.C. 29-9-1-12, is hereby designated as the local agency to handle complaints. The Plan Commission shall refer all complaints to the Indiana Civil Rights Commission as provided for in this chapter for the purpose of investigation, resolution, and appropriate relief as provided for in I.C. 22-9.5-6.

(Ord. 1290, passed 9-2-97)

§ 99.03 ADMINISTRATION.

All executive departments and agencies of the City of Butler shall administer their departments, programs, and activities relating to housing and urban development in a matter affirmatively to further the purposes of this chapter and shall cooperate with the Plan Commission and the Indiana Civil Rights Commission to further such purposes.

(Ord. 1290, passed 9-2-97)

§ 99.04 REMEDIES.

The Plan Commission or their designee shall provide information on remedies available to any aggrieved person or complainant requesting such information.

(Ord. 1290, passed 9-2-97)

CHAPTER 100: MISCELLANEOUS FEES

Section

100.01 Miscellaneous fees

§ 100.01 MISCELLANEOUS FEES.

The following miscellaneous fees shall be charged for various services or actions rendered by the city:

(A) Improvement location permits—Residential.

- | | |
|--|------|
| (1) New construction per dwelling unit | \$25 |
| (2) Remodel, addition, alteration, patio or deck | 15 |
| (3) Accessory structure or secondary structure | 15 |
| (4) Pre-fabricated home placement | 25 |
| (5) Moving of buildings and structures plus any other costs prescribed by § 91.03(C) and (E) | 50 |

(B) Improvement location permits—non-residential (commercial, industrial, institutional, public buildings).

- | | |
|---------------------------------------|--|
| (1) New Construction | \$0.01 per square foot \$50 minimum and \$1,000 maximum |
| (2) Remodel, Additions | \$0.01 per square foot or Alterations \$15 minimum and \$1,000 maximum |
| (3) Accessory or Secondary Structures | \$0.01 per square foot \$15 minimum and \$1,000 maximum |

(C) Other Planning and Development.

- | | |
|---------------------------------------|---|
| (1) Fence permit | \$10 |
| (2) Rezoning (map or other ordinance) | 50 |
| (3) Variance request | 50 |
| (4) Special exception | 50 |
| (5) Temporary use | 50 |
| (6) Development plan approval | 100 |
| (7) Subdivision of 1 lot | 50 |
| (8) Subdivision of 2 or more lots | \$200 for first 2 lots and \$10 each additional lot |

- (9) Mobile home courts \$100 for court w/less than 50 homes 200 for court w/50 or more homes
- (10) Special meetings of Plan Commission 100
- (11) Special meeting of Zoning Appeals 100
- (12) Residential tax abatement application 100
- (13) Industrial tax abatement application 250
- (14) Demolition permit 25

(D) General Fees.

- (1) Color 11 x 17 map \$5
- (2) Butler Zoning Code 10
- (3) Butler Subdivision Code 5
- (4) Butler Comprehensive Plan 5
- (5) Per page copying charge 0.10 per single-sided page* 0.15 per double-sided page*

*Subject to a minimum charge of \$1.00 (Must order 10 pages to be charged.)

- (6) Fax - to send 1.50 per page
- (7) Fax - to receive 1.00 per page
- (8) Large plots (up to 24 X 30 inches) 3.00 to 10.00
(Depending on color intensity and paper media)
- (9) Plots over 24 X 30 inches 10.00 and up
(Depending on color intensity and paper media)

(E) Police fees.

- (1) Employment testing \$15.00
- (2) Accident reports \$5.00
- (3) Incident reports \$5.00
- (4) Pictures (accidents, etc.) \$5.00 each
- (5) Fingerprinting (gun permits) \$10.00 (4-year permit)
- (6) Fingerprinting (gun permits) \$50.00 (lifetime with no current license)
- (7) Fingerprinting (gun permits) \$40.00 (lifetime with current license)
- (8) Criminal history check \$5.00
- (9) Driver's license check \$5.00
- (10) Fingerprinting (employment) \$5.00
- (11) Bike registration \$2.00

(12) Non-investigatory law enforcement recording \$150.00

(body camera or vehicle camera)

(Ord. 1428, passed 7-19-04; Am. Ord. 1497, passed 9-15-08; Am. Ord. 1565, passed 6-18-12; Am. Ord. 1674, passed 9-17-18; Am. Ord. 1644, passed 5-1-17)

CHAPTER 101: OUTDOOR HYDRONIC (WOODBURNING) HEATERS

Section

101.01 Definitions

101.02 Prohibition

101.03 Enforcement

§ 101.01 DEFINITIONS.

For purposes of this chapter the following definition shall apply unless the context clearly indicates or requires a different meaning.

"OUTDOOR HYDRONIC HEATERS."

(1) (Also called outdoor wood boilers or outdoor wood furnaces.) Freestanding appliances, intended for outdoor installation or installation in structures not normally occupied by humans, designed to burn wood or other approved renewable solid fuels, that heat water which is then pumped to one or more structures to provide heat.

(2) An "OUTDOOR HYDRONIC HEATER" also can be used to provide hot water or air year-round to structures and to heat swimming pools. Units are typically the size and shape of a small storage shed or mini- barn with a short smoke stack on top and are much larger and differ in design, operation, and emissions produced from the smaller indoor wood stoves, pellet stoves, fireplaces and barbecue pits.

(Ord. 1557, passed 1-3-12)

§ 101.02 PROHIBITION.

The installation, operation and maintenance of outdoor hydronic heaters as defined in § 101.01 are hereby prohibited within the corporate limits of the city.

(Ord. 1557, passed 1-3-12)

§ 101.03 ENFORCEMENT.

Whoever violates this chapter may be fined as provided in § 10.99 of this code. Additionally, a violator shall be responsible for all fees and costs, including attorney fees, incurred by the city in enforcing the provisions of this chapter.

(Ord. 1557, passed 1-3-12)

TITLE XI: BUSINESS REGULATIONS

Chapter

- 110. ALCOHOLIC LIQUOR
- 111. SOLICITORS
- 112. CABLE TELEVISION

CHAPTER 110: ALCOHOLIC LIQUOR

Section

- 110.01 Definition
- 110.02 Liquor retailer's permits
- 110.03 Use of alcoholic beverages in public areas

§ 110.01 DEFINITION.

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

"ALCOHOLIC BEVERAGES." All beverages containing alcohol, and every other mixture or preparation having an alcoholic content, whether patented or not, intended to be used or likely to be used as a beverage.

(Ord. 215, passed 8-6-34)

§ 110.02 LIQUOR RETAILER'S PERMITS.

The Common Council consents that liquor retailer's permits may be issued to applicants by the Alcoholic Beverage Commission of Indiana, otherwise duly qualified under the law, in respect to premises located within the city.

(Ord. 404, passed 9-15-58)

Statutory reference:

Permits, see IC 7.1-3-1-1 et seq.

§ 110.03 USE OF ALCOHOLIC BEVERAGES IN PUBLIC AREAS.

(A) All public parking lots in the city, owned by the city or its agents or agencies, shall be closed to the public from 10:00 p.m. to 5:00 a.m. or as directed by the Board of Public Works and Safety.

(B) No person shall consume or possess any alcoholic beverages while present in the city parking lots or other public areas, except those persons who are over the age of majority may

possess alcoholic beverages in their vehicles while the vehicles are being parked in the parking lot for the purpose of storing the vehicle while using the downtown area of the city.

(C) No person shall consume alcoholic beverages on any of the public property belonging to the city, or public thoroughfares through the city, including sidewalks, streets, and other areas owned or maintained by the city, and sidewalks, streets, and other areas maintained by other persons or their agents for public use.

(D) Any person, other than city maintenance or police personnel, who are present in the public parking lots after the hours listed in (A) above, shall be in violation of (A) above. A violation of (A) above shall be punishable by a fine of not less than \$25 nor more than \$500, plus court costs. A violation of (B) or (C) above shall be punishable by a fine of not less than \$100 nor more than \$500.

(Ord. 885, passed 9-18-78; Am. Ord. 1098, passed 6-1-87)

CHAPTER 111: SOLICITORS

Section

- 111.01 Definition
- 111.02 License required
- 111.03 Application; bond
- 111.04 Fee
- 111.05 License exemptions
- 111.06 License nontransferable; display of license on demand
- 111.07 License revocable

- 111.99 Penalty

§ 111.01 DEFINITION.

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

"SOLICITOR." Any person who goes from house to house or from place to place in the city selling or taking orders for the sale of any article or thing of value for future delivery.

(Ord. 242, passed 11-21-38)

§ 111.02 LICENSE REQUIRED.

(A) It shall be unlawful for any person to go from place to place in the city or on or across the streets, alleys, sidewalks, or other public places in the city, either on foot or by a vehicle of any type or kind, peddling, hawking, soliciting, selling, or offering for sale or exchange, or taking orders, for either present or future delivery of any goods, wares, merchandise, medicine, produce,

baked goods, fruits, vegetables, meats, magazines, periodicals, or any other article or thing of value of any kind or character, without having procured a license and having given bond as hereinafter provided.

(B) For the article or articles so sold or offered for sale or for which an order is taken for future delivery, such license shall comply strictly with the legal standard of weights and measures as fixed by the statutes of Indiana. Such licensee shall not misrepresent the quality, quantity, or condition of the article or articles sold or offered for sale by him or for which an order is taken for future delivery. Any person or purchaser may bring an action on the bond hereinafter provided for in this chapter in case any article or articles of merchandise shall be so sold in violation of the statutes of the State of Indiana relating to weights and measures, or if the licensee misrepresents the quality, quantity, or condition of the article sold or offered for sale by him or for which he may take an order for future delivery.

(C) All orders taken by solicitors within the city shall be in writing and in duplicate, and shall state the full terms of the transaction, the amount paid in advance, if any, the balance due, the date of delivery. A copy of such order shall be delivered to the purchaser. These orders shall comply with the requirements of the statutes of the State of Indiana.

(D) Nothing in this section shall apply to the sale of agricultural produce which the seller has raised, or the sale or distribution of milk, or the sale and distribution of newspapers, or sales by traveling salesmen to retail merchants, or high school, children, boy scouts, girl scouts, or civic groups.

(Ord. 242, passed 11-21-38)

Statutory reference:

Weights and measures, see IC 24-6-1-1 et seq. and 35-43-5-3

§ 111.03 APPLICATION; BOND.

(A) Any person desiring to engage in the business of peddling, hawking, soliciting, selling, offering for sale or exchange, or soliciting orders for future delivery of any goods, wares, merchandise, medicine, produce, baked goods, fruits, vegetables, meats, magazines, periodicals, or any other article or thing of value of any kind or character within the city shall, before engaging in such business, file with the Clerk-Treasurer an application stating his name and address, the firm or corporation which he represents, if any, the kind of goods, services, or articles to be offered for sale, and whether for present delivery or future delivery, and the length of time he so desires to engage in such business.

(B) Such application shall be accompanied by a bond in the penal sum of \$500, executed by the applicant and by a recognized bonding company as surety, subject to the approval of the Clerk-Treasurer. If the applicant so desires, he may deposit a cash bond in said amount with the Clerk-Treasurer in lieu of a surety bond as heretofore provided.

(C) The bond shall continue in full force and effect during the period such peddler, hawker, or solicitor is authorized to transact business in the city, and for a further period of 90 days thereafter. Such bond, if a cash bond, shall be retained by the Clerk-Treasurer for a period of 90 days after the termination of the period that such peddler, hawker, or solicitor is authorized to transact business in the city.

(D) The bond shall be conditioned for the faithful, complete, and satisfactory performance of any contract of sale for present or future delivery by the applicant while engaged in such business in the city, and shall include the standards and guarantees set forth in this section. It shall be conditioned to the payment of any judgment or judgments rendered against the applicant and

arising out of any transaction or contract entered into by him while engaged in the business of hawking, peddling, or soliciting in the city. Any person aggrieved or damaged by any transaction or contract with the applicant while engaged in business in the city shall have a right of action on the bond.

(E) On filing the application and bond and approval by the Clerk- Treasurer, he shall issue a license to the applicant authorizing him to begin business in the city for the period of time set forth in said license.

(F) Nothing in this section shall apply to the sale of agricultural produce which the seller has raised, the sale and distribution of newspapers, the sale or distribution of milk, or sales by traveling salesmen to retail merchants.

(Ord. 242, passed 11-21-38)

§ 111.04 FEE.

Any person, firm, or corporation applying for a license under this chapter shall pay as a license fee for the transaction of any business provided for under this chapter the sum of \$3 per day, \$10 per week, \$25 per month, and \$50 per year.

(Ord. 242, passed 11-21-38; Am. Ord. 332, passed 7-7-52)

§ 111.05 LICENSE EXEMPTIONS.

Any person exempt by the laws of the State of Indiana from the payment of such license fee shall, before beginning such business, present to the Clerk-Treasurer his credentials showing that he is entitled to such exemption, and shall thereupon file his application for a license. The Clerk-Treasurer shall issue such license without charge on the filing of a bond by the applicant. Such license shall be valid for the period of time requested by the applicant, not to exceed one year, and the bond filed by applicant shall be in full force and effect for the term covered by such license, and for 90 days thereafter, all as hereinbefore provided.

(Ord. 242, passed 11-21-38)

§ 111.06 LICENSE NONTRANSFERABLE; DISPLAY OF LICENSE ON DEMAND.

No license issued under this chapter shall be transferable in any manner, and such licensee shall at all times on demand by any officer of the city exhibit his license to such officer.

(Ord. 242, passed 11-21-38)

§ 111.07 LICENSE REVOCABLE.

(A) It shall be the duty of the Common Council, on being satisfied that any licensee has violated any of the provisions of this chapter or any other ordinance of the city or the law of the state relating to the particular matter for which such license is issued, to revoke such license.

(B) The revocation of a license shall not entitle the licensee to the return of any part of the license fee paid by him.

(Ord. 242, passed 11-21-38)

§ 111.99 PENALTY.

Any person, firm, or corporation violating any provision of this chapter shall, on conviction, be fined not more than \$500. Each day a violation continues shall constitute a separate offense.

CHAPTER 112: CABLE TELEVISION

Section

- 112.01 Definitions
- 112.02 Grant of authority
- 112.03 Standards and requirements
- 112.04 Liability and indemnification
- 112.05 Local office
- 112.06 Conditions of road occupancy
- 112.07 Subscriber contracts
- 112.08 Transfer and right of acquisition
- 112.09 Franchise term
- 112.10 Rates and charges
- 112.11 Commencement of construction
- 112.12 Construction schedule
- 112.13 Compliance with FCC rules
- 112.14 Activities prohibited
- 112.15 Limited purpose
- 112.16 Location of lines
- 112.17 Special provisions

§ 112.01 DEFINITIONS.

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

"COMPANY." Butler Cable Services, Inc. the grantee of rights under this chapter awarding easement.

"FRANCHISE." Synonymous with the word easement. It is not the intention of the city to grant a franchise, within the ordinary legal meaning of that term, to the company.

"SYSTEM." The entire cable television network located in the city.
(Ord. 919, passed 8-20-79; Am. Ord. 981, passed 11-17-80)

§ 112.02 GRANT OF AUTHORITY.

(A) The city, after due consideration in public proceedings in which interested persons were given the opportunity to participate, relying on the company's representations as to the company's legal, technical, character, financial, and other qualifications, and the adequacy and feasibility of the company's construction arrangements, grants to the company a nonexclusive franchise, right, and privilege to construct, erect, operate, and maintain, in, on, along, across, above, over, and under the streets, alleys, public ways, and public places now laid out or dedicated and all extensions thereof, and additions thereto, in the city, poles, wires, cables, and underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation in the city of a cable television system for the purpose of distributing television and radio signals, and other electronic impulses in order to furnish television and radio programs, and various communications and other electronic services to the public.

(B) This right includes the right to use the streets, alleys, public ways, and public places and all manner of easements for the purpose herein set forth. To the extent possible, the company shall make attachments to poles already in existence within the city. To the extent that existing poles are insufficient for its purposes, or if the company is unable to negotiate arrangements satisfactory to it for use of existing poles, the company shall have the right to erect and maintain its own poles, as necessary for the construction and maintenance of its distribution system, subject to the approval of the city as to the location of such poles. The company shall obtain approval from the Board of Works concerning the location of any new poles before their installation. The company shall extend to the city, free of expense, joint use of any and all poles owned by the company for any proper municipal purpose insofar as may be accomplished without interference with the use and enjoyment of the company's cable and fixtures. The city shall hold the company harmless from any and all actions, causes of action, or damage caused by the placement of city wires or appurtenances on the poles of the company. The company shall not erect or cause to be erected any poles in any area where underground electric or telephone service is furnished. In such a service area the company's distribution system shall also be installed underground.

(Ord. 919, passed 8-20-79; Am. Ord. 981, passed 11-17-80)

§ 112.03 STANDARDS AND REQUIREMENTS.

(A) Construction and maintenance of the transmission distribution system, including house connection, shall be in accordance with the provisions of the National Electrical Safety Code prepared by the National Bureau of Standards, the National Electrical Code of the National Board of Underwriters, and such applicable ordinances and regulations of the city affecting electrical installations which may be, from time to time, in effect. The system shall be adequately grounded according to the best cable industry practices.

(B) The system shall be designed to carry a minimum of 21 channels. It shall meet or exceed all Federal Communications Commissions standards in the areas of signal to noise, cross modulation, hum, carrier level variations, and subscriber terminal levels.

(1) Visual signal to noise in the cable system not to be less than 42db as measured across 4 MHZ across 75 ohms at the end of the system.

(2) All distortions will be at least 57db below the visual signal level as measured from the headend to the furthest point in the system.

(3) Hum modulation shall be less than 3%.

(4) All homes will receive a visual signal level of at least 2 millivolts (6dbmv) across 75 ohms at the television set.

(C) In case of any disturbance of pavement, sidewalk, driveway, or other surface, the company shall, at its own expense and in a manner approved by the city, remove, replace, and restore all pavement, sidewalk, driveway, or surface so disturbed in as good condition as before the work was commenced. In the event the city shall elect to alter or change any street, alley, easement, or public way requiring relocation of the facilities of the company, the company, on reasonable notice by the city, shall remove and relocate the same at its own expense. The company shall, when necessary, on the request of any person holding an appropriate permit issued by the city, temporarily raise or lower its lines to permit the moving of any building or other structure. The actual expenses of a temporary removal shall be paid by the person requesting the same and the company shall have the right to require payment in advance of a temporary removal. Payment shall be reasonable and in accord with the standard practices and charges of the community.

(D) Whenever it is necessary to shut off or interrupt service for the purpose of making repairs, installations, or adjustments, the company shall do so at such times as will cause the least amount of inconvenience to its customers.

(Ord. 919, passed 8-20-79; Am. Ord. 981, passed 11-17-80)

§ 112.04 LIABILITY AND INDEMNIFICATION.

(A) The company agrees to indemnify and hold the city, its officers, and agents harmless from and against any and all claims, causes of action, liability, judgments, damages, costs, losses, or expenses arising out of the company's construction, installation, maintenance, or operation of the cable television system authorized herein, including, but not limited to, any claim, demand, or suit made or brought against the city arising out of the content of any program transmitted through the system.

(B) The city shall notify the company's representative in the city within 15 days after the presentation of any claim or demand to the city, either by suit or otherwise, made against the city on account of any contract, act, or omission to act, negligent or otherwise, on the part of the company. Upon receipt of such notice, the company shall, at the option of the city, undertake to defend the claim or demand in the name of the city.

(C) The company shall carry and pay the cost of maintaining liability insurance providing coverage against the following risks: any and all liability for bodily injury or property damage arising out of the acts of the company's employees or the maintenance of the cable T.V. system in the city by the company, in the amounts sufficient to support its obligations under the provisions of this section, but not less than \$100,000 per person or \$300,000 per incident. The company shall furnish to the city a certificate of insurance outlining the coverage specified above. The certificate shall be presented to the Clerk-Treasurer annually on November 17. Without the certificate this chapter is null and void, and shall be repealed without hearing.

(D) The company shall comply with all the provisions of the Workmen's Compensation Laws of the state.

(Ord. 919, passed 8-20-79; Am. Ord. 981, passed 11-17-80)

§ 112.05 LOCAL OFFICE.

The company shall maintain a toll-free telephone number where inquiries or complaints regarding quality of service, equipment malfunctions, billing disputes, and similar matters are

received. Inquiries or complaints shall be received during normal business hours, 9:00 a.m. to 5:00 p.m., Monday through Friday. All complaints and inquiries will be investigated, responded to, or acted on promptly, and unless circumstances otherwise require, within one business day of their receipt.

(Ord. 919, passed 8-20-79; Am. Ord. 981, passed 11-17-80)

§ 112.06 CONDITIONS OF ROAD OCCUPANCY.

(A) The company may enter into one or more contracts with the light, gas, and water utilities in the city, the telephone company, or the owner or lessee of any poles or posts located within the city to whatever extent such contract or contracts may be expedient and of advantage to the company in furnishing the service covered by this franchise to its customers.

(B) The company system poles, wires, and appurtenances shall be located, erected, and maintained so that none of it shall endanger or interfere with the lives of persons, or interfere with any improvements the city may deem proper to make, or hinder unnecessarily or obstruct the free use of the streets, alleys, bridges, easements, or public property.

(Ord. 919, passed 8-20-79; Am. Ord. 981, passed 11-17-80)

§ 112.07 SUBSCRIBER CONTRACTS.

No contract as to the length of service for a regular monthly subscriber shall be required by the company. The company agrees it is the right of the subscriber to start or terminate his service on the cable according to his own wishes by making advance payments to commence service and to terminate service by giving the company reasonable notice. For the purposes of termination reasonable notice shall be 14 days. Any rights of the customer are enforceable by the customer, and the city shall not be obligated to prosecute or defend any actions between the customer and the company arising from the terms contained herein or the relationship between the customer and the company. It is acknowledged, however, that equipment installed by the company on behalf of the subscriber shall remain the property of the company, and shall be subject to reasonable inspection and service by the company at reasonable hours and shall be subject to removal on termination of the service. On removal of the equipment from the customer's real estate, the company shall repair at its own cost any damage done to the real estate during the removal. The service rendered by the company shall be available to all inhabitants of the city along reasonable pole routes of the company.

(Ord. 919, passed 8-20-79; Am. Ord. 981, passed 11-17-80)

§ 112.08 TRANSFER AND RIGHT OF ACQUISITION.

No sale or transfer is effective until the purchaser, assignee, lessee, or transferee has filed with the Board of Works a request, duly executed, reciting the fact of the sale, assignment, or lease, accepting the terms of this chapter, and agreeing to perform all conditions thereof. In addition, the Board of Works may require any additional proof and financial responsibility it deems necessary on investigation. The rights granted under this chapter shall not be sold or transferred by the company to any outside interest except on written notice to the city not less than 30 days before the transfer or sale and subject to the approval of the city through its Board of Works. Approval shall not be unreasonably withheld.

(Ord. 919, passed 8-20-79; Am. Ord. 981, passed 11-17-80)

§ 112.09 FRANCHISE TERM.

(A) The easement granted the company herein shall terminate 20 years from November 3, 1980. However, the easement may be renewed for successive 20-year terms if the city shall determine, after a public hearing as provided herein, that the renewal would be in the best interests of the city and its residents. It shall be the company's obligation to apply for renewal for the easement. Failure to apply shall result in an automatic termination of the easement.

(B) No less than 45 days prior to the termination date of any term, the company shall give written notice to the city of the termination date, which written notice shall request a date, time, and place for a public hearing on the renewal of the easement desired by the company. Notice of the date, time, and place of the hearing and the purposes thereof shall also be published in a newspaper of general circulation in the city not less than once per week for two successive weeks. The last publication date shall not be less than ten days prior to the date of the hearing. The company, as well as all members of the public interested in the renewal of the easement or the modification of its terms shall be heard, and the city shall then have the right to renew or not renew the easement or to modify the terms thereof. For the purposes of this division only any and all actions required hereunder shall be conducted by the Board of Works. On the conclusion of the hearing, the Board of Works shall make a recommendation to Council. Council shall then act on the recommendation as it sees fit.

(Ord. 919, passed 8-20-79; Am. Ord. 981, passed 11-17-80)

§ 112.10 RATES AND CHARGES.

(A) Initial maximum rates shall be as follows.

<u>ServiceDescription</u>	<u>MonthlyService</u>	<i>Installation</i>
1 outlet Basic Service (12 CHS)	\$11.40	\$10.00
1 outlet Basic + HBO & ESPN	19.95	10.00
1 outlet Basic + CINEMAX & ESPN	16.95	10.00
2nd outlet Basic Service only	2.00 Additional	N/C
2nd outlet Basic + HBO & ESPN	3.95 Additional	N/C
2nd outlet Basic + CINEMAX & ESPN	2.95 Additional	N/C

Shall not exceed \$20.00.
One-third of all deposits shall be maintained in an interest-bearing escrow account for a period of five years.

Deposit, if any, on converter

(B) The city shall retain the right to control the rates for basic cable services. Formal presentation shall be made by the company to the city for any changes in the rates charged for the basic cable service. The amendment process shall consist of the proper works approval. The term basic service is defined as a service containing the local broadcast stations plus one locally

originated channel (weather) and a minimum of five imported signals. Imported signals are

defined as channels that are not accessible to the majority of the public in the immediate service area. Basic service shall consist of the following.

CABLE CHANNEL

2	CH 15 WANE	Fort Wayne	CBS
3	CH 16 WNDU	South Bend	NBC
4	CH 21 WPTA	Fort Wayne	ABC
5	CH 33 WKJG	Fort Wayne	NBC
6	CH 55 WFFT	Fort Wayne	IND
7	CABLE NEWS NETWORK (24 hour news)		
8	WGN	Chicago	IND
9	NICKELODEON (Children's network)		
10	USA SPORTS * CSPN (Live House of Representatives)		
11	STBS	Atlanta (24 hours)	
12	LOCAL WEATHER + N A WEATHER FORECASTS		
13	CH 57 WBGU	LIMA, OHIO	PBS
A	ESPN	(24 hour sports)	
B	HBO OR SHOWTIME	(Movies)	
C	CINEMAX	(G & PG movies only)	

(C) The company reserves the right to use substitute suppliers for the premium movie channels listed as HBO and CINEMAX and to substitute channels in the basic service listed above.

(Ord. 919, passed 8-20-79; Am. Ord. 981, passed 11-17-80; Am. Ord. 1061, passed 10-15-84)

§ 112.11 COMMENCEMENT OF CONSTRUCTION.

On grant of this easement to contract and maintain a community television system in the city, the company may enter into contracts with the light, gas, and water utilities which service the city, the telephone company, or others for the use of poles and posts necessary for proper installation of the system. The company may obtain right-of-way permits from appropriate state, county, and federal officials necessary to cross highways or roads under their respective jurisdictions to supply main trunk lines from the company's received antennas, obtain permission from the Federal Aviation Authority to erect and maintain antennas suitable to the needs of the system and its subscribers, and obtain whatever other permits a city, county, state, or federal agency may require. In the construction, installation, and maintenance of its system the company will use steel, cable, and electronic devices all of specialized and advanced design and type.

(Ord. 919, passed 8-20-79; Am. Ord. 981, passed 11-17-80)

§ 112.12 CONSTRUCTION SCHEDULE.

(A) On passage of this chapter all work for the installation of the cable television system shall begin immediately and the following schedule maintained.

(1) Financing to be secured within 90 days of the passage of this chapter. A certificate to that effect shall be filed by the company with the Clerk-Treasurer within 90 days.

(2) Within 90 days of the date of the certificate, the following shall be accomplished.

- (a) Acquisition of liability insurance as specified herein.
- (b) Pole contract shall be secured.
- (c) Make ready requests turned over to telephone and power.
- (d) Railroad permits filed.
- (e) Secure lease with the city for headend.
- (f) Equipment orders placed for cable system and headend.
- (g) Rent local office spaces.

All the items listed above except (d) shall be completed by March 15, 1981; and a certificate to that effect shall be filed with the Clerk-Treasurer on or before that date.

(3) Final systems walkout to ensure make ready is completed.

(4) Cable system construction time shall be six months from the start of construction to 100% completion.

(B) In no event shall the above take more than 18 months from the date of the passage of this chapter. Failure to comply with any requirement stated herein shall, upon action of the City Council, make this chapter null and void.

(Ord. 919, passed 8-20-79; Am. Ord. 981, passed 11-17-80)

§ 112.13 COMPLIANCE WITH FCC RULES.

The company agrees to comply with all FCC rules which apply, and any and all modifications, amendments, or deletions after November 3, 1980 are automatically incorporated by reference herein.

(Ord. 919, passed 8-20-79; Am. Ord. 981, passed 11-17-80)

§ 112.14 ACTIVITIES PROHIBITED.

The company shall not allow its cable or other operations to interfere with television reception of persons not served by the company, nor shall the system interfere with, obstruct, or hinder in any manner, the operation of the various utilities servicing the residents of the city. On notice to the company, it shall take whatever action is necessary to correct any interferences as outlined in this section. Failure of the company to make these corrections shall result in the repeal of this chapter. No notice or hearing shall be necessary for the repeal.

(Ord. 919, passed 8-20-79; Am. Ord. 981, passed 11-17-80)

§ 112.15 LIMITED PURPOSE.

This easement is granted by Council to the company purely for the purpose of using easements, streets, and highways of the city, to erect and construct the company's system and is not intended to convey any copyright or patent privileges whatsoever. This easement is not intended to give the company exclusive rights to construct a cable television system in the limits of the city.

(Ord. 919, passed 8-20-79; Am. Ord. 981, passed 11-17-80)

§ 112.16 LOCATION OF LINES.

The company shall provide the city with a map showing the location of all transmission lines located within the city except lines from the utility poles to the residences of the users. The map shall be kept current and shall be amended by the company annually.

(Ord. 919, passed 8-20-79; Am. Ord. 981, passed 11-17-80)

§ 112.17 SPECIAL PROVISIONS.

The licensee shall provide the following facilities and services.

(A) When requested by the Council and providing the cable system passes within 150 feet thereof, the licensee shall provide one free outlet consisting of basic services to the following facilities.

(1) The public school within the city.

(2) Fire and police stations and other buildings owned and controlled by the city used for public non-residential purposes.

(B) System Maps and Layout. The licensee shall have at all times up-to-date route maps showing trunk and distribution lines. The licensee shall make these maps available for review by the appropriate city personnel.

(Ord. 919, passed 8-20-79; Am. Ord. 981, passed 11-17-80)

TITLE XIII: GENERAL OFFENSES

Chapter

130. OFFENSES AGAINST PUBLIC PEACE AND SAFETY

131. SYNTHETIC CANNABINOID

CHAPTER 130: OFFENSES AGAINST PUBLIC PEACE AND SAFETY

Section

Weapons

130.01 Definition

130.02 Discharge of weapons prohibited; exception

130.03 Hunting within city limits prohibited

130.04 Violation; forfeiture of weapons

130.99 Penalty

WEAPONS

§ 130.01 DEFINITION.

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

“FIREARM.” The same as provided in the state statutes except that it shall include any type of weapon which uses black powder and a ball or slug manually loaded into the weapon.

(Ord. 1004, passed I-18-81)

Statutory reference:

Statutory definition of “firearm,” see IC 35-47-1 et seq.

§ 130.02 DISCHARGE OF WEAPONS PROHIBITED; EXCEPTION.

(A) It shall be unlawful to discharge any firearm which projects lead or any other missile from its barrel within the city limits.

(B) It shall be unlawful to discharge any air gun, BB gun, or toy gun which projects lead or any missile in a manner which would constitute a danger to any person within the city limits.

(C) Nothing in this section shall be construed to prohibit any officer of the law from discharging a firearm in the performance of his duty nor to any citizens discharging a firearm in lawfully defending family, person, or property.

(Ord. 1004, passed I-18-81) Penalty, see § 130.99

§ 130.03 HUNTING WITHIN CITY LIMITS PROHIBITED.

It shall be unlawful for any person to hunt by any means whatsoever within the city limits.

(Ord. 1004, passed I-18-81) Penalty, see § 130.99

§ 130.04 VIOLATION; FORFEITURE OF WEAPONS.

In addition to any other fine or penalty, any person found guilty of violation of this chapter shall forfeit any weapon, firearm, bow and arrow, BB gun, rifle, or other instrument used in violating this chapter to the city.

(Ord. 1004, passed I-18-81)

§ 130.99 PENALTY.

Any person or corporation violating any of the provisions of this chapter shall be fined not less than \$25 nor more than \$500. A separate offense shall be deemed committed for each occurrence which constitutes a violation of this chapter.

(Ord. 1004, passed I-18-81)

CHAPTER 131: SYNTHETIC CANNABINOID

Section

131.01 Cannabinoid prohibited

131.99 Penalty

§ 131.01 CANNABINOID PROHIBITED.

(A) It is hereby declared to be unlawful for any person to manufacture, use, possess, purchase, attempt to purchase, sell, publicly display for sale or attempt to sell, give, or barter any one or more of the following chemicals within the boundaries of the City of Butler:

(1) 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol {also known as CP 47,497 and its C6, C7, C8, and C9 homologues};

(2) (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol {also known as HU-210};

(3) Naphthalen-1-yl-(1-pentylindol-3-yl)methanone {also known as 1Pentyl-3-(1-naphthoyl)indole or JWH-018};

(4) Naphthalen-1-yl-(1-butylindol-3-yl)methanone {also known as JWH-073}.

(B) This section shall be enforced by the Butler Police Department. If any of the substances listed in division (A) herein are found in the possession of any person, they may be confiscated and upon conviction be destroyed by law enforcement officials.

(C) It is not an offense under division (A) herein if the person was acting at the direction of an authorized law enforcement agent to enforce or ensure compliance with this law prohibiting the sale of the aforementioned substances.

(D) This section does not apply to any person who commits any act described in this section pursuant to the direction or prescription of a licensed physician or dentist authorized to direct or prescribe such act. This section likewise does not apply to the inhalation of anesthesia for a medical purpose or dental purpose under a licensed medical or dental professional's direction.

(E) Any business or residence that violates the terms of this chapter is declared to be a public nuisance.

(Ord. 1532, passed 9-20-10) Penalty, see § 131.99

§ 131.99 PENALTY.

Any business found to be in violation of this chapter will be subject to a civil fine not to exceed \$2,500. Any person found in violation of this chapter will be guilty of a civil fine not to exceed \$1,000.

(Ord. 1532, passed 9-20-10)

TITLE XV: LAND USAGE

Chapter

- 150. ZONING CODE
- 151. SUBDIVISION CODE
- 152. BUILDING CODE
- 153. FLOOD HAZARD AREA
- 154. HOUSE NUMBERING
- 155. MASTER PLAN
- 156. URBAN DEVELOPMENT AND ECONOMIC REVITALIZATION AREAS
- 157. DEMOLITION OF STRUCTURES
- 158. UNSAFE BUILDING LAW

CHAPTER 150: ZONING CODE

Editor's Note: The City of Butler Zoning Code is codified in Chapter 150 as set forth herein.

CHAPTER 151: SUBDIVISION CODE

Editor's Note: The City of Butler Subdivision Code is codified in Chapter 151 as set forth herein.

CHAPTER 152: BUILDING CODE

Section

General Provisions

152.01 Title

- 152.02 Purpose
- 152.03 Definitions
- 152.04 Scope
- 152.05 Authority

Building Permits

- 152.15 Building permit required
- 152.16 Application for building permit
- 152.17 Issuance of Building permit
- 152.18 Certificate of occupancy

Investigations and Inspections of Construction Activities

- 152.30 General authority to make inspections and investigations
- 152.31 Inspections by Fire Department

Minimum Construction Standards

- 152.40 Adoption of rules by reference
- 152.41 Lifting devices located within a private residence

Enforcement

- 152.50 Withhold issuance of permits
- 152.51 Permit revocation
- 152.52 Stop-work order
- 152.53 Civil action
- 152.54 Right to appeal

- 152.99 Penalty

GENERAL PROVISIONS

§ 152.01 TITLE.

This chapter, and all ordinances supplemental or amendatory hereto, shall be known as the "Building Code of the City of Butler, Indiana", may be cited as such, and will be referred to herein as "this code".

(Ord. 1452-06, passed 2-20-06)

§ 152.02 PURPOSE.

The purpose of this code is to protect the life, public safety, health and general welfare of the citizens of the city, and shall be construed in such a manner to effectuate this purpose.

(Ord. 1452-06, passed 2-20-06)

§ 152.03 DEFINITIONS.

Unless otherwise clearly indicated by its context, the words and terms defined in this section shall have the specified meanings.

"BUILDING COMMISSIONER." As used in this chapter, includes individuals employed by the City of Butler that are authorized or assigned to represent the City of Butler in building matters. The Building Commissioner shall be the City Planner or his or her designee.

"CLASS 1 STRUCTURE." Pursuant to IC 22-12-1-4 has the following definition:

(1) **"CLASS 1 STRUCTURE"** means any part of the following:

(a) A building or structure that is intended to be or is occupied or otherwise used in any part by any of the following:

1. The public.
2. Three or more tenants.
3. One or more persons who act as the employees of another.

(b) A site improvement affecting access by persons with physical disabilities to a building or structure described in division (a).

(c) Outdoor event equipment.

(d) Any class of buildings or structures that the commission determines by rules to affect a building or structure described in division (a), except buildings or structures described in divisions (3) through (6).

(2) Division (1)(a) includes a structure that contains three or more condominium units (as defined in IC 32-25-2-9) or other units that:

- (a) Are intended to be or are used or leased by the owner of the unit; and
- (b) Are not completely separated from each other by an unimproved space.

(3) Division (1)(a) does not include a building or structure that:

(a) Is intended to be or is used only for an agricultural purpose on the land where it is located; and

(b) Is not used for retail trade or is a stand used for retail sales of farm produce for eight or less consecutive months in a calendar year.

(4) Division (1)(a) does not include a Class 2 structure.

(5) Division (1)(a) does not include a vehicular bridge.

(6) Division (1)(a) does not include a structure that is intended to be or is occupied solely to provide periodic maintenance or repair of:

- (a) The structure; or

(b) Mechanical or electrical equipment located within and affixed to the structure.

(7) Pursuant to IC 22-12-1-24, structure includes swimming pool.

"CLASS 2 STRUCTURE." Pursuant to IC 22-12-1-5, has the following definition:

(1) "CLASS 2 STRUCTURE" means any part of the following:

(a) A building or structure that is intended to contain or contains only one dwelling unit or two dwelling units unless any part of the building or structure is regularly used as a Class 1 structure.

(b) An outbuilding for a structure described in division (a), such as a garage, barn, or family swimming pool, unless any part of the outbuilding is regularly used as a Class 1 structure.

(2) Division (1) does not include a vehicular bridge.

(3) Pursuant to IC 22-12-1-24, structure includes swimming pool.

"CONSTRUCTION." Pursuant to IC 22-12-1-7, means any of the following:

(1) Fabrication of any part of an industrialized building system or mobile structure for use at another site.

(2) Erection or assembly of any part of a Class 1 or Class 2 structure at the site where it will be used.

(3) Installation of any part of the permanent heating, ventilating, air conditioning, electrical, plumbing, sanitary, emergency detection, emergency communication, or fire or explosion suppression systems for a Class 1 or Class 2 structure at the site where it will be used.

(4) Work undertaken to alter, remodel, rehabilitate, or add to any part of a Class 1 or Class 2 structure.

(5) Work undertaken to relocate any part of a Class 1 or Class 2 structure, except a mobile structure.

"INDUSTRIALIZED BUILDING SYSTEM." Pursuant to IC 22-12-1-14, means any part of a building or other structure that is in whole or in substantial part fabricated in an off-site manufacturing facility for installation or assembly at the building site as part of a Class 1 structure, a Class 2 structure, or another building or structure. However, the term does not include a mobile structure or a system that is capable of inspection at the building site.

"MANUFACTURED HOME." Pursuant to IC 22-12-1-16 has the meaning set forth in 42 U.S.C. 5402 as it existed on January 1, 2003. The term includes a mobile home (as defined in IC 16-41-27-4). This definition is as follows: "Manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and complies with the standards established under this 42 U.S.C. 5401 et seq. and except that such term shall not include any self-propelled recreational vehicle.

"MOBILE STRUCTURE." Pursuant to IC 22-12-1-17, has the following definition:

(1) "MOBILE STRUCTURE." Any part of a fabricated unit that is designed to be:

(a) Towed on its own chassis; and

(b) Connected to utilities for year-round occupancy or use as a Class 1 structure, a Class 2 structure, or another structure.

(2) The term includes the following:

(a) Two or more components that can be retracted for towing purposes and subsequently expanded for additional capacity.

(b) Two or more units that are separately towable but designed to be joined into one integral unit.

"PERSON." Pursuant to IC 22-12-1-18, means an individual, corporation, limited liability company, partnership, unincorporated association, or governmental entity.

"STRUCTURE." Both Class 1 and Class 2 structures, unless specifically stated otherwise.

"VEHICULAR BRIDGE." Pursuant to IC 22-12-1-26, means any bridge that is neither:

(1) A pedestrian walkway; nor

(2) A passageway for light vehicles; suspended between two or more parts of a building or between two or more buildings.

(Ord. 1452-06, passed 2-20-06)

§ 152.04 SCOPE.

(A) All construction shall be accomplished in compliance with the provisions of this chapter.

(B) Pursuant to IC 22-13-2-6, this chapter shall not apply to industrialized building systems or mobile structures certified under IC 22-15-4; however, the provisions of this chapter and the rules promulgated by the Fire Prevention and Building Safety Commission do apply to any construction related to an industrialized building system or mobile structure not certified under IC 22-15-4.

(C) Pursuant to IC 22-13-2-9, this chapter is not applicable to regulated amusement devices, regulated boilers, regulated pressure vessels, or regulated lifting devices.

(Ord. 1452-06, passed 2-20-06)

§ 152.05 AUTHORITY.

The Building Commissioner is hereby authorized and directed to administer and enforce the following:

(A) All of the provisions of this chapter and the state codes adopted herein.

(B) Variances granted in accordance with IC 22-13-2-11.

(C) Orders issued under IC 22-12-7.

(Ord. 1452-06, passed 2-20-06)

BUILDING PERMITS

§ 152.15 BUILDING PERMIT REQUIRED.

Construction is prohibited unless in conformity with a valid building permit obtained from the Building Commissioner prior to commencement of construction.

(Ord. 1452-06, passed 2-20-06)

§ 152.16 APPLICATION FOR BUILDING PERMIT.

(A) Any person required to have a building permit shall submit a complete application to the Building Commissioner.

(B) This application shall be submitted on a form prepared by the Building Commissioner, and shall contain the following:

(1) Information that the Building Commissioner determines to be necessary to locate and contact the applicant.

(2) A clear and understandable copy of detailed plans and specifications drawn to scale which indicate in a precise manner the nature and location of all work to be accomplished.

(3) A plot plan drawn to scale; provided, however, such plot plan shall not be required in the instance where all such construction is to occur entirely within an existing structure. This plot plan shall reflect the location of the structure in relation to existing property lines and show streets, curbs and sidewalks and proposed changes or additions to such streets, curbs and sidewalks.

(4) If required by Indiana law or any rule of the Fire Prevention and Building Safety Commission, a copy of a Design Release for the work to be done that has been issued by the State Building Commissioner and the State Fire Marshal pursuant to IC 22-15-3.

(5) Any additional information that the Building Commissioner finds to be necessary to determine that the construction will conform to all applicable building laws and will not violate any other applicable ordinances or laws.

(6) The fee established by Butler City Council.

(C) Application for a building permit shall be made by the person entitled to obtain the permit or by an employee or agent of that person. The Building Commissioner may require that such an employee or agent provide written authority to apply for a permit.

(Ord. 1452-06, passed 2-20-06)

§ 152.17 ISSUANCE OF BUILDING PERMIT.

The Building Commissioner shall issue a building permit to a person after the person has submitted a complete application, including any applicable fee, provided that the proposed construction will conform to all applicable building laws and will not violate any other applicable ordinances or laws. If said buildings require a state permit, approval or release, then that shall be attached to the application.

(Ord. 1452-06, passed 2-20-06)

§ 152.18 CERTIFICATE OF OCCUPANCY.

No certificate of occupancy for any building or structure shall be issued unless such building or structure was constructed in compliance with the provisions of this chapter. It shall be unlawful to occupy any such building or structure unless a full, partial, or temporary certificate of occupancy has been issued by the Building Commissioner.

(Ord. 1452-06, passed 2-20-06)

INVESTIGATIONS AND INSPECTIONS OF CONSTRUCTION ACTIVITIES

§ 152.30 GENERAL AUTHORITY TO MAKE INSPECTIONS AND INVESTIGATIONS.

(A) All construction shall be subject to periodic inspections by the Building Commissioner irrespective of whether a building permit has been or is required to be obtained.

(B) The Building Commissioner may at any reasonable time go in, upon, around or about the premises where any structure subject to the provisions of this chapter or to the rules of the Fire Prevention And Building Safety Commission is located for the purposes of inspection and investigation of such structure. Such inspection and investigation may be made before and/or after construction on the project is completed for the purposes of determining whether the structure meets building standards and procedures, and ascertaining whether the construction and procedures have been accomplished in a manner consistent with this chapter and the rules of the Fire Prevention And Building Safety Commission.

(Ord. 1452-06, passed 2-20-06)

§ 152.31 INSPECTIONS BY FIRE DEPARTMENT.

The Building Commissioner and the Fire Department shall work cooperatively to conduct inspections and investigations to promote compliance with fire safety laws (The Fire Department has independent authority to conduct inspections and take enforcement actions under IC 36-8-17).

(Ord. 1452-06, passed 2-20-06)

MINIMUM CONSTRUCTION STANDARDS

§ 152.40 ADOPTION OF RULES BY REFERENCE.

(A) Pursuant to IC 22-13-2-3(b), the rules of the Indiana Fire Prevention and Building Safety Commission as set out in the following Articles of Title 675 of the Indiana Administrative Code are hereby incorporated by reference in this code and shall include any later amendments to those rules.

- (1) Article 13 – Building Codes
 - (a) Fire and Building Safety Standards.
 - (b) Indiana Building Code.
- (2) Article 14 – Indiana Residential Code

- (3) Article 16 – Indiana Plumbing Code
- (4) Article 17 – Indiana Electrical Code
- (5) Article 18 – Indiana Mechanical Code
- (6) Article 19 – Indiana Energy Conservation Code
- (7) Article 20 – Indiana Swimming Pool Code
- (8) Article 22 – Indiana Fire Code
- (9) Article 24 – Migrant Day Care Nursery Fire Safety Code
- (10) Article 25 – Indiana Fuel Gas Code

(B) Two copies of the above building rules incorporated by reference are on file in the office of the clerk for the legislative body for public inspection as required by IC 36-1-5-4.

(C) The Building Commissioner and the Fire Prevention and Building Safety Commission may grant a variance to the fire safety laws and building laws adopted in this Building Code. Pursuant to IC 22-13-2-7(b), a variance granted by the Building Commissioner is not effective until it has been approved by Fire Prevention and Building Safety Commission.

(Ord. 1452-06, passed 2-20-06)

§ 152.41 LIFTING DEVICES LOCATED WITHIN A PRIVATE RESIDENCE.

(A) Pursuant to IC 22-12-1-22(b)(12), lifting devices, such as elevators and wheelchair lifts, located within a private residence are not regulated lifting devices. Therefore, the following standards applicable to lifting devices located within a private residence are incorporated by reference:

(1) Part 5.3, Private Residence Elevators, ANSI/ASME A17.1-2000, Safety Code for Elevators and Escalators published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York, 10016.

(2) Part 5.4, Private Residence Inclined Elevators, ANSI/ASME A17.1-2000, Safety Code for Elevators and Escalators published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York, 10016.

(3) Section 5, Private Residence Vertical Platform Lifts, ASME A18.1a, 2001 (Addenda to ASME 18.1-1999), Safety Standard for Platform and Stairway Chair Lifts, published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016.

(4) Section 6, Private Residence Inclined Platform Lifts, ASME AI 8.1a, 2001 (Addenda to ASME 18.1-1999), Safety Standard for Platform and Stairway Chair Lifts, published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016.

(5) Section 7, Private Inclined Stairway Lifts, ASME A18.1a, 2001 (Addenda to ASME 18.1-1999), Safety Standard for Platform and Stairway Chair Lifts, published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016.

(B) Two copies of the above lifting device standards incorporated by reference are on file in the office of the clerk for the legislative body for public inspection as required by IC 36-1-5-4.

(Ord. 1452-06, passed 2-20-06)

ENFORCEMENT

§ 152.50 WITHHOLD ISSUANCE OF PERMITS.

(A) Whenever a person which is either an applicant for a building permit or an obtainer of a building permit owes fees (including checks returned for insufficient funds, permit fees owed pursuant to Butler City Code, or inspection fees owed pursuant to Butler City Code) to the Building Commissioner the Building Commissioner may withhold the issuance of subsequently requested permits until such time that the debt is satisfied.

(B) Whenever a person applies for a building permit for a structure that is not being used or constructed in conformance with applicable provisions of an applicable zoning ordinance or other ordinance relating to land use, the Building Commissioner is authorized to withhold the issuance of requested permits until such time that the property is brought into conformance with applicable ordinances.

(Ord. 1452-06, passed 2-20-06)

§ 152.51 PERMIT REVOCATION.

The Building Commissioner may revoke a building permit when any of the following are applicable:

(A) The application, plans or supporting documents contain a false statement or misrepresentation as to a material fact.

(B) The application, plans or supporting documents reflect a lack of compliance with building standards and procedures.

(C) There is failure to comply with the Building Code.

(D) The structure for which the building permit has been issued is not being used or constructed in conformance with an applicable zoning ordinance or other ordinance relating to land use.

(Ord. 1452-06, passed 2-20-06)

§ 152.52 STOP-WORK ORDER.

(A) The Building Commissioner may issue an order requiring suspension of the pertinent construction (stop-work order) in accordance with this section.

(B) The stop work order shall:

(1) Be in writing.

(2) State with specificity the construction to which it is applicable and the reason for its issuance.

(3) Be posted on the property in a conspicuous place.

(4) If practicable, be given to:

(a) The person doing the construction; and

(b) To the owner of the property or the owner's agent.

(5) The stop-work order shall state the conditions under which construction may be resumed.

(C) The Building Commissioner may issue a stop-work order if:

(1) Construction is proceeding in an unsafe manner, including, but not limited to, in violation of any standard set forth in this Building Ordinance or any state law pertaining to safety during construction.

(2) Construction is occurring in violation of this Building Code or in such a manner that if construction is allowed to proceed, there is a reasonable probability that it will be substantially difficult to correct the violation.

(3) Construction for which a building permit is required is proceeding without a building permit being in force.

(4) The issuance of a stop-work order shall in no way limit the operation of penalties provided elsewhere in this Building Code.

(Ord. 1452-06, passed 2-20-06)

§ 152.53 CIVIL ACTION.

Pursuant to IC 36-1-6-4, the city may initiate a civil action in a court of competent jurisdiction to restrain any person from violating a provision of this Building Code. As part of its remedy the city may collect expenses, including attorney fees, if a civil action is necessary.

(Ord. 1452-06, passed 2-20-06)

§ 152.54 RIGHT TO APPEAL.

Any person aggrieved by an order issued under this Building Code shall have the right to petition for review of any order of the Building Commissioner. Such a person may file a petition using either, or both, of the following procedures:

(A) Appeal to the Fire Prevention and Building Safety Commission.

(1) A person aggrieved by an order issued under this Building Ordinance may appeal to the Fire Prevention and Building Safety Commission, in accordance with IC 22-13-2-7.

(2) The Commission may modify or reverse any order issued by the City that covers a subject governed by IC 22-12, IC 22-13, IC 22-14, IC 22-15, a fire safety, or a building rule.

(3) The Fire Prevention and Building Safety Commission must review orders that concern a Class 2 Structure if the person aggrieved by the order petitions for review under IC 4-21.5-3-7 within 30 days after the issuance of the order.

(4) The Fire Prevention and Building Safety Commission may review all other orders issued under this Building Code.

(5) The review of an order by the Fire Prevention and Building Safety Commission does not suspend the running of the time period under any statute in which a person must petition a court for judicial review of the order.

(B) Appeal to an established local administrative body or court. If, pursuant to IC 36-1-6-9, the city has established by ordinance to hear appeals of orders issued under ordinances, then a

person aggrieved by an order may petition for review with this administrative body in accordance with said ordinance. If no such administrative body exists, then the person may petition a court for judicial review of the order.

(Ord. 1452-06, passed 2-20-06)

§ 152.99 PENALTY.

Any person violating any provision of this Building Code may be subject to a fine in any sum not exceeding \$2,500. The assessment of a monetary penalty shall in no way limit the operation of the penalties provided elsewhere in this Building Code. The city shall also be authorized to collect all fees and expenses, including attorney fees, for any action.

(Ord. 1452-06, passed 2-20-06)

CHAPTER 153: FLOOD HAZARD AREA

Section

General Provisions

- 153.01 Statutory authorization
- 153.02 Findings of fact
- 153.03 Statement of purpose
- 153.04 Objectives
- 153.05 Definitions
- 153.06 Lands to which this chapter applies
- 153.07 Basis for establishing regulatory flood data
- 153.08 Establishment of floodplain development permit
- 153.09 Compliance
- 153.10 Abrogation and greater restrictions
- 153.11 Discrepancy between mapped floodplain and actual ground elevations
- 153.12 Interpretation
- 153.13 Warning and disclaimer of liability

Administration

- 153.25 Designation of administrator
- 153.26 Permit procedures
- 153.27 Duties and responsibilities of the floodplain administrator

Provisions for Flood Hazard Reduction

- 153.40 General standards

- 153.41 Specific standards
- 153.42 Standards for subdivision proposals
- 153.43 Critical facility
- 153.44 Standards for identified floodways
- 153.45 Standards for identified fringe
- 153.46 Standards for SFHAs without established base flood elevation and/or floodways/fringes

Variance Procedures

- 153.55 Designation of Variance and Appeals Board
 - 153.56 Duties of Variance and Appeals Board
 - 153.57 Variance procedures
 - 153.58 Conditions for variances
 - 153.59 Variance notification
 - 153.60 Historic structure
 - 153.61 Special conditions
-
- 153.99 Penalty

GENERAL PROVISIONS

§ 153.01 STATUTORY AUTHORIZATION.

The Indiana Legislature has in IC 36-7-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the City of Butler does hereby adopt the following floodplain management regulations.

(Ord. 1465, passed 9-5-06)

§ 153.02 FINDINGS OF FACT.

(A) The flood hazard areas of the City of Butler are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(B) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.

(Ord. 1465, passed 9-5-06)

§ 153.03 STATEMENT OF PURPOSE.

It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(A) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities;

(B) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(C) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;

(D) Control filling, grading, dredging, and other development which may increase erosion or flood damage;

(E) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and,

(F) Make federally subsidized flood insurance available for structures and their contents in the City of Butler by fulfilling the requirements of the National Flood Insurance Program.

(Ord. 1465, passed 9-5-06)

§ 153.04 OBJECTIVES.

The objectives of this chapter are:

(A) To protect human life and health;

(B) To minimize expenditure of public money for costly flood control projects;

(C) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(D) To minimize prolonged business interruptions;

(E) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains;

(F) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas, and;

(G) To ensure that potential homebuyers are notified that property is in a flood area.

(Ord. 1465, passed 9-5-06)

§ 153.05 DEFINITIONS.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

“A ZONE.” Portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A zones, floodwaters may move slowly or rapidly, but

waves are usually not a significant threat to buildings. These areas are labeled as Zone A, Zone AE, Zones A1-A30, Zone AO, Zone AH, Zone AR and Zone A99 on a FIRM or FHBM. The definitions are presented below:

(1) "ZONE A." Areas subject to inundation by the one-percent annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown. Mandatory flood insurance purchase requirements apply.

(2) "ZONE AE AND A1-A30." Areas subject to inundation by the one-percent annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. Mandatory flood insurance purchase requirements apply. (Zone AE is on new and revised maps in place of Zones A1-A30.)

(3) "ZONE AO." Areas subject to inundation by one-percent annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone. Mandatory flood insurance purchase requirements apply.

(4) "ZONE AH." Areas subject to inundation by one-percent annual chance shallow flooding (usually areas of ponding) where average depths are one to three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone. Mandatory flood insurance purchase requirements apply.

(5) "ZONE AR." Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection. Mandatory flood insurance purchase requirements apply.

(6) "ZONE A99." Areas subject to inundation by the 1% annual chance flood event, but which will ultimately be protected upon completion of an under-construction Federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. Zone A99 may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown. Mandatory flood insurance purchase requirements apply.

"ACCESSORY STRUCTURE" ("APPURTENANT STRUCTURE"). A structure that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

"ADDITION (TO AN EXISTING STRUCTURE)." Any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

"APPEAL." A request for a review of the floodplain administrator's interpretation of any provision of this chapter or a request for a variance.

"AREA OF SHALLOW FLOODING." means a designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"BASE FLOOD ELEVATION (BFE)." means the elevation of the 1% annual chance flood.

“BASEMENT.” That portion of a structure having its floor sub-grade (below ground level) on all sides.

“BUILDING.” - see "Structure."

“COMMUNITY.” A political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

“COMMUNITY RATING SYSTEM (CRS).” A program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

“CRITICAL FACILITY.” A facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

“DEVELOPMENT.” means any man-made change to improved or unimproved real estate including but not limited to:

- (1) Construction, reconstruction, or placement of a structure or any addition to a structure;
- (2) Installing a manufactured home on a site, preparing a site for a manufactured home or installing recreational vehicle on a site for more than 180 days;
- (3) Installing utilities, erection of walls and fences, construction of roads, or similar projects;
- (4) Construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
- (5) Mining, dredging, filling, grading, excavation, or drilling operations;
- (6) Construction and/or reconstruction of bridges or culverts;
- (7) Storage of materials; or
- (8) Any other activity that might change the direction, height, or velocity of flood or surface waters.
- (9) “DEVELOPMENT” does not include activities such as the maintenance of existing structures and facilities such as painting, re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

“ELEVATED STRUCTURE.” A non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers).

“ELEVATION CERTIFICATE.” A certified statement that verifies a structure's elevation information.

“EMERGENCY PROGRAM.” The first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

“ENCROACHMENT.” The advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

“EXISTING CONSTRUCTION.” Any structure for which the "start of construction" commenced before the effective date of the community's first floodplain ordinance.

“EXISTING MANUFACTURED HOME PARK OR SUBDIVISION.” A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the community's first floodplain ordinance.

“EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION.” The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

“FEMA.” means the Federal Emergency Management Agency.

“FIVE-HUNDRED YEAR FLOOD (500-YEAR FLOOD).” The flood that has a 0.2% chance of being equaled or exceeded in any year.

“FLOOD.” A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

“FLOOD BOUNDARY AND FLOODWAY MAP (FBFM).” An official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

“FLOOD HAZARD BOUNDARY MAP (FHBM).” An official map of a community, issued by FEMA, where the boundaries of the areas of special flood hazard have been identified as Zone A.

“FLOOD INSURANCE RATE MAP (FIRM).” An official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

“FLOOD INSURANCE STUDY (FIS).” The official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FBFM (where applicable), and the water surface elevation of the base flood.

“FLOODPLAIN.” The channel proper and the areas adjoining any wetland, lake or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the fringe districts.

“FLOODPLAIN MANAGEMENT.” The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

“FLOODPLAIN MANAGEMENT REGULATIONS.” This chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage. Floodplain management regulations are also referred to as floodplain regulations, floodplain ordinance, flood damage prevention ordinance, and floodplain management requirements.

“FLOOD PROTECTION GRADE (FPG).” The elevation of the regulatory flood plus two feet at any given location in the SFHA. (see "Freeboard")

“FLOODPROOFING (DRY FLOODPROOFING).” A method of protecting a structure that ensures that the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation with walls that are substantially impermeable to the passage of water. All structural components of these walls are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.

“FLOODPROOFING CERTIFICATE.” A form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be by a Registered Professional Engineer or Architect.

“FLOODWAY.” is the channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

“FREEBOARD.” means a factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

“FRINGE.” is those portions of the floodplain lying outside the floodway.

“FUNCTIONALLY DEPENDENT FACILITY.” means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

“HARDSHIP.” (as related to variances of this chapter) The exceptional hardship that would result from a failure to grant the requested variance. The City of Butler requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

“HIGHEST ADJACENT GRADE.” The highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

“HISTORIC STRUCTURE.” Any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

“INCREASED COST OF COMPLIANCE (ICC).” The cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business flood insurance policies with effective dates on or after June 1, 1997, will include ICC coverage.

“LETTER OF MAP AMENDMENT (LOMA).” An amendment to the currently effective FEMA map that establishes that a property is not located in a SFHA. A LOMA is only issued by FEMA.

“LETTER OF MAP REVISION (LOMB).” An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

“LETTER OF MAP REVISION BASED ON FILL (LOMR-F).” An official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or

parcel has been elevated on fill above the BFE and excluded from the SFHA.

“LOWEST ADJACENT GRADE.” The lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

“LOWEST FLOOR.” The lowest of the following:

- (1) The top of the lowest level of the structure;
- (2) The top of the basement floor;
- (3) The top of the garage floor, if the garage is the lowest level of the structure;
- (4) The top of the first floor of a structure elevated on pilings or pillars;

(5) The top of the first floor of a structure constructed with a crawl space, provided that the lowest point of the interior grade is at or above the BFE and construction meets requirements of (6)(a); or

(6) The top of the floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of flood waters unless:

(a) The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, by providing a minimum of two openings (in addition to doorways and windows) having a total net area of one square inch for every square foot of enclosed area subject to flooding. The bottom of all such openings shall be no higher than one foot above grade; and

(b) Such enclosed space shall be usable solely for the parking of vehicles and building access.

“MANUFACTURED HOME.” A structure, transportable, in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "MANUFACTURED HOME" does not include a "recreational vehicle."

“MANUFACTURED HOME PARK OR SUBDIVISION.” A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“MAP AMENDMENT.” A change to an effective NFIP map that results in the exclusion from the SFHA of an individual structure or a legally described parcel of land that has been inadvertently included in the SFHA (i.e., no alterations of topography have occurred since the date of the first NFIP map that showed the structure or parcel to be within the SFHA).

“MAP PANEL NUMBER.” The four-digit number followed by a letter suffix assigned by FEMA on a flood map. The first four digits represent the map panel, and the letter suffix represents the number of times the map panel has been revised. (The letter "A" is not used by FEMA, the letter "B" is the first revision.)

“MARKET VALUE.” The building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.

“MITIGATION.” Sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is two fold: to protect people and structures, and to minimize the cost of disaster response and recovery.

“NATIONAL FLOOD INSURANCE PROGRAM (NFIP).” The federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.

“NATIONAL GEODETIC VERTICAL DATUM (NGVD).” As corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

“NEW CONSTRUCTION.” Any structure for which the "start of construction" commenced after the effective date of the community's first floodplain ordinance.

“NEW MANUFACTURED HOME PARK OR SUBDIVISION.” A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community's first floodplain ordinance.

“NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88).” As adopted in 1993 is a vertical control datum used as a reference for establishing varying elevations within the floodplain.

“OBSTRUCTION.” Includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

“ONE-HUNDRED YEAR FLOOD (100-YEAR FLOOD).” Is the flood that has a 1% chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See "Regulatory Flood".

“ONE-PERCENT ANNUAL CHANCE FLOOD.” The flood that has a 1% chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See "Regulatory Flood". Participating community is any community that voluntarily elects to participate in the NFIP by adopting and enforcing floodplain management regulations that are consistent with the standards of the NFIP.

“PHYSICAL MAP REVISION (PMR).” An official republication of a community's FEMA map to effect changes to base (1% annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

“POST-FIRM CONSTRUCTION.” Construction or substantial improvement that started on or after the effective date of the initial FIRM of the community or after December 31, 1974, whichever is later.

“PRE-FIRM CONSTRUCTION.” Construction or substantial improvement, which started on or before December 31, 1974, or before the effective date of the initial FIRM of the community, whichever is later.

“PROBATION.” A means of formally notifying participating communities of violations and deficiencies in the administration and enforcement of the local floodplain management regulations.

“PUBLIC SAFETY AND NUISANCE.” Anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

“RECREATIONAL VEHICLE.” A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

“REGULAR PROGRAM.” The phase of the community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.

“REGULATORY FLOOD.” The flood having a 1% chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in Article 3 (B) of this chapter. The “REGULATORY FLOOD” is also known by the term “Base Flood”, “One-Percent Annual Chance Flood”, and “100-Year Flood”.

“REPETITIVE LOSS.” Flood-related damages sustained by a structure on two separate occasions during a ten-year period ending on the date of the event for which the second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25% of the market value of the structure at the time of each such flood event.

“SECTION 1316.” That section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

“SPECIAL FLOOD HAZARD AREA (SFHA).” Those lands within the jurisdictions (including extraterritorial jurisdictions) of the City of Butler subject to inundation by the regulatory flood. The SFHAs of the City of Butler are generally identified as such on the Flood Insurance Rate Map of DeKalb County and Incorporated Areas dated September 29, 2006, as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1-A30, AH, AR, A99, or AO).

“START OF CONSTRUCTION.” Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement or permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footing, installation of piles, construction of columns, or any work beyond the stage of excavation for placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

“STRUCTURE.” A structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles to be installed on a site for more than 180 days.

“SUBSTANTIAL DAMAGE.” Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

“SUBSTANTIAL IMPROVEMENT.” Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage" or repetitive loss regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements or any alteration of a "historic structure", provided that the alteration will not preclude the structures continued designation as a "historic structure".

“SUSPENSION.” The removal of a participating community from the NFIP because the community has not enacted and/or enforced the proper floodplain management regulations required for participation in the NFIP.

“VARIANCE.” A grant of relief from the requirements of this chapter, which permits construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship.

“VIOLATION.” The failure of a structure or other development to be fully compliant with this chapter. A structure or other development without the elevation, other certification, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

“WATERCOURSE.” A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

“WATER SURFACE ELEVATION.” The height, in relation to the North American Vertical Datum of 1988 (NAVD 88), National Geodetic Vertical Datum (NGVD) of 1929, (or other datum where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas.

“X ZONE.” The area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMS) designate areas subject to inundation by the flood with a 0.2% chance of being equaled or exceeded (the 500-year flood). Unshaded X zones (C zones on older FIRMS) designate areas where the annual exceedance probability of flooding is less than 0.2%.

“ZONE.” means a geographical area shown on a FHBM or FIRM that reflects the severity or type of flooding in the area.

“ZONE A.” (see definition for A zone)

“ZONE B, C, AND X.” Areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Flood insurance Available in participating communities but is not required by regulation in these zones. (Zone X is used on new and revised maps in place of Zones B and C.)

(Ord. 1465, passed 9-5-06)

§ 153.06 LANDS TO WHICH THIS CHAPTER APPLIES.

This chapter shall apply to all SFHAs within the jurisdiction of city.

(Ord. 1465, passed 9-5-06)

§ 153.07 BASIS FOR ESTABLISHING REGULATORY FLOOD DATA.

This chapter's protection standard is the regulatory flood. The best available regulatory flood data is listed below. Whenever a party disagrees with the best available data, the party submitting the detailed engineering study needs to replace existing data with better data and submit it to the Indiana Department of Natural Resources for review and approval.

(A) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs of city shall be as delineated on the 100-year flood profiles in the Flood Insurance Study of DeKalb County and Incorporated Areas, dated September 29, 2006 and the corresponding FIRM dated September 29, 2006, as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.

(B) The regulatory flood elevation, floodway, and fringe limits for each of the unstudied SFHAs of the city delineated as an "A Zone" on the FIRM of DeKalb County and Incorporated Areas shall be according to the best data available as provided by the Indiana Department of Natural Resources.

(Ord. 1465, passed 9-5-06)

§ 153.08 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

A floodplain development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities in areas of special flood hazard.

(Ord. 1465, passed 9-5-06)

§ 153.09 COMPLIANCE.

No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this chapter and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this chapter and other applicable regulations.

(Ord. 1465, passed 9-5-06)

§ 153.10 ABROGATION AND GREATER RESTRICTIONS.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

§ 153.11 DISCREPANCY BETWEEN MAPPED FLOODPLAIN AND ACTUAL GROUND ELEVATIONS.

(A) In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.

(B) If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.

(C) If the elevation (natural grade) of the site in question is above the base flood elevation, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner should be advised to apply for a LOMA.

(Ord. 1465, passed 9-5-06)

§ 153.12 INTERPRETATION.

In the interpretation and application of this chapter all provisions shall be:

(A) Considered as minimum requirements;

(B) Liberally construed in favor of the governing body; and,

(C) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. 1465, passed 9-5-06)

§ 153.13 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this chapter does not create any liability on the part of the city, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this chapter or any administrative decision made lawfully thereunder.

(Ord. 1465, passed 9-5-06)

ADMINISTRATION

§ 153.25 DESIGNATION OF ADMINISTRATOR.

The Common Council hereby appoints the Plan Commission, Board of Zoning Appeals, City Council, City Attorney, Mayor, Building Inspector, City Planner are designated to enforce, administer and implement the provisions of this chapter and are herein referred to as the Floodplain Administrator.

(Ord. 1465, passed 9-5-06)

§ 153.26 PERMIT PROCEDURES.

(A) Application for a floodplain development permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically the following information is required:

(1) Application stage.

(a) A description of the proposed development;

(b) Location of the proposed development sufficient to accurately locate property and structure in relation to existing roads and streams;

(c) A legal description of the property site;

(d) A site development plan showing existing and proposed development locations and existing and proposed land grades;

(e) Elevation of the top of the lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD;

(f) Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed;

(g) Description of the extent to which any watercourse will be altered or related as a result of proposed development, and

(2) Construction stage.

(B) Upon placement of the lowest floor; or floodproofing, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the NAVD 88 or NGVD elevation of the lowest floor or floodproofed elevation, as built. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. When floodproofing is utilized for a particular structure said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holders' risk. (The Floodplain Administrator shall review the lowest floor and floodproofing elevation survey data submitted.) The permit holder shall correct deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

(Ord. 1465, passed 9-5-06)

§ 153.27 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

(A) The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this chapter. The administrator is further authorized to render interpretations of this chapter, which are consistent with its spirit and purpose.

(B) Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to:

(1) Review all floodplain development permits to assure that the permit requirements of this chapter have been satisfied;

(2) Inspect and inventory damaged structures in SFHA and complete substantial damage determinations;

(3) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to §§ 153.44 and 153.46(1) of this chapter, and maintain a record of such authorization (either copy of actual permit or floodplain analysis/regulatory assessment.)

(4) Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits are to be maintained on file with the floodplain development permit;

(5) Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA;

(6) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Amendment (LOMA), Letters of Map Revision (LOMR), copies of DNR permits and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and "as-built" elevation and floodproofing data for all buildings constructed subject to this chapter.

(7) Utilize and enforce all Letters of Map Revision (LOMR) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.

(8) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;

(9) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with § 153.26;

(10) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed, in accordance with § 153.26;

(11) Review certified plans and specifications for compliance.

(12) Stop Work Orders (optional).

(a) Upon notice from the floodplain administrator, work on any building, structure or premises that is being done contrary to the provisions of this chapter shall immediately cease.

(b) Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.

(13) Revocation of permits (optional).

(a) The floodplain administrator may revoke a permit or approval, issued under the provisions of the ordinance, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

(b) The floodplain administrator may revoke a permit upon determination by the floodplain administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this chapter.

(Ord. 1465, passed 9-5-06)

PROVISIONS FOR FLOOD HAZARD REDUCTION

§ 153.40 GENERAL STANDARDS.

In all SFHAs the following provisions are required:

- (A) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- (B) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;
- (C) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG;
- (D) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (E) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (F) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (G) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (H) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
- (I) Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this chapter shall meet the requirements of "new construction" as contained in this chapter; and
- (J) Any alteration, repair, reconstruction or improvement to a structure that is not in compliance with the provisions of this chapter, shall be undertaken only if said non-conformity is not further, extended, or replaced.
- (K) Whenever any portion of the SFHA is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the BFE shall be compensated for and balanced by an equivalent volume of excavation taken below the BFE. The excavation volume shall be at least equal to the volume of storage lost (replacement ratio of one to one) due to the fill or structure.
- (1) The excavation shall take place in the floodplain and in the same immediate watershed in which the authorized fill or structure is located;
 - (2) Under certain circumstances, the excavation may be allowed to take place outside of but adjacent to the floodplain provided that the excavated volume will be below the regulatory flood elevation, will be in the same immediate watershed in which the authorized fill or structure is located, will be accessible to the regulatory flood water, will not be subject to ponding when not inundated by flood water, and that it shall not be refilled;
 - (3) The fill or structure shall not obstruct a drainage way leading to the floodplain;
 - (4) The fill or structure shall be of a material deemed stable enough to remain firm and in place during periods of flooding and shall include provisions to protect adjacent property owners against any increased runoff or drainage resulting from its placement; and
 - (5) Plans depicting the areas to be excavated and filled shall be submitted prior to the actual start of construction or any site work; once site work is complete, but before the actual start of

construction, the applicant shall provide to the Floodplain Administrator a certified survey of the excavation and fill sites demonstrating the fill and excavation comply with this chapter.

(optional)

(Ord. 1465, passed 9-5-06)

§ 153.41 SPECIFIC STANDARDS.

In all SFHAs, the following provisions are required:

(A) In addition to the requirements of § 153.40, all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:

(1) Construction or placement of any new structure having a floor area greater than 400 square feet;

(2) Structural alterations made to:

(a) An existing (previously unaltered structure), the cost of which equals or exceeds 50% of the value of the pre-altered structure (excluding the value of the land);

(b) Any previously altered structure.

(3) Reconstruction or repairs made to a damaged structure that are valued at more than 50% of the market value of the structure (excluding the value of the land) before damaged occurred;

(4) Installing a travel trailer or recreational vehicle on a site for more than 180 days;

(5) Installing a manufactured home on a new site or a new manufactured home on an existing site. This chapter does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage; and

(6) Reconstruction or repairs made to a repetitive loss structure. (optional)

(B) Residential construction. New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor, including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of division (D).

(C) Non-residential construction. New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation). Structures located in all "A Zones" may be floodproofed in lieu of being elevated if done in accordance with the following:

(1) A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the official as set forth in § 153.27(B)(10).

(2) Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

(D) Elevated structures.

(1) New construction or substantial improvements of elevated structures that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevations shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

(2) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the follow minimum criteria:

(a) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(b) The bottom of all openings shall be no higher than one foot above foundation interior grade (which must be equal to in elevation or higher than the exterior foundation grade); and

(c) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(d) Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and

(e) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

(f) Where elevation requirements exceed six feet above the highest adjacent grade, a copy of the legally recorded deed restriction prohibiting the conversion of the area below the lowest floor to a use or dimension contrary to the structure's originally approved design, shall be presented as a condition of issuance of the final Certificate of Occupancy. (optional)

(E) Structures constructed on fill. A residential or nonresidential structure may be constructed on a permanent land fill in accordance with the following:

(1) The fill shall be placed in layers no greater than one foot deep before compacting to 95% of the maximum density obtainable with the Standard Proctor Test method.

(2) The fill should extend at least ten feet beyond the foundation of the structure before sloping below the FPG.

(3) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than three horizontal to one vertical.

(4) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.

(5) The top of the lowest floor including basements shall be at or above the FPG.

(F) Standards for structures constructed with a crawlspace. A residential or nonresidential structure may be constructed with a crawlspace located below the flood protection grade provided that the following conditions are met:

(1) The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy; and

(2) Any enclosed area below the flood protection grade shall have openings that equalize hydrostatic pressures by allowing for the automatic entry and exit of floodwaters. A minimum of one opening on each wall having a total net area of not less than one square inch for every one

square foot of enclosed area. The bottom of the openings shall be no more than one foot above grade; and

(3) The interior grade of the crawlspace must be at or above the base flood elevation; and

(4) The interior height of the crawlspace measured from the interior grade of the crawlspace to the top of the foundation wall must not exceed four feet at any point; and

(5) An adequate drainage system must be installed to remove floodwaters from the interior area of the crawlspace within a reasonable period of time after a flood event; and

(6) Portions of the building below the flood protection grade must be constructed with materials resistant to flood damage; and

(7) Utility systems within the crawlspace must be elevated above the flood protection grade.

(G) Standards for manufactured homes and recreational vehicles. Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following requirements:

(1) The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site;

(a) Outside a manufactured home park or subdivision;

(b) In a new manufactured home park or subdivision;

(c) In an expansion to an existing manufactured home park or subdivision; or

(d) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood.

(2) The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood.

(3) Recreational vehicles placed on a site shall either:

(a) Be on site for less than 180 days; and

(b) Be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or

(c) Meet the requirements for "manufactured homes" as stated earlier in this section.
(Ord. 1465, passed 9-5-06)

§ 153.42 STANDARDS FOR SUBDIVISION PROPOSALS.

(A) All subdivision proposals shall be consistent with the need to minimize flood damage;

(B) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

(C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and;

(D) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of 50 lots or five acres.

(Ord. 1465, passed 9-5-06)

§ 153.43 CRITICAL FACILITY.

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.

(Ord. 1465, passed 9-5-06)

§ 153.44 STANDARDS FOR IDENTIFIED FLOODWAYS.

(A) Located within SFHAs, established in § 153.07, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC 14-28-1 a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/ improvements to existing (lawful) residences in a non-boundary river floodway. (IC 14-28-1-26 allows construction of non-substantial additions/improvements to residences in a non-boundary river floodway without obtaining a permit for construction in a floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval (construction in a floodway permit) for the fill is required from the Indiana Department of Natural Resources.)

(B) No action shall be taken by the Floodplain Administrator until a permit (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in a floodway. Once a permit for construction in a floodway has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Article 5 of this chapter have been met. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

(C) No development shall be allowed which acting alone or in combination with existing or future development, will increase the regulatory flood more than 0.14 of one foot; and

(D) For all projects involving channel modifications or fill (including levees) the city shall submit the data and request that the Federal Emergency Management Agency revise the regulatory

flood data.

(Ord. 1465, passed 9-5-06)

§ 153.45 STANDARDS FOR IDENTIFIED FRINGE.

If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in Article 5 of this chapter have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

(Ord. 1465, passed 9-5-06)

§ 153.46 STANDARDS FOR SFHAS WITHOUT ESTABLISHED BASE FLOOD ELEVATION AND/OR FLOODWAYS/FRINGES.

(A) Drainage area upstream of the site is greater than one square mile:

(1) If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.

(2) No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway or a floodplain analysis/regulatory assessment citing the 100-year flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

(3) Once the Floodplain Administrator has received the proper permit for construction in a floodway or floodplain analysis/regulatory assessment approving the proposed development, a Floodplain Development Permit may be issued provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in §§ 153.40 et seq. of this chapter have been met.

(B) Drainage area upstream of the site is less than one square mile:

(1) If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodway, fringe and 100-year flood elevation for the site.

(2) Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in §§ 153.40 et seq. of this chapter have been met.

(C) The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood more than 0.14 of one foot and will not increase flood damages or potential flood damages.

(Ord. 1465, passed 9-5-06)

VARIANCE PROCEDURES

§ 153.55 DESIGNATION OF VARIANCE AND APPEALS BOARD.

The Board of Zoning Appeals as established by Common Council hear and decide appeals and requests for variances from requirements of this chapter.

(Ord. 1465, passed 9-5-06)

§ 153.56 DUTIES OF VARIANCE AND APPEALS BOARD.

The Board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this chapter.

(Ord. 1465, passed 9-5-06)

§ 153.57 VARIANCE PROCEDURES.

In passing upon such applications, the [Appointed Board] shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and;

- (A) The danger of life and property due to flooding or erosion damage;
- (B) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (C) The importance of the services provided by the proposed facility to the community;
- (D) The necessity to the facility of a waterfront location, where applicable;
- (E) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (F) The compatibility of the proposed use with existing and anticipated development;
- (G) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (H) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (I) The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site; and,
- (J) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(Ord. 1465, passed 9-5-06)

§ 153.58 CONDITIONS FOR VARIANCES.

- (A) Variances shall only be issued when there is:
 - (1) A showing of good and sufficient cause;

(2) A determination that failure to grant the variance would result in exceptional hardship; and

(3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

(B) No variance for a residential use within a floodway subject to §§ 153.44 or 153.46(A) of this chapter may be granted.

(C) Any variance granted in a floodway subject to §§ 153.44 or 153.46(A) of this chapter will require a permit from the Indiana Department of Natural Resources.

(D) Variances to the Provisions for Flood Hazard Reduction of § 153.41, may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.

(E) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(F) Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

(G) Any application to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation (See Section E).

(H) The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (See § 153.59).

(Ord. 1465, passed 9-5-06)

§ 153.59 VARIANCE NOTIFICATION.

(A) Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

(1) The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and;

(2) Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land. (second sentence optional)

(B) The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in the community's biennial report submission to the Federal Emergency Management Agency.

(Ord. 1465, passed 9-5-06)

§ 153.60 HISTORIC STRUCTURE.

Variances may be issued for the repair or rehabilitation of "historic structures" upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an "historic structure" and the variance is the minimum to preserve the historic character and design of the structure.

(Ord. 1465, passed 9-5-06)

§ 153.61 SPECIAL CONDITIONS.

Upon the consideration of the factors listed in §§ 153.55 et seq., and the purposes of this chapter, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(Ord. 1465, passed 9-5-06)

§ 153.99 PENALTY.

Failure to obtain a floodplain development permit in the SFHA or failure to comply with the requirements of a floodplain development permit or conditions of a variance shall be deemed to be a violation of this chapter. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of Article 9 of the Zoning Code for the city.

(A) A separate offense shall be deemed to occur for each day the violation continues to exist.

(B) The city enforcement authority shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.

(C) Nothing herein shall prevent the city from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

(Ord. 1465, passed 9-5-06)

CHAPTER 154: HOUSE NUMBERING

Section

154.01 House numbers required

154.02 Exceptions

154.99 Penalty

§ 154.01 HOUSE NUMBERS REQUIRED.

It shall be the duty of the owners and occupants of every house or building in the city to have placed thereon, in a place visible from the street, figures at least 2-1/2 inches high, showing the number of the house or building.

(Ord. 1028, passed 3-7-83) Penalty, see § 154.99

§ 154.02 EXCEPTIONS.

The provisions of this chapter shall not apply to accessory buildings such as garages unless they are occupied as a home or business. If they are so occupied, then the provisions of this chapter shall apply.

(Ord. 1028, passed 3-7-83)

§ 154.99 PENALTY.

Any person, firm, or corporation failing to number any house, building, or other structure occupied or owned by him, or if after receiving notice to do so from the Clerk-Treasurer shall continue in his failure to so number such house, building, or structure, shall be fined \$I for each day during or on which a failure to so number continues.

(Ord. 1028, passed 3-7-83)

CHAPTER 155: MASTER PLAN

Section

155.01 Adoption of master plan by reference

155.02 Enforcement authority

§ 155.01 ADOPTION OF MASTER PLAN BY REFERENCE.

The Common Council hereby adopts the master plan presented by the Plan Commission and certified by the secretary of the Plan Commission as of the ninth day of February, 1983. The master plan is adopted by reference and made a part of this code as if fully set forth herein. The master plan shall have full force and effect as of March 7, 1983.

(Ord. 1030, passed 3-7-83)

§ 155.02 ENFORCEMENT AUTHORITY.

The Plan Commission shall have full power and authority to bring an action for enforcement of the provisions of the master plan and the zoning ordinances of this city. Said action can be for damages, injunction, or any other type of legal remedy necessary to enforce the provisions of the master plan and the zoning code.

(Ord. 1030, passed 3-7-83)

CHAPTER 156: URBAN DEVELOPMENT AND ECONOMIC REVITALIZATION AREAS

Section

Urban Development

156.01 Designation of urban development areas

156.02 Deductions in real and personal property taxes; application

Economic Revitalization

156.10 Designation of economic revitalization areas

156.11 Deductions in real and personal property taxes; application

156.12 Effect of subchapter

156.13 Adoption of state law

Residential Tax Abatement

156.20 New residential construction

URBAN DEVELOPMENT

§ 156.01 DESIGNATION OF URBAN DEVELOPMENT AREAS.

(A) The areas described on Exhibit "A" (hereby adopted by reference and made a part hereof as if fully set forth herein) shall be designated as urban development areas.

(B) Also attached hereto and made a part hereof by reference as if fully set forth herein, is Exhibit "B", an aerial plat of the city showing the location of the real estate described in Exhibit "A" by corresponding numbers one through 11.

(C) Also attached hereto and made a part hereof by reference as if fully set forth herein, is Exhibit "C", a list of all the owners of the real estate described in Exhibit "A" and shown in Exhibit "B". Incorporated by reference to this subchapter and made a part hereof are the aerial maps of the city maintained by the DeKalb County Auditor. All numbers listed on Exhibit "C" are the numbers used on the maps showing the location of each parcel of property described in Exhibit "C" to this subchapter.

(Ord. 1023, passed 11-15-82)

§ 156.02 DEDUCTIONS IN REAL AND PERSONAL PROPERTY TAXES; APPLICATION.

(A) All of the businesses and industries located within the areas designated as urban development areas shall qualify for the deductions in real and personal property taxes provided in IC 6-1.1-12.1-1 through 6-1.1-12.1-6 as amended from time to time.

(B) A property owner who desires to obtain the deduction must file a certified deduction application, on forms prescribed by the State Board of Tax Commissioners, with the Auditor of

DeKalb County. Except as otherwise provided in division (C) below, the application must be filed before May 10 of the year in which the addition to assessed valuation is made.

(C) If notice of the addition to assessed valuation or new assessment for any year is not given to the property owner before April 10 of that year, the application required by this section may be filed not later than 30 days after the date such a notice is mailed to the property owner at the address shown on the records of the township assessor.

(D) The application required by this section shall contain the following information.

(1) The name of the property owner.

(2) A description of the property for which a deduction is claimed in sufficient detail to afford identification.

(3) The assessed value of the improvements before rehabilitation.

(4) The increase in the assessed value of improvements resulting from the rehabilitation.

(5) The assessed value of the new structure in the case of redevelopment.

(6) The amount of the deduction claimed for the first year of the deduction.

(E) A deduction application filed under this section is applicable for the year in which the addition to assessed value or assessment of a new structure is made and in the immediate following nine years without any additional application being filed. However, property owners who had an area designated as an Urban Development Area pursuant to an application filed prior to January 1, 1979, are only entitled to a deduction for a five-year period.

(F) On verification of the correctness of an application by the assessor of the township in which the property is located, the County Auditor shall make the deduction.

(G) There shall be no application fee charged for owner-occupied single-family projects. (Ord. 1023, passed 11-15-82)

ECONOMIC REVITALIZATION

§ 156.10 DESIGNATION OF ECONOMIC REVITALIZATION AREAS.

(A) The areas described on Exhibit "A", pages 1-11, (hereby adopted by reference and made a part hereof as if fully set forth herein) shall be designated as economic revitalization areas.

(B) Also attached hereto and made a part hereof by reference as if fully set forth herein, is Exhibit "B", an aerial plat of the city showing the location of the real estate parcels described in Exhibit "A" by corresponding numbers P1 through P17.

(C) Also attached hereto and made a part hereof by reference as if fully set forth herein, is Exhibit "C", a list of all the owners of the real estate described in Exhibit "A" and shown in Exhibit "B". Incorporated by reference to this subchapter and made a part hereof are the aerial maps of the city maintained by the DeKalb County Assessor. All numbers listed on Exhibit "C" are the numbers used on the maps showing the location of each parcel of property described in Exhibit "C" to this subchapter.

(Res. 231, passed 6-20-83, as adopted by Ord. 1036, passed 7-5-83)

§ 156.11 DEDUCTIONS IN REAL AND PERSONAL PROPERTY TAXES; APPLICATION.

(A) All of the businesses and industries located within the areas designated as economic revitalization areas shall qualify for the deductions in real and personal property taxes provided in IC 6-1.1-12.1-1 through 6-1.1-12.1-6as amended from time to time.

(B) A property owner who desires to obtain the deduction must file a certified deduction application, on forms prescribed by the State Board of Tax Commissioners, with the Auditor of DeKalb County. Except as otherwise provided in division (C) below, the application must be filed before May 10 of the year in which the addition to assessed valuation is made.

(C) If notice of the addition to assessed valuation or new assessment for any year is not given to the property owner before April 10 of that year, the application required by this section may be filed not later than 30 days after the date such a notice is mailed to the property owner at the address shown on the records of the township assessor.

(D) The application required by this section shall contain the following information.

(1) The name of the property owner.

(2) A description of the property for which a deduction is claimed in sufficient detail to afford identification.

(3) The assessed value of the improvements before rehabilitation.

(4) The increase in the assessed value of improvements resulting from the rehabilitation.

(5) The assessed value of the new structure in the case of redevelopment.

(6) The amount of the deduction claimed for the first year of the deduction.

(E) A deduction application filed under this section is applicable for the year in which the addition to assessed value or assessment of a new structure is made and in the immediate following nine years, four years in the case of new manufacturing equipment, without any additional application being filed. However, property owners who had an area designated as an economic revitalization area pursuant to an application filed prior to January 1, 1979, are only entitled to a deduction for a five-year period.

(F) A property owner who desires to obtain the deduction provided for by law but who fails to file a deduction application within the dates provided for above may file an application between March 1 and May 10 of a subsequent year which shall be applicable for the year filed and the subsequent year without any additional application being filed for the amount of the deduction that would apply to the remaining years as if the deduction application has been filed on time.

(G) On verification of the correctness of an application by the assessor of the township in which the property is located, the County Auditor shall make the deduction.

(Res. 231, passed 6-20-83, as adopted by Ord. 1036, passed 7-5-83)

§ 156.12 EFFECT OF SUBCHAPTER.

This subchapter shall remain in full force and effect until repealed by ordinance or resolution of the Common Council or by legislative acts of the Indiana General Assembly.

(Res. 231, passed 6-20-83, as adopted by Ord. 1036, passed 7-5-83)

§ 156.13 ADOPTION OF STATE LAW.

This subchapter adopts by reference all provisions of IC 6-1.1-12.1-1 through 6-1.1-12.1-6 and any provisions of this subchapter that may conflict with said state statute are null and void and the provisions of the Indiana Code shall apply. Any provisions of this subchapter that conflict with any amendments to the above cited sections of the Indiana Code shall be deemed amended upon passage of said amendments by the state legislature.

(Res. 231, passed 6-20-83, as adopted by Ord. 1036, passed 7-5-83)

RESIDENTIAL TAX ABATEMENT

§ 156.20 NEW RESIDENTIAL CONSTRUCTION.

(A) Any person who has obtained a permit to construct a new single-family dwelling within the corporate limits of the city may apply to the Economic Development Commission to have the real estate upon which the house is to be constructed declared an economic development target area as provided in IC 6-1.1-12.1-7 as amended from time to time.

(B) Any person who wishes to apply to the Economic Development Commission to have their property declared an economic development target area must pay a \$100 nonrefundable application fee to the city.

(C) Any person who has had their real estate declared an economic development target area by the Economic Development Commission may then apply to the City Council for residential tax abatement. The applicant must provide a statement of benefits to the City Council who will determine if said deduction will be allowed after it has made the following findings:

(1) Whether the estimate of the value of the redevelopment or rehabilitation is reasonable for projects of that nature.

(2) Whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation.

(3) Whether the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation.

(4) Whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed described redevelopment or rehabilitation.

(5) Whether the totality of benefits is sufficient to justify the deduction.

(6) In addition to the findings of this division (C), before the City Council determines that an abatement is appropriate for real property within an economic development target area, after making the findings contained in this section in the affirmative, the City Council shall further make all of the following findings pertaining to said property:

(a) The facility to be constructed consists of new construction intended for human habitation.

(b) That construction of the facility is intended to commence not later than December 31 of the year the application for tax abatement is made.

(c) The facility to be constructed will be an owner-occupied, single-family dwelling. The term "owner-occupied, single-family dwelling" shall include single-family homes and buildings constructed under Indiana's Horizontal Property Law, as amended, but shall not include multifamily units that are constructed for lease purposes.

(d) All occupancy permits shall be issued within 365 days of completion of the structure.

(D) [Reserved].

(E) (1) The applicant must present proof to the City Council that the construction of the new dwelling will be a minimum of 1,250 square feet of living space. The term "living space" will include finished basements and enclosed, finished porches attached to the dwelling. These areas must be suitable for year-round use. The term "living space" does not include decks, garages or any outbuildings. Further, all construction must meet all state and local building codes and restrictions, zoning or otherwise, necessary for occupancy. The tax abatement shall be for a period of three years from the date the structure first becomes tax eligible.

(a) 100% the first year the structure is required to pay taxes.

(b) 66% the second year the structure is required to pay taxes.

(c) 33% the third year the structure is required to pay taxes.

(2) After the abatement periods have expired, all taxes shall be paid at the rate of 100%.

(F) The property owner shall be responsible for filling out the necessary paperwork and applying for the deduction. The property owner shall further be responsible to file the paperwork in the appropriate places in order to receive the abatement.

(G) The abatement authorized by this section shall be on the improvements only and not on the lot where the house is built.

(Ord. 1235, passed 5-15-95; Am. Ord. 1487, passed 2-4-08)

CHAPTER 157: DEMOLITION OF STRUCTURES

Section

157.01 Permit required

157.02 Fees, inspections and evidence of insurance

157.03 Issuance of permit

157.04 Inspection of property after demolition

157.05 Care and protection during demolition

157.06 Excavation and filling

157.07 Inspection by an authorized city representative

157.08 Enforcement

157.99 Penalty

§ 157.01 PERMIT REQUIRED.

It shall be unlawful to demolish any primary building or structure, or any accessory structure over 400 square feet in size, within the Butler corporate limits without first securing a permit.

(A) Such permit shall be provided by the Zoning Administrator and shall contain information regarding the location of the building or structure, the date when demolition is to commence and the approximate duration of the demolition project.

(B) The Zoning Administrator shall notify other parties that may be affected by the proposed demolition (utilities, property owners, governmental entities) as they may deem necessary before the start of demolition.

(Ord. 1558, passed 3-19-12) Penalty, see § 157.99

§ 157.02 FEES, INSPECTIONS AND EVIDENCE OF INSURANCE.

Before a permit is issued:

(A) The applicant shall pay to the Clerk-Treasurer a fee of \$25, plus a scaled fee for moving any municipal utility facilities. A later permit fee of \$250 plus fee scale for moving any utility facilities will be charged for any demolition work commenced without a demolition permit.

(B) An authorized representative of the city shall inspect the premises where the wrecking and demolition work is to take place, and ascertain that provision for proper care has been made so as not to endanger any sewer or water connections with the city's sewer and water systems, or any electrical wires or installations, and report to the Zoning Administrator; and

(C) Evidence showing adequate liability insurance has been obtained by the property owner/applicant, or the contractor or agent acting on their behalf.

(Ord. 1558, passed 3-19-12)

§ 157.03 ISSUANCE OF PERMIT.

The Zoning Administrator may issue a demolition permit upon submittal of an appropriate application and compliance with § 157.01 and § 157.02.

(Ord. 1558, passed 3-19-12)

§ 157.04 INSPECTION OF PROPERTY AFTER DEMOLITION.

(A) To ensure that the property is in a proper and safe condition after demolition, the property will be inspected by an authorized representative of the city.

(B) By "proper and safe condition", it is meant that all debris is cleared away, and that any excavation is to be used for any purpose within two months of such wrecking or demolition, then adequate barricades, lighted at night, shall be installed around the perimeter of such excavation.

(Ord. 1558, passed 3-19-12)

§ 157.05 CARE AND PROTECTION DURING DEMOLITION.

(A) Demolition shall be performed in a competent manner and with the least amount of noise possible. Care shall be taken to protect neighboring structures. Adequate protection shall be provided to prevent injury to any city or public utility or pertinence. It shall be the duty of all persons working on or responsible for such demolition to see that children are warned away from such premises and are not permitted to play in or on or frequent such structures.

(B) The Zoning Administrator may limit the hours during the day in which demolition activity may occur.

(Ord. 1558, passed 3-19-12) Penalty, see § 157.99

§ 157.06 EXCAVATION AND FILLING.

(A) (1) If excavation results from a demolition, it is to be filled in and the fill material shall consist of clay, and/or bank run, gravel (or equivalent). No appliances, such as stoves, refrigerators, freezers and similar items, shall be used for fill. No wood materials are to be used for filling. No brick, concrete block, from either the demolished structure, the demolition site or from offsite, shall be used to fill the excavation cavity.

(2) The provisions of § 157.02 shall apply for backfilling excavations relating to sewer or water connections, or electrical wires or connections. Such filling shall also provide for proper and adequate drainage. Any backfill shall be placed in lifts and properly compacted.

(B) Basement walls, or other subgrade structures, including basement floors, if present on the demolition site, shall be completely removed and the resulting cavity backfilled as prescribed by § 157.06(A) above.

(C) The demolition site shall be properly graded and seeded, or properly graded and stoned or paved if it is to be a parking area. If a new structure is to be built on the demolition site within 30 days of the date of the completion of demolition, the site may be allowed to be unseeded. However, if construction does not commence after 30 days, the site shall be seeded as the weather allows. If demolition occurs during the winter months, or during those summer months when seeding is not feasible, the property owner, or contractor or agent acting on their behalf, shall submit evidence to the Zoning Administrator that funds for seeding are in escrow and that seeding will occur when the weather allows.

(Ord. 1558, passed 3-19-12) Penalty, see § 157.99

§ 157.07 INSPECTION BY AN AUTHORIZED CITY REPRESENTATIVE.

An authorized city representative shall inspect a demolition site as necessary during demolition, and any resulting filling, including the required capping of taps, or abandoned sewer or watch lines.

(Ord. 1558, passed 3-19-12)

§ 157.08 ENFORCEMENT.

(A) Upon completion of demolition, the city shall inspect the property to ensure compliance with the requirements of this chapter. If the demolition work is properly completed, the city shall issue a completion certificate to the property owner. This certificate shall allow the owner to redevelop the property according to the requirements of the City Zoning Ordinance and other applicable regulations, or to use the property as a yard.

(B) If the inspection performed by the city determines that the applicant is not in full compliance with the requirements of the demolition permit and this chapter, the Zoning Administrator shall advise the applicant in writing of the terms of non-compliance. The applicant shall have 30 days from the date of the notice to comply and, if full compliance is made, the city shall issue a completion certificate.

(C) In the event that the applicant fails to comply within 30 days of the notice given pursuant to § 157.08(B), the applicant shall be in violation of this chapter, which violation shall be treated as a nuisance subject to abatement and enforcement as all other nuisance violations.

(Ord. 1558, passed 3-19-12)

§ 157.99 PENALTY.

Any person, firm or corporation violating any provisions of this chapter shall be fined not less than \$100 nor more than \$500 for each offense, plus court costs and other expenses incurred in the enforcement of the sections. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(Ord. 1558, passed 3-19-12)

CHAPTER 158: UNSAFE BUILDING LAW

Section

- 158.001 Title
- 158.002 Purpose and scope
- 158.003 Alterations, additions, and repairs
- 158.004 Authority; inspections; right of entry
- 158.005 Board of Appeals
- 158.006 Unsafe buildings
- 158.007 Conduct of hearing
- 158.008 References and amendments
- 158.009 Unsafe building fund
- 158.010 Attorney fees

§ 158.001 TITLE.

This chapter shall be known as the "Butler Unsafe Building Law" and hereby adopts by reference IC 36-7-9-1, et seq. in its entirety as part of the city's unsafe building law in conjunction with this chapter.

(Ord. 1462, passed 7-17-06)

§ 158.002 PURPOSE AND SCOPE.

(A) Purpose.

(1) It is the purpose of this code to provide a just, equitable and practicable method, to be cumulative with and in addition to any other remedy provided by the City Building Code, Housing Code or otherwise available by any other state or local law, whereby buildings or structures which from any cause may endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants, may be required to be repaired, vacated or demolished.

(2) The purpose of this code is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefitted by the terms of this code.

(B) Scope. The provisions of this code shall apply to all dangerous or unsafe buildings, as herein defined, which are now in existence or which may hereafter become dangerous or unsafe in this jurisdiction.

(Ord. 1462, passed 7-17-06)

§ 158.003 ALTERATIONS, ADDITIONS, AND REPAIRS.

All buildings or structures which are required to be repaired under the provisions of this code shall be repaired according to the requirements of the building codes adopted by the city and all other applicable building codes, state, local or otherwise.

(Ord. 1462, passed 7-17-06)

§ 158.004 AUTHORITY; INSPECTIONS; RIGHT OF ENTRY.

(A) Enforcement authority. The director of planning and zoning or his/her designee are hereby authorized to enforce the provisions of this chapter as the enforcement authority. Said person shall have the power to render interpretations of this chapter and all adopted codes and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions.

(B) Inspections. The local and/or state fire marshal, local fire chief, and the enforcement authority or his/her designee is hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this chapter.

(C) Right of entry.

(1) Whenever the enforcement authority determines it is necessary to make an inspection to enforce the provisions of this code or to determine if applicable codes are being followed or if a building is an unsafe building, the enforcement authority or his/her designee may enter the building or premises at reasonable times to inspect or perform the duties imposed by this code, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested.

(2) If such building or premises be unoccupied, the enforcement authority or his/her designee shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If entry is refused, the enforcement authority or his/her designee shall have recourse to the remedies provided by law to secure entry.

(Ord. 1462, passed 7-17-06)

§ 158.005 BOARD OF APPEALS.

(A) General. The Board of Public Works and Safety shall act as the Unsafe Building Hearing Authority. All decisions and findings shall be rendered in writing to the property owner, with a copy to the enforcement authority or authority's designee. Appeals to the authority or hearings held by the same shall be processed in accordance with the provisions contained in IC 36-79-7 and this code. Copies of all rules or regulations adopted by the hearing authority shall be delivered to the unsafe building enforcement authority, who shall make them freely accessible to the public.

(B) Limitations of authority. The hearing authority shall have no discretion relative to interpretation of the administrative provisions of this chapter nor shall the hearing authority be empowered to waive requirements of this chapter.

(Ord. 1462, passed 7-17-06)

§ 158.006 UNSAFE BUILDINGS.

Unsafe buildings or premises are defined in IC 36-7-9-4 as follows:

(A) For purposes of this chapter, a building or structure, or any part of a building or structure, that is:

- (1) In an impaired structural condition that makes it unsafe to a person or property;
- (2) A fire hazard;
- (3) A hazard to the public health;
- (4) A public nuisance;

(5) dangerous to a person or property because of a violation of a statute or ordinance concerning building condition or maintenance; or

(6) vacant and not maintained in a manner that would allow human habitation, occupancy, or use under the requirements of a statute or an ordinance; is considered an unsafe building.

(B) For purposes of this chapter:

- (1) an unsafe building; and

(2) the tract of real property on which the unsafe building is located; are considered unsafe premises.

(C) For purposes of this chapter, a tract of real property that does not contain a building or structure, not including land used for production agriculture, is considered an unsafe premises if the tract of real property is:

- (1) A fire hazard;
- (2) A hazard to public health;
- (3) A public nuisance; or
- (4) Dangerous to a person or property because of a violation of a statute or an ordinance.

(D) For the purpose of this chapter any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be an unsafe building, provided that such conditions or defects exist to the extent that the life, health property or safety of the public or its occupants or potential occupants are endangered or where such conditions constitute

a nuisance which may endanger life, limb, health, morals, property, safety or welfare of the general public:

(1) Whenever any door, aisle, passageway, stairway, or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.

(2) Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.

(3) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location.

(4) Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

(5) Whenever any portion of a building, or any member, appurtenance or ornamentation on the, exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one half of that specified in the Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code for such buildings.

(6) Whenever the building or structure, or any portion thereof, because of:

(a) Dilapidation, deterioration or decay;

(b) Faulty construction;

(c) The removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building;

(d) The deterioration, decay or inadequacy of its foundation; or

(e) Any other cause, is likely to partially or completely collapse.

(7) Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

(8) Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one third of the base.

(9) Whenever the building or structure, exclusive of the foundation, shows 33% or more damage or deterioration of its supporting member or members, or 50% damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.

(10) Whenever any building or structure has been damaged by fire and more than six months goes by from the date of the fire and the building has not been repaired.

(11) Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the health officer to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

(12) Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a

period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

(13) Inadequate or insufficient bath, toilet or kitchen facilities.

(14) Inadequate or insufficient water supply or water supply systems.

(15) Inadequate or insufficient or other deficient air cooling, air heating or water heating equipment.

(16) Any condition or conditions in violation of other applicable ordinances of the city, and/or the building standards or codes of the county or the state.

(Ord. 1462, passed 7-17-06)

§ 158.007 CONDUCT OF HEARING.

(A) Rules. Hearings need not be conducted according to the technical rules relating to evidence and witnesses.

(B) Oral evidence. Oral evidence shall be taken.

(C) Heresay evidence. Heresay evidence may be used for the purpose of supplementing or explaining any direct evidence.

(D) Admissibility of evidence. Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely on in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in court of competent jurisdiction in this state.

(E) Exclusion of evidence. Irrelevant and unduly repetitious evidence shall be excluded.

(F) Rights of parties. Each party shall have these rights, among others:

(1) To call and examine witnesses on any matter relevant to the issue of the hearing;

(2) To introduce documentary and physical evidence;

(3) To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;

(4) To impeach any witness regardless of which party first called the witness to testify;

(5) To rebut the evidence;

(6) To be represented by an attorney admitted to practice law in the state.

(G) Official notice of documents and things.

(1) What may be noticed. In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact or of official records of the board of departments and ordinances of the city or rules and regulations of the board and of any notices or inspections of the city. These include all notices issued by the unsafe building department, including the inspection report and photographs.

(2) Parties to be notified. Parties present at the hearing shall be informed of the matters to be noticed, and these matters shall be noted in the record, referred to therein, or appended thereto.

(3) Opportunities to refute noticed matters. Parties present at the hearing shall be given a reasonable opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the board or hearing examiner.

(4) Inspection of the premises. The board or the hearing examiner may inspect any building or premises involved in the appeal during the course of the hearing, provided that:

(a) Notice of such inspection shall be given to the parties before the inspection is made;

(b) The parties are given opportunity to be present during the inspection; and

(c) The board or hearing examiner shall state for the record upon completion of the inspection the material facts observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated by the board or hearing examiner.

(Ord. 1462, passed 7-17-06)

§ 158.008 REFERENCES AND AMENDMENTS.

(A) The city specifically acknowledges and adopts and incorporates by references all policies, procedures and definitions as spelled out in IC 36-7-9-1, et seq. as the policies, procedures and definitions, and more specifically adopts the definition of "substantial property interest."

(B) It is the specific intent of this chapter to incorporate all future amendments or changes to the unsafe building law, IC 36-7-9-1, et seq., as amendments to the city's unsafe building law as they are enacted as defined in said statute. If any provision of this chapter conflicts with any provision of IC 36-7-9, et seq. as amended from time to time, the provisions of the state statutes shall control.

(Ord. 1462, passed 7-17-06)

§ 158.009 UNSAFE BUILDING FUND.

There is hereby created an "Unsafe Building Fund" for the deposit of any funds collected under this chapter.

(Ord. 1462, passed 7-17-06)

§ 158.010 ATTORNEY FEES.

In the event the city is required to bring any action in a court of law to enforce any order of the Unsafe Building Committee or any violation of the Unsafe Building Code, the city shall be entitled to recover costs, attorney fees and expenses from the property owner.

(Ord. 1462, passed 7-17-06)

REFERENCES TO ORDINANCES

References to Indiana Code
References to Ordinances

REFERENCES TO INDIANA CODE

<i>IC</i>	<i>1979 CODE SEC.</i>
Trial Rule 6 (A)	10.12 (B)
1-1-1-8	10.07
1-1-4-1	10.05, 10.06
1-1-4-5	10.05
1-1-9-1(a)	92.06
3-13-8-1	30.04(A)
3-13-8-2	30.04(E)
3-13-8-8	30.04(B)
3-13-8-9	30.04(C)
3-13-8-10	30.04(D)
3-13-8-13	30.04(F)
3-13-11	30.04(A)
4-21.5-3-7	152.54
5-4-1-1 et seq.	30.03
5-8-3.5	30.04
5-8-6	30.04
5-10.1-1-1 et seq.	37.09
5-11-13-1	37.13
5-22	37.13
6-1.1-12.1-1 - 6-1.1-12.1-6	156.02, 156.11, 156.13
6-1.1-12.1-7	156.20
7.1-3-1-1 et seq.	110.02
8-1.5-3-9.1	T.S.O. VIII
8-1.5-3-11	52.134
8-23-4	93.21
9-13-2	93.16
9-17	93.16
9-18-12	93.17
9-20-1-3(C)(2)	97.04
9-22-1	93.15, 93.18
9-22-1-1	93.17
9-22-1-4	93.18
9-22-1-5	93.19(A)

9-22-1-7	93.19(B)
9-22-1-8	93.19(C)
9-22-1-11	93.21(A)
9-22-1-11 - 9-22-1-14	93.20
9-22-1-12	93.21(B)
9-22-1-13	93.21(C)
9-22-1-14	93.21(D)
9-22-1-18	93.20
9-22-1-19	93.19, 93.22
9-22-1-25	93.26
9-22-1-30	93.26
9-22-1-31	93.24
9-22-1-32	93.25
9-22-6	93.18, 93.22
16-41-27-4	152.03
22-9.5-4-8	99.02
22-9.5-6	99.02
22-11-4-8(a)	92.06
22-11-14-3.5	92.06
22-11-14-8(a)	92.06
22-12	152.54
22-12-1-4	152.03
22-12-1-5	152.03
22-12-1-7	152.03
22-12-1-14	152.03
22-12-1-16	152.03
22-12-1-17	152.03
22-12-1-18	152.03
22-12-1-22(b)(12)	152.41
22-12-1-24	152.03
22-12-1-26	152.03
22-12-7	152.05
22-13	152.54
22-13-2-3(b)	152.40
22-13-2-6	152.04
22-13-2-7	152.54
22-13-2-7(b)	152.40
22-13-2-9	152.04
22-13-2-11	152.05
22-14	152.54
22-15	152.54
22-15-4	152.04

23-14-1 et seq.	94.20
24-4-16-3	36.02
24-6-1-1 et seq.	111.02
24-14-5	93.19
29-9-1-12	99.02
31-37	92.06
32-25-2-9	152.03
33-8-17	152.31
33-10.1-3-1.1	30.01
34-28-5-1 et seq.	96.99
34-28-5-4	96.99
35-43-5-3	111.02
35-44-2-1	52.999
35-47-1 et seq.	130.01
35-50-5-1.1	30.05
36-1-2-11	92.06
36-1-3-8	10.99
36-1-5-4	152.40, 152.41
36-1-6-4	152.53
36-1-6-9	152.54
36-1-9	T.S.O. VIII
36-1-12	37.13
36-1-20.2	30.29, 37.13
36-1-21 et seq.	37.13
36-1-21	37.13
36-4-4-2	31.03
36-4-5	31.01, 31.02, 32.01, 33.01, 34.01, 35.01
36-4-5-2	30.01, 30.02
36-4-6	31.01, 32.01, 33.01, 34.01, 35.01
36-4-6-1 et seq.	32.02
36-4-6-2	30.01, 30.02
36-4-6-5	32.26, 32.27
36-4-6-8	32.11
36-4-6-9	32.03
36-4-6-10 - 36-4-6-17	32.11
36-4-6-11	32.16
36-4-6-13	32.14(A)
36-4-8-14	34.03(C)
36-4-9-1 et seq.	31.05
36-4-9-4	30.01
36-4-9-8(c)	31.03
36-4-9-12	31.04

36-4-10	31.01, 32.01, 33.01, 34.01, 34.02, 35.01
36-4-10-2	30.01
36-4-10-3	30.02
36-7-4	153.01
36-7-4-200	35.03
36-7-4-300	35.03
36-7-4-400	35.03
36-7-4-900	35.03
36-7-9 et seq.	152.008
36-7-9-1 et seq.	158.001, 158.008
36-7-9-4	158.006
36-7-9-7	158.005
36-7-10.1-1 - 36-7-10.1-5	93.02(B), 93.06
36-7-12-1 et seq.	35.03
36-8-1-10	36.02
36-8-3-4	36.03
36-8-3-6	36.01
36-8-3-10	36.02
36-8-3-20	36.17
36-8-6	35.02
36-8-6-1 et seq.	36.04
36-8-8	35.02
36-8-19-2	34.19
36-8-19-3	34.19
36-9-15.5 et seq.	34.11
36-9-16-2	34.11
36-9-16-3	34.11
36-9-30-3	93.21
36-10-2-2	94.05
36-10-2-4	94.05
36-10-5-2	94.06

REFERENCES TO ORDINANCES

<i>ORD. NO.</i>	<i>DATE PASSED</i>	<i>1979 CODE SEC.</i>
90	1-20-13	95.01

215	8-6-34	110.01
225	11-8-35	T.S.O. IV
242	11-21-38	111.01 - 111.07
245	3-20-39	93.30
278	12-20-43	51.01
282	7-17-44	T.S.O. V
291	8-6-45	91.03
321	9-4-50	T.S.O. I
325	2-5-51	T.S.O. III
326	2-5-51	T.S.O. II
330	9-17-51	51.01
332	7-7-52	111.06
338	10-5-53	51.01
343		Ch. 71, Sched. II
344		Ch. 71, Sched. III
348	8-15-55	11.01
354	10-17-55	70.01, 70.02, 70.03, 70.99
367		Ch. 71, Sched. III
368	6-4-56	92.02
369		Ch. 71, Sched. I
371		Ch. 71, Sched. II
372	6-4-56	91.02
376	9-4-56	91.01
383	5-6-57	T.S.O. II
398	1-20-58	91.01
399		Ch. 71, Sched. III
400		Ch. 71, Sched. III
404	9-15-58	110.02
424		Ch. 71, Sched. II
425		Ch. 71, Sched. II
426		Ch. 71, Sched. III
428	12-19-60	T.S.O. VII
430		Ch. 71, Sched. V
431	3-8-61	T.S.O. VII
435		Ch. 71, Sched. III
458	12-4-61	T.S.O. VII
460		Ch. 71, Sched. IV
461	3-5-62	T.S.O. VII
462	3-5-62	94.17
509	12-16-63	T.S.O. VII
512		Ch. 71, Sched. VI
513		Ch. 71, Sched. II

514		Ch. 71, Sched. II
534		Ch. 71, Sched. I
538	5-17-65	93.10 - 93.12
539	5-17-65	92.03
541	7- -65	70.04, 70.99
565	11-1-65	T.S.O. II
567		Ch. 71, Sched. II
568	3-7-66	T.S.O. VII
594		Ch. 71, Sched. IV
619	5-6-68	T.S.O. VII
620	6-3-68	T.S.O. VII
640		Ch. 71, Sched. III
661	10-6-69	T.S.O. I
663	8-3-70	T.S.O. II
687		Ch. 71, Sched. III
690		Ch. 71, Sched. III
691		Ch. 71, Sched. II
712	11-1-71	T.S.O. VII
713	3-22-72	T.S.O. VII
714	3-29-72	T.S.O. VII
715	4-17-72	T.S.O. III
737	2-28-73	T.S.O. II, T.S.O. VII
743	8-20-73	T.S.O. VII
764		Ch. 71, Sched. II
767	7-15-74	T.S.O. VII
790		Ch. 71, Sched. III
791		Ch. 71, Sched. II
816	11-3-75	T.S.O. II
873		Ch. 71, Sched. II
878		Ch. 71, Sched. IV
881		Ch. 71, Sched. II
883	9-5-78	93.01 - 93.06
884	9-18-78	94.01 - 94.03
885	9-18-78	110.04
887	8-21-78	36.03
914	4-16-79	30.10
916	4-4-79	T.S.O. V
918	7-16-79	30.12
919	8-20-79	Ch. 112
945	4-7-80	Ch. 72
946	5-5-80	Adopting Ord.
948	6-2-80	Ch. 71, Sched. IV

952	10-6-80	Ch. 90
953	7-21-80	T.S.O. VI
977	9-15-80	T.S.O. II
978	9-15-80	37.02
980	10-20-80	Repeal of Ord. 919
981	11-17-80	Ch. 112
983	11-17-80	Ch. 153
988	2-16-81	11.01
989	2-16-81	T.S.O. VII
999	10-19-81	T.S.O. VII
1003	1-18-81	Ch. 71, Sched. II
1004	1-18-81	130.01 - 130.04, 130.99
1006	3-15-82	32.27
1007	4-5-82	34.10
1008	6-21-82	70.05
1009	6-7-82	Chs. 31, 33, 35; 32.01 - 32.26, 34.01, 34.02
1011	6-7-82	T.S.O. VII
1013	8-2-82	51.02, 51.04
1014	8-16-82	51.03
1018	9-7-82	37.10(C)
1019	9-7-82	11.01, 32.25
1023	11-15-82	156.01, 156.02
1028	3-7-83	Ch. 154
1029	3-7-83	Ch. 96
1030	3-7-83	Ch. 155
1031	4-18-83	T.S.O. VI
1033		T.S.O. VIII
1035		T.S.O. VIII
1036	7-5-83	156.10 - 156.13
1040		T.S.O. VIII
1041		T.S.O. VIII
1046	2-6-84	Ch. 71, Sched. II
1049	2-20-84	37.08
1050	2-20-84	37.02
1053	5-21-84	51.03(A)
1054	5-21-84	94.18
1055	5-21-84	94.20
1056	6-18-84	36.10 - 36.17
1061	10-15-84	112.10(A)
1062	11-5-84	T.S.O. VII
1067	6-3-85	Ch. 157
1069	7-15-85	Adopting Ordinance

1077	11-18-85	T.S.O. VII
1081	12-16-85	T.S.O. VIII
1073	12-2-85	93.01 - 93.03, 93.06
1074	12-2-85	92.01, 92.02
1075	12-2-85	90.22 - 90.24, 90.99
1083	2-17-86	Adopting Ordinance
1086	6-2-86	T.S.O. VI
1087	8-4-86	Ch. 71, Sched. I
1088	7-7-86	T.S.O. VI
	9-15-86	T.S.O. IX
1091	10-6-86	T.S.O. III
1097	2-16-87	Adopting Ordinance
1098	6-1-87	110.03
1102	8-3-87	94.04, 94.99
1103	7-20-87	37.02
1104	7-20-87	37.08
1108	10-5-87	37.02
1109	9-21-87	90.22
1111	10-5-87	92.04
1112	11-2-87	37.02
1113	12-7-87	37.11
1115	2-1-88	Ch. 71, Sched. II
1116	2-1-88	Ch. 71, Sched. II
1117	2-15-88	Adopting Ordinance
1118	3-7-88	32.10
1125	11-7-88	36.03
1126	11-7-88	32.03
1128	11-21-88	51.03
1130	2-20-89	Adopting Ordinance
1137	6-5-89	34.25 - 34.29
1139	7-3-89	94.05
1140	6-19-89	T.S.O. VII
1149	12-18-89	37.02
1152	2-5-90	51.01 - 51.02
1154	2-5-90	Adopting Ordinance
1156	3-5-90	T.S.O. VI
1157	3-5-90	T.S.O. II
1160	7-16-90	93.02 - 93.04
1165	11-19-90	37.08
1169	5-20-91	93.04
1175	10-7-91	Adopting Ordinance
1178	12-2-91	37.02

1181	1-20-92	T.S.O. VII
1182	2-17-92	90.25
1184	6-1-92	92.02
1185	6-1-92	34.03
1186	7-20-92	37.06
1195	12-21-92	37.11
1198	12-21-92	11.01
1199	12-21-92	51.02
1197	3-1-93	Ch. 90
1200	3-15-93	Adopting Ordinance
1201	7-19-93	T.S.O. VIII
1202	7-19-93	34.11
1203	6-21-93	51.01
1204	7-27-93	30.10
1207	10-18-93	70.05
1209	10-18-93	Ch. 71, Sched. III
1211	11-1-93	T.S.O. VIII
1212	11-15-93	T.S.O. VIII
1213	12-20-93	Ch. 71, Sched. III
1214	1-17-94	93.10, 93.11
1215	3-3-94	Adopting Ordinance
1216	3-21-94	Ch. 71, Sched. III
1218	4-18-94	T.S.O. VI
1220	12-5-94	T.S.O. II
1221	8-1-94	T.S.O. VII
1223	12-19-94	30.10
1226	9-19-94	94.21
1227	11-7-94	Ch. 71, Sched. III
1229	12-5-94	T.S.O. VIII
1233	4-3-95	Adopting Ordinance
1235	5-15-95	156.20
1238	6-19-95	32.14
1240	7-17-95	T.S.O. VIII
1241	12-18-95	30.10
1242	8-1-95	30.12
1243	7-27-95	T.S.O. VIII
1244	8-7-95	T.S.O. VII
1245	8-7-95	T.S.O. VIII
1249	11-6-95	30.12
1250	11-6-95	30.12
1251	1-15-96	94.06
1253	11-20-95	T.S.O. VIII

1254	12-4-95	T.S.O. VIII
1255	12-4-95	30.12
1256	12-4-95	T.S.O. VIII
1257	12-4-95	T.S.O. VIII
1258	12-18-95	T.S.O. VIII
1261	5-6-96	T.S.O. VIII
1263	5-20-96	T.S.O. VIII
1264	7-17-96	T.S.O. VII
1265	7-1-96	Ch. 98
1267	7-29-96	30.12
1268	12-16-96	30.10
1269	9-3-96	T.S.O. VII
1270	8-19-96	T.S.O. VIII
1272	10-7-96	T.S.O. VII
1273	11-4-96	Ch. 97
1274	11-4-96	T.S.O. VII
1275	11-4-96	T.S.O. VIII
1276	11-18-96	T.S.O. VIII
1278	12-16-96	30.12
1279	12-23-96	51.04
1280	12-16-96	T.S.O. VIII
1282	4-21-97	T.S.O. VII
1283	6-2-97	Adopting Ordinance
1284	7-20-97	T.S.O. VIII
1285	7-30-97	30.12
1286	12-1-97	30.10
1287	8-18-97	T.S.O. VII
1288	9-2-97	T.S.O. VIII
1289	8-18-97	T.S.O. VIII
1290	9-2-97	Ch. 99
1291	9-15-97	T.S.O. VIII
1295	11-17-97	T.S.O. VII
1296	1-5-98	36.03
1297	3-2-98	35.04
1298	3-2-98	Adopting Ordinance
1299	3-2-98	T.S.O. X
1300	3-16-98	T.S.O. X
1302	4-6-98	T.S.O. II
1306	4-6-98	T.S.O. VII
1309	4-20-98	93.03, 93.07
1310	4-20-98	Title VII, Sched. IV
1312	6-15-98	T.S.O. X

1313	--	T.S.O. X
1314	7-6-98	T.S.O. VII
1315	11-2-98	34.40 - 34.47
1316	7-30-98	30.10
1320	12-22-98	52.131, 52.132
1321	12-22-98	94.22
1322	12-22-98	30.12
1323	12-22-98	Adopting Ordinance
1326	12-7-98	T.S.O. VI
1328	3-1-99	37.02
1328-A	4-5-99	37.01
1329	5-17-99	T.S.O. X
1330	6-7-99	T.S.O. X
1331	6-21-99	T.S.O. VIII
1332	8-16-99	30.12
1333	12-6-99	30.10
1333-A	9-20-99	T.S.O. VIII
1335	9-20-99	T.S.O. X
1336	9-20-99	T.S.O. X
1337	10-18-99	T.S.O. VIII
1339	12-6-99	T.S.O. VII
1340	11-15-99	T.S.O. VIII
1341	12-6-99	30.12
1342	12-6-99	36.02
1345	12-20-99	34.13
1352	5-1-00	70.99
1354	7-17-00	T.S.O. VII
1356	12-4-00	30.10
1357	8-17-00	30.12
1360	10-2-00	T.S.O. VII
1364	11-4-00	T.S.O. X
1366	1-2-01	97.04
1368	2-19-01	37.02
1370	4-16-01	T.S.O. VIII
1371	4-16-01	Adopting Ordinance
1373	7-2-01	T.S.O. VI
1374	7-16-01	T.S.O. X
1375	12-17-01	30.10
1376	9-4-01	30.12
1377	9-4-01	T.S.O. VII
1378	11-5-01	T.S.O. VII
1379	11-5-01	T.S.O. VII

1380	11-19-01	Ch. 71, Sched. III
1383	12-17-01	T.S.O. X
1385	1-21-02	T.S.O. VII
1387	4-15-02	Ch. 71, Sched. III
1388	4-15-02	Adopting Ordinance
1394	9-3-02	Ch. 71, Sched. VI
1395	9-16-02	93.01 - 93.07
1396	9-16-02	30.12
1398	10-7-02	37.11
1399	10-21-02	11.01
1401	11-18-02	T.S.O. VII
1404	4-21-03	Adopting Ordinance
1405	5-5-03	T.S.O. VI
1406	5-5-03	90.23
1407	7-21-03	T.S.O. X
1408	7-7-03	T.S.O. II
1409	7-21-03	T.S.O. VII
1410	8-18-03	T.S.O. X
1411	12-31-03	30.10
1412	9-2-03	30.12
1414	11-5-03	T.S.O. X
1416	12-1-03	T.S.O. X
1419	1-19-04	T.S.O. VII
1420	4-19-04	34.40 - 34.47
1422	2-16-04	Adopting Ordinance
1423	3-15-04	T.S.O. X
1424	4-19-04	T.S.O. X
1425	5-17-04	T.S.O. VII
1426	5-17-04	T.S.O. VII
1427	6-21-04	T.S.O. VII
1428	7-19-04	100.01
1429	12-6-04	T.S.O. VIII
1430	9-7-04	37.02, 30.12, T.S.O. VIII
1434	12-20-04	T.S.O. VII
1436	2-21-05	92.05
1438	3-7-05	Ch. 71, Sched. II
1439	4-4-05	30.06
1441	4-4-05	Adopting Ordinance
1442	4-4-05	T.S.O. X
1443	5-2-05	T.S.O. X
1445	7-5-05	T.S.O. X
1447	12-19-05	30.10

1448	8-17-05	30.12
1449	10-3-05	T.S.O. X
1450-A	10-17-05	T.S.O. X
1452	11-21-05	T.S.O. X
1452-06	2-20-06	152.01 - 152.05, 152.15 - 152.18, 152.30, 152.31, 152.40, 152.41, 152.50 - 152.54, 152.99
1453	11-21-05	30.12
1453-06	2-20-06	37.04
1455	12-5-05	30.12
1457	12-19-05	T.S.O. VI
1459	6-5-06	52.131, 52.132
1460	5-1-06	Adopting Ordinance
1461	6-19-06	T.S.O. X
1462	7-17-06	158.001 - 158.010
1463	8-7-06	T.S.O. X
1464	8-7-06	T.S.O. X
1465	9-5-06	153.01 - 153.13, 153.25 - 153.27, 153.40 - 153.46, 153.55 - 153.61, 153.99
1466	8-21-06	T.S.O. VIII
1468	12-4-06	T.S.O. VIII
1469	9-18-06	T.S.O. VIII
1471	11-20-06	T.S.O. X
1472	12-18-06	T.S.O. VI
1475	6-18-07	Adopting Ordinance
1476	6-18-07	52.001 - 52.004, 52.010 - 52.016, 52.025 - 52.029, 52.040 - 52.046, 52.055 - 52.062, 52.070 - 52.082, 52.090 - 52.093, 52.100 - 52.111, 52.120 - 52.122, 52.130 - 52.132, 52.139, 52.140, 52.999
1478	9-4-07	30.10
1479	9-4-07	30.12
1480	1-21-08	30.12
1483	12-17-07	37.02
1484	12-17-07	34.55
1485	2-4-08	36.02
1486	2-21-08	37.08
1487	2-4-08	156.20
1489	5-5-08	52.130 - 52.132
1490	5-5-08	93.01 - 93.07
1492	5-19-08	Adopting Ordinance
1493	9-15-08	91.06
1495	7-21-08	92.06
1496	9-15-08	30.12

1497	9-15-08	100.01
1498	11-17-08	30.10
1507	6-1-09	Adopting Ordinance
1510	6-15-09	T.S.O. VIII
1513	9-8-09	30.10
1514	9-8-09	30.12
1517	12-7-09	34.18
1520	3-1-10	52.011, 52.014, 52.073, 52.077
1521	1-18-10	34.19
--	1-18-10	T.S.O. V
1523	5-3-10	92.01, 92.02
1524	2-1-10	T.S.O. VIII
1526	4-4-11	Adopting Ordinance
1528	9-7-10	30.10
1529	9-7-10	30.12
1530	9-7-10	90.40 -90.44, 90.99
1531	8-16-10	52.001, 52.004, 52.042, 52.045, 52.056, 52.070, 52.077, 52.080
1532	9-20-10	131.01, 131.99
1537	12-6-10	34.05
1540	1-17-11	51.04
1541	3-21-11	T.S.O. IX
1550	10-3-11	30.10
1551	10-3-11	30.12
1555	12-19-11	51.04
1556	12-19-11	T.S.O. VIII
1557	1-3-12	101.01 - 101.03
1558	3-19-12	157.01 - 157.08, 157.99
1559	2-6-12	T.S.O. VII
1562	3-5-12	Adopting Ordinance
1563	4-16-12	T.S.O. VII
1564	4-16-12	11.01
1565	6-18-12	100.01
1566	6-4-12	Ch. 71, Sch. I
1568	6-4-12	93.03
1570	6-18-12	37.13
1571	9-17-12	30.12
1572	9-17-12	30.10
1573	10-1-12	T.S.O. VII
1574	10-1-12	T.S.O. VII
1577	11-5-12	51.04
1578	12-17-12	T.S.O. VI
1581	3-18-13	36.03

1582	7-15-13	Adopting Ordinance
1584	8-19-13	52.130 - 52.132, 52.139, 52.140, 52.999
1585	9-16-13	30.06
1587	8-19-13	T.S.O. VIII
1588	10-7-13	30.10, 30.12
1589	10-7-13	30.12
1589B	12-2-13	30.12
1592	10-21-13	T.S.O. VII
1594	10-21-13	T.S.O. VIII
1596	1-20-14	91.06
1598	1-20-14	T.S.O. VIII
1599	3-3-14	51.04
1601	10-6-14	30.12
1602	6-16-14	T.S.O. VIII
1603	7-7-14	Adopting Ordinance
1604	10-6-14	30.10, 30.12
1606	8-4-14	T.S.O. VII
1609	12-15-14	51.04
1610	12-15-14	34.20
1611	1-19-15	34.21
1612	12-15-14	34.22
1625	6-6-16	53.01 - 53.06, 53.20, 53.35, 53.36, 53.50 - 53.55
1627	7-5-16	50.001 - 50.007, 50.020 - 50.025, 50.040 - 50.044, 50.055 - 50.059, 50.070 - 50.076, 50.090 - 50.094, 50.105 - 50.110
1628	8-15-16	94.04, 94.99
1629	10-3-16	92.06
1631	10-17-16	T.S.O. VIII
1632	10-17-16	T.S.O. VIII
1636	11-7-16	34.06
1637	12-5-16	34.07
1638	12-19-16	51.04
1639	12-19-16	52.001 - 52.004, 52.010 - 52.016, 52.025 - 52.029, 52.040 - 52.045, 52.055 - 52.062, 52.070 - 55.082, 52.090 - 52.093, 52.100 - 52.111, 52.120 - 52.122, 52.130 - 52.140, 52.150 - 52.156, 52.999
1640	1-16-17	30.10
1642	3-20-17	50.021
1644	5-1-17	91.03, 100.01
1646	11-20-17	70.06
1647	10-2-17	30.10, 30.12
1648	6-23-17	30.12

1648A	10-2-17	30.12
1652	12-4-17	51.04
1653	12-4-17	94.08
1655	1-15-18	50.092
1656	1-15-18	52.153
1657	1-15-18	52.135
1658	4-2-18	53.05, 53.20, 53.21
1660	1-15-18	Ch. 71, Sch. III
1661	1-15-18	Ch. 71, Sch. III
1662	2-5-18	T.S.O. VII
1663	4-2-18	93.01 - 93.04, 93.06, 93.07, 93.99
1672	9-17-18	30.10
1673	9-17-18	30.12
1674	9-17-18	100.01
1675	10-15-18	T.S.O. VII
1678	12-3-18	37.02
1679	12-3-18	37.05, 37.06
1682	4-15-19	30.25 - 30.30
1683	4-1-19	T.S.O. VIII

REFERENCES TO RESOLUTIONS

<i>RES. NO.</i>	<i>DATE PASSED</i>	<i>1979 CODE SEC.</i>
66	10-8-35	T.S.O. VI
381	12-3-56	37.09
168	3-5-73	50.07
179	4-1-74	94.12 - 94.16, 94.18, 94.19
180	4-15-74	94.10
194	12-15-75	T.S.O. I
199	5-2-77	37.01 - 37.08
202	8-1-77	37.10
203	11-7-77	50.07
204	12-19-77	37.08
211	8-7-78	37.08
213	12-18-78	37.11
220	3-3-80	37.12
231	6-20-83	156.10 - 156.13
91269	12-16-91	T.S.O. VIII

92270	4-20-92	T.S.O. VIII
92271	12-7-92	T.S.O. VIII
92272	12-7-92	T.S.O. VIII
92273	12-21-92	T.S.O. VIII
92274	5-17-93	T.S.O. VIII
92275	8-16-93	T.S.O. VIII
92276	10-4-93	T.S.O. VIII
92277	12-6-93	T.S.O. VIII
94278	1-4-94	T.S.O. VIII
94279	4-4-94	T.S.O. VIII
94280	6-29-94	T.S.O. VIII
94280A	7-18-94	T.S.O. VIII
94282	12-5-94	T.S.O. VIII
94283	12-5-94	T.S.O. VIII
94284	12-19-94	T.S.O. VIII
95-283A	2-6-95	T.S.O. VIII
95-284	8-7-95	T.S.O. VIII
95-285	- -	T.S.O. VIII
95-286	11-6-95	T.S.O. VIII
95-290	10-24-95	T.S.O. VIII
96-262	12-2-96	T.S.O. VIII
96-263	12-16-96	T.S.O. VIII
97-264	1-6-97	T.S.O. VIII
97-265	4-7-97	T.S.O. VIII
97-266	9-15-97	T.S.O. VIII
97-267	10-6-97	T.S.O. VIII
97-269	10-20-97	T.S.O. VIII
97-270	10-20-97	T.S.O. VIII
97-271	10-20-97	T.S.O. VIII
97-272	12-1-97	T.S.O. VIII
97-273	12-1-97	T.S.O. VIII
97-275	12-15-97	T.S.O. VIII
97-276	12-15-97	T.S.O. VIII
98-277	1-19-98	T.S.O. VIII
98-279	9-20-98	T.S.O. IV
98-283	5-18-98	T.S.O. II
98-286	9-8-98	T.S.O. VIII
98-289	11-2-98	T.S.O. VIII
98-287	9-9-98	T.S.O. X
98-289	11-2-98	34.12
98-292	12-21-98	T.S.O. VIII
99-293	4-5-99	T.S.O. I

99-294	5-12-99	T.S.O. X
99-295	6-7-99	T.S.O. X
99-297	7-7-99	T.S.O. VIII
99-298	7-7-99	T.S.O. VIII
99-299	9-7-99	T.S.O. IV
99-300	9-7-99	T.S.O. VIII
99-302	12-6-99	T.S.O. VIII
99-303	12-6-99	T.S.O. VIII
99-304	12-20-99	Ch. 71, Sch. II
99-305	12-20-99	T.S.O. VIII
00-307	2-7-00	T.S.O. X
00-310	4-3-00	T.S.O. X
00-316	8-14-00	T.S.O. VIII
00-321	12-4-00	51.04
00-323	12-18-00	34.04
01-326	4-16-01	T.S.O. VIII
01-329	7-2-01	T.S.O. VIII
01-330	8-20-01	T.S.O. VIII
01-333	9-4-01	T.S.O. VIII
01-334	10-1-01	T.S.O. VIII
01-336	12-3-01	T.S.O. VIII
01-337	11-19-01	T.S.O. VIII
01-340	12-17-01	T.S.O. VIII
02-343	4-15-02	T.S.O. X
02-345	5-6-02	T.S.O. X
02-346	6-14-02	T.S.O. X
02-350	10-21-02	T.S.O. VIII
02-353	12-2-02	T.S.O. X
02-354	12-16-02	34.04
02-355	12-16-02	34.14
02-356	12-16-02	T.S.O. VIII
03-357	1-6-03	T.S.O. VIII
03-358	1-20-03	94.07
03-361	7-7-03	T.S.O. II
03-363	7-21-03	34.15
03-364	8-18-03	34.16
03-368A	12-1-03	51.04
03-370	12-15-03	T.S.O. VIII
03-371	12-31-03	T.S.O. VIII
04-372	4-5-04	34.17
04-373	5-3-04	T.S.O. VIII
04-374	6-21-04	T.S.O. VIII

04-378	10-4-04	T.S.O. X
04-381	12-6-04	T.S.O. X
04-384	12-20-04	34.04
05-385	4-5-05	T.S.O. VIII
05-386	2-21-05	T.S.O. VIII
05-387	5-2-05	T.S.O. VIII
05-393	12-19-05	34.04
BW-06-01	8-21-06	T.S.O. VIII
06-02	8-22-06	T.S.O. VIII
1473	12-4-06	T.S.O. VIII
06-402	12-18-06	51.04
09-461	12-7-09	30.07
09-462	11-2-09	30.08
10-471	1-4-10	T.S.O. VIII
10-473	7-19-10	35.05
10-475	12-6-10	T.S.O. VIII
10-477	12-6-10	T.S.O. VIII
12-499	10-1-12	34.04
12-500	11-5-12	52.106
12-502	12-17-12	T.S.O. VIII
12-505	12-71-12	34.04
13-506	3-18-13	T.S.O. VIII
13-511	12-16-13	T.S.O. VIII
14-520	10-20-14	T.S.O. VIII
14-529	12-15-14	T.S.O. VIII
14-530	1-5-15	T.S.O. VIII