TOWN OF HAGERSTOWN, INDIANA

CODE OF ORDINANCES

2015 S-4 Supplement contains:
Local legislation current through Ord. 6-2015, passed 7-20-2015, and
Res. 6-2012, passed 12-17-2012
State legislation current through 2015 A.L.S. #5

AMERICAN LEGAL PUBLISHING CORPORATION

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TOWN OFFICIALS

OF

HAGERSTOWN,
INDIANA

TOWN COUNCIL

PRESIDENT	Rick Cole
MEMBER	Fred Dill
MEMBER	Brian Longbons
MEMBER	Becky Diercks
MEMBER	Clint Hardin

TOWN OFFICIALS

TOWN CLERK-TREASURER	Nicholas Jarrett
TOWN MANAGER	Chris LaMar
TOWN ATTORNEY	Adam Forrest, Esquire

HAGERSTOWN, INDIANA
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CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY

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§ 10.01 TITLE OF CODE.

(A) All ordinances of a permanent and general nature of the town, as revised, codified, rearranged, renumbered, and consolidated into component codes, titles, chapters, and sections, shall be known and designated as the Hagerstown Code, for which designation Code of Ordinances, Codified Ordinances, or Code may be substituted.

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

§ 10.02 INTERPRETATION.

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

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

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

§ 10.04 CONSTRUCTION OF CODE.

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existing law or amendment thereto reenacted by this code shall continue in operation and effect, as if it had not been repealed by this code. All rules and regulations adopted under laws reenacted in this code shall remain in full force and effect unless repealed or amended subsequent to the enactment of this code.

(B) Any appropriation repealed and reenacted by this code is continued only for the period designated in the original enactment of that appropriation.

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

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

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

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

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

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

§ 10.05 RULES OF INTERPRETATION; DEFINITIONS.

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

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

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

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

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

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

AND/OR. Either conjunction ***AND*** or ***OR*** shall include the other, as if written ***AND/OR.***

CLERK-TREASURER. The Clerk-Treasurer of the Town Council. The Clerk and Fiscal Officer of the town.

CODE. The Hagerstown Town Code.

COMPUTATION OF TIME. Unless specifically provided, means the time within which an act is to be done, as herein provided, and shall be computed by excluding the first day and including the last. If the last day be Sunday or holiday, it shall be excluded.

COUNCIL. The Town Council of the Town of Hagerstown, Indiana.

COUNTY. The County of Wayne, State of Indiana.

ET SEQ. The Latin phrase meaning “and the following.”

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

I.C. Refers to state law found in the Indiana Code.

MAY. The action referred to is permissive.

MONTH. One calendar month.

MUST and ***SHALL.*** The actions referred to are each mandatory.

OATH. Includes an affirmation of declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words ***SWEAR*** and ***SWORN*** shall be equivalent to the words ***AFFIRM*** and ***AFFIRMED.***

OWNER. Applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant, tenant by the entirety, of the whole or a part of the building or land.

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

PERSONAL PROPERTY. Includes every kind of property except real property.

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

PROPERTY. Includes real and personal property.

PUBLIC PLACE. Any street or highway, sidewalk, park, cemetery, school yard, or open space adjacent thereto and any lake or stream.

REAL PROPERTY. Includes lands, tenements, and hereditaments.

SIDEWALK. That portion of the street between the curb line and the adjacent property line intended for the use of pedestrians.

SIGNATURE or ***SUBSCRIPTION.*** Includes a mark when the person cannot write.

STATE. The State of Indiana.

STREET. All streets, highways, avenues, boulevards, lanes, courts, squares, roads, alleys, viaducts, or other public ways in the town which have been or may hereafter be dedicated and open to public use.

SUBSTANTIAL PROPERTY INTEREST. Any right in real property that may be affected in a substantial way by actions authorized by planning and development laws of the State of Indiana, including a fee interest, a life estate, a future interest, a present possessory interest, or an equitable interest of a contract purchaser.

TENANT or ***OCCUPANT.*** Applies to a building or land and shall include any person holding a written or oral lease of or who occupied the whole or a part of the building or land, either alone or with others.

TOWN. The Town of Hagerstown, Indiana, or the area within the territorial limits of the Town of Hagerstown, Indiana, and such territory, if any, outside of the town over which the town has jurisdiction or control by virtue of any constitutional or statutory provision.

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

YEAR. One calendar year, unless otherwise expressly provided.
(I.C. 1-1-4-5)
Statutory reference:
Definition of substantial property interest, see I.C. 36-7-9-2, of the State's Planning and Development Chapter
Definitions of general applicability, see I.C. 36-1-2-1 through 36-1-2-24

§ 10.06 SEVERABILITY.

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

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

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

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

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

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

§ 10.07 REFERENCE TO OTHER SECTIONS.

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

§ 10.08 REFERENCE TO OFFICES; NAME DESIGNATIONS.

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

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

§ 10.09 ERRORS AND OMISSIONS.

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

§ 10.10 REASONABLE TIME.

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

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

§ 10.11 REPEAL OR MODIFICATION OF CODE SECTION.

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

§ 10.12 LIMITATION PERIODS.

The running of any period of limitations or any requirement of notice contained in any law, whether applicable to civil causes or proceedings, or to the prosecution of offenses, or for the recovery of penalties and forfeitures, contained in a law repealed and reenacted by this code, shall not be affected by the repeal and reenactment; but all suits, proceedings, and prosecutions for causes arising or acts committed prior to the effective date of this code may be commenced and prosecuted with the same effect as if this code had not been enacted.
Statutory reference:
Periods of limitation, see I.C. 1-1-1-7

§ 10.13 ORDINANCES UNAFFECTED.

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

§ 10.14 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

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

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

§ 10.15 SECTION HISTORIES; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and amending ordinances, if any, are listed following the text of the code section. Example: (Ord. 10, passed 5-13-1960; Am. Ord. 15, passed 1-1-1970; Am. Ord. 20, passed 1-1-1980; Am. Ord. 25, passed 1-1-1985; Am. Ord. passed 1-1-1990; Am. Ord. 40, passed - -; Am. Ord. passed - -)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute. Example: (I.C. 36-5-2-2)

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

§ 39.01 PUBLIC RECORDS AVAILABLE.

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

Statutory reference:

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

(C) If a section of this code is derived from the previous code of ordinances of the city published in 1963 and subsequently amended, the previous code section number shall be indicated in the history by "(1963 Code, Ch. ___, § ___)."

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

All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws. This code does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this code. The liabilities, proceedings, and rights are continued; punishments, penalties, or forfeitures shall be enforced and imposed as if this code had not been enacted. In particular, any agreement granting permission to utilize

highway rights-of-way; contracts entered into or franchises granted; the acceptance, establishment, or vacation of any highway; and the election of corporate officers shall remain valid in all respects, as if this code had not been enacted.

§ 10.17 EFFECTIVE DATE OF ORDINANCES.

Unless otherwise expressly provided, an ordinance shall take effect when passed according to I.C. 36-4-6-14.

§ 10.18 CODES AS PROPERTY OF THE TOWN.

All copies of the Hagerstown Town Code, except those sold by the town to private individuals or given or sold to the public library, shall be the property of the Town of Hagerstown. Any Hagerstown Town Codes delivered to elected or appointed officials shall not be retained by those individuals after the expiration of their term(s) of office or appointment.

§ 10.19 REFERENCES TO TOWN COUNCIL THROUGHOUT CODE.

All references within the Town Code of the Town of Hagerstown, Indiana to "Town Board," "Board," "Board of Trustees," and similar terms intended to refer to the Town Council of the Town of Hagerstown, Indiana, the legislative body of the town pursuant to I.C. 36-5, shall be changed to and reflected as "Town Council."
(Ord. 6-2007, passed 6-4-2007)
Statutory reference:
Officially changing the terms "Board of Trustees" to "Town Council," see House Enrolled Act No. 1042, effective 3-30-1989

§ 10.99 GENERAL PENALTY.

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

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

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

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

Statutory reference:

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

(Am. Ord. 8-2007, passed - -)

TITLE III: ADMINISTRATION

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§ 30.01 ELECTIVE OFFICERS; APPOINTED OFFICIALS.

(A) The elective officers of the town, elected in accordance with the provisions of the state election laws and I.C. 36-5-2-1 *et seq.* and 36-5-6-1 *et seq.*, shall be:

(1) The members of the Town Council; and

(2) The Clerk-Treasurer.

(B) The Town Council shall appoint the following officials:

(1) Superintendent of Utilities;

(2) Superintendent of Parks and Recreation;

(3) The Town Marshal; and

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

§ 30.02 NOTICE OF ELECTION.

The election inspectors shall make a certified statement, over their own signatures, of the persons elected to fill the several offices in the town and file the same with the clerk of the circuit court of the county, within ten days from the day of the election.
Statutory reference:
Notice of election, see I.C. 3-10-7-34

§ 30.03 OATH OF OFFICIALS.

The members of the Town Council and other officers-elect shall, within ten days after the election, take and subscribe, before some person authorized to administer the same, the usual oath or affirmation for the faithful performance of the duties of their respective offices.
Statutory reference:
Oaths, see I.C. 5-4-1-1 and 5-4-1-4

§ 30.04 BONDS OF OFFICIALS.

The Clerk-Treasurer and Marshal of the town shall, before commencement of their term of office, each and severally, give bond payable to the State of Indiana, with surety to the approval of the Town Council, in such an amount each as the Town Council shall direct.
Statutory reference:
Bonds, see I.C. 5-4-1-8 and 5-4-1-9

§ 30.05 FILLING VACANCIES IN OFFICE HELD BY CANDIDATE OF MAJOR POLITICAL PARTY.

(A) This section applies only to filling those vacancies concerning which the person who last held the vacated office was elected to that office as a candidate of a political party whose candidate at the most recent election for Secretary of State received either the highest or next highest number of votes cast state-wide for that office, or was selected for that office under this section.
(I.C. 3-13-9-1)

(B) (1) For the period of time between when a vacancy occurs and when that vacancy is filled under this section, the chief deputy employee of the office that is vacant shall assume the duties of that office. If no chief deputy employee exists in the Office of Clerk-Treasurer, then the President of the Town Council shall appoint, as soon as is reasonably possible, an individual to fill that vacancy for the period of time between when the vacancy occurs and when it is filled under this section.
(I.C. 3-13-11-12 and 3-13-11-16)

(2) Any person who assumes the duties of any vacant office under this section has and may exercise all of its rights, powers, and duties, is entitled to the compensation fixed for that office, and is subject to all the liabilities of that office.
(I.C. 3-13-11-18)

(C) (1) Vacancies in all elective town offices, except the offices of prosecuting attorney, clerk of the circuit court, and judge of any court, shall be filled for the unexpired term by a caucus as provided in I.C. 3-2-9-10 and 3-13-6-1 through 3-13-6-3.

(2) Notwithstanding division (C)(1) above, in the case of a vacancy in an elected town office where a caucus of precinct committee persons under this chapter would consist of only one precinct committee person(s) who is not a resident of that town, the vacancy shall be filled by the County Chairperson in the manner prescribed by I.C. 3-13-11-5. However, the person selected to fill the vacancy must be affiliated with the same political party as the original office holder.
(I.C. 3-13-1-5)

§ 30.06 VACANCIES IN COUNCIL OR ELECTIVE OFFICES.

Any vacancy occurring in the Town Council, or in any other elective office of the town, shall be filled by appointment by the Town Council, at a regular or special meeting of the Town Council, called for that purpose, of which meeting not less than ten-days' notice in writing shall be given to each member of the Town Council by the Clerk-Treasurer of the town; but the appointments, if to fill a vacancy in the office of Town Council, shall be made from the ward in which the vacancy occurred, and no appointment shall extend beyond the remainder of that term.
(I.C. 3-13-9-4)

§ 30.07 FEES FOR COPIES OF ACCIDENT REPORTS.

(A) The Town Marshal shall charge and collect a fee of $5 for a copy of any accident report furnished to any persons entitled to receive this information. This fee is in accordance with I.C. 9-29-11-1. In the event that the minimum charge provided in I.C. 9-29-11-1 (as amended or recodified) increased, the amount charged by the town shall increase to coincide with the minimum charge as required by Indiana law.

(B) The Clerk-Treasurer of the town shall deposit all accident report receipt fees set out in division (A) above into the Law Enforcement Continuing Education Fund, pursuant to I.C. 9-29-11-1 and I.C. 5-2-8. The funds in this account shall be used for the continuing education and training of law enforcement officers employed by the agency and for equipment and supplies for law enforcement purposes.
(Ord. 1-1982, passed 2-1-1982; Am. Ord. 12-2006, passed 10-2-2006)

§ 30.08 SURCHARGE FEE FOR PAYMENTS RETURNED UNPAID.

(A) The Clerk-Treasurer shall assess and collect a surcharge fee of $20 for each instrument offered to the town for payment that is returned unpaid by the financial institution upon which the instrument was drawn.

(B) The Clerk-Treasurer shall notify the person or entity presenting the instrument for payment of the returned status of the instrument and the surcharge fee that is due and payable in addition to the amount of money reflected on the instrument. The notice shall be by certified mail.

(C) The Clerk-Treasurer is hereby enabled to curtail services if the person or entity offering the instrument for payment of the services fails to bring their account current to include the surcharge fee within seven working days of the notice being mailed.

(D) This section does not negate nor waive any other surcharge penalty that may legally be imposed for nonpayment of services rendered.
(Ord. 4-1998, passed 8-3-1998)

§ 30.09 ADOPTION OF NATIONAL INCIDENT MANAGEMENT SYSTEM.

The town hereby adopts the National Incident Management System dated 3-1-2004.
(Ord. 11-2006, passed 9-5-2006)

CHAPTER 31: EXECUTIVE

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PRESIDENT OF THE TOWN COUNCIL

§ 31.01 CREATION OF OFFICE.

The Town Council shall select one of its members to be its President for a definite term, which may not exceed his or her term of office as a member of the Town Council.
(I.C. 36-5-2-7) (Ord. 12-1998, passed 11-16-1998)

§ 31.02 POWERS AND DUTIES.

The President of the Town Council may call a special meeting at any time by personal or written notice to each member of the Town Council and shall call a special meeting upon request in writing by any three members.
(1963 Code, Ch. 2, § 1) (Ord. 19-1878, passed 4-15-1878; Am. Ord. 12-1998, passed 11-16-1998)

§ 31.03 PRESIDENT PRO TEM.

During the temporary absence or disability of the President as heretofore provided, the Town Council may elect one of its number to act as President Pro Tem, who during the absence or disability of the President shall perform the duties pertaining to the office.
(Ord. 12-1998, passed 11-16-1998)

CLERK-TREASURER

§ 31.05 CREATION OF OFFICE.

The Clerk-Treasurer elected under this chapter is both the Town Clerk and the Town Fiscal Officer.
(I.C. 36-5-6-2)

§ 31.06 GENERAL DUTIES.

(A) The Clerk-Treasurer shall do the following:

(1) Receive and care for all town money and pay the money out only on order of the Town Council;

(2) Keep accounts showing when and from what source the Clerk-Treasurer has received town money and when and to whom the Clerk-Treasurer has paid out town money;

(3) Prescribe payroll and count forms for all town offices;

(4) Prescribe the manner in which creditors, officers, and employees shall be paid;

(5) Manage the finances and accounts of the town and make investments of town money;

(6) Prepare for the Town Council the budget estimates of miscellaneous revenue, financial statements, and the proposed tax rate;

(7) Maintain custody of the town seal and the records of the Town Council;

(8) Issue all licenses authorized by statute and collect the fees fixed by ordinance;

(9) Serve as Clerk of the Town Council by attending its meetings and recording its proceedings;

(10) Administer oaths, take depositions, and take acknowledgment of instruments that are required by statute to be acknowledged, without charging a fee;

(11) Serve as Clerk of the Town Court under I.C. 33-35-3-2, if the judge of the court does not serve as clerk of the court or appoint a clerk of the court under I.C. 33-35-3-1; and

(12) Perform all other duties prescribed by statute.

(B) A Clerk-Treasurer is not liable, in an individual capacity, for any act or omission occurring in connection with the performance of the requirements set forth division (A) above, unless the act or omission constitutes gross negligence or an intentional disregard of the requirements.
(I.C. 36-5-6-6)

§ 31.07 ORDERS FOR PAYMENT OF MONEY.

(A) No order drawn upon the Clerk-Treasurer for the payment of money shall be valid unless the order is drawn upon a bill or claim presented to the Town Council while in session at its regular or special meeting and unless the order is properly signed by the President of the Town Council and the Clerk-Treasurer.

(B) Any Town Council member violating the provisions of this section shall be fined $5 for each and every offense.
(I.C. 36-5-6-6) (1963 Code, Ch. 2, § 4) (Ord. 18-1878, passed 4-15-1878)

§ 31.08 MONTHLY STATEMENTS.

The Clerk-Treasurer shall, on the first day of each month, file with the Town Council a statement of the receipts and disbursements of the town treasury for the preceding month, showing also the balance in each of the several funds available for the uses of the town. The Clerk-Treasurer's books, accounts, and vouchers shall at all times be subject to the examination of the Town Council or of any person appointed by the Town Council for that purpose.

§ 31.09 YEARLY SETTLEMENTS.

The Clerk-Treasurer shall be required to make an annual settlement with the Town Council at a regular meeting of the Town Council in January. Immediately after the settlement, the Clerk-Treasurer shall publish an exhibit of all the receipts and expenditures of the town for the current year.
(I.C. 36-5-6-6) (1963 Code, Ch. 2, § 5) (Ord. 41-1878, passed 4-15-1878)

§ 31.10 GENERAL POWERS.

(A) The Clerk-Treasurer is an ex officio member for the purpose of casting the deciding vote to break a tie.
(I.C. 36-5-2-8)

(B) The Clerk-Treasurer may administer oaths, take depositions, and take acknowledgments of all instruments required by law to be acknowledged; he or she shall have the custody of the seal of the town; and he or she shall perform all other duties as set forth in I.C. 36-5-6-5 and I.C. 36-5-6-6.

(C) (1) The Clerk-Treasurer shall appoint the number of deputies and employees needed for the effective operation of the office, with the approval of the Town Council. The Clerk-Treasurer's deputies and employees serve at the Clerk-Treasurer's pleasure.

(2) If a town owns a utility and the Clerk-Treasurer is directly responsible for the billing and collection of that utility's rates and charges, the Clerk-Treasurer shall appoint those employees who are also responsible for that billing and collection. These employees serve at the Clerk-Treasurer's pleasure.
(I.C. 36-5-6-7)

(D) The Clerk-Treasurer has the power to solemnize marriages within the confines of the town.
(I.C. 31-11-6-1)

§ 31.11 ELECTION; TERM.

(A) The Clerk-Treasurer shall be elected under I.C. 3-10-6 or I.C. 3-10-7 by the voters of the whole town.
(I.C. 36-5-6-4)

(B) The Clerk-Treasurer must reside within the town as provided in Article 6, Section 6, of the Constitution of the State of Indiana. The Clerk-Treasurer forfeits office if the Clerk-Treasurer ceases to be a resident of the town.

(C) Except as provided in division (D) below, the term of office of the Clerk-Treasurer is four years, beginning at 12:00 p.m. January 1 after election and continuing until a successor is elected and qualified.

(D) The term of office of a Clerk-Treasurer subject to an ordinance described by I.C. 3-10-6-2.6 is one year, beginning at 12:00 p.m. January 1 after the Clerk-Treasurer's election and continuing until the Clerk-Treasurer's successor is elected and qualified.
(I.C. 36-5-6-3)

§ 31.12 DEPOSITING PUBLIC FUNDS.

(A) The Clerk-Treasurer of the town is hereby authorized to deposit funds of the town, with any depository within Wayne County, Indiana, which meets the appropriate criteria as a depository of public funds, pursuant to Indiana laws and any regulations or guidelines set forth by the Indiana State Board of Accounts and/or the Indiana Department of Local Government Finance.

(B) The Clerk-Treasurer of the town is hereby authorized to deposit funds of the town, with TrustINdiana, provided that TrustINdiana remains an approved depository for public funds of municipalities within Indiana, and provided that the deposits thereto are pursuant to Indiana laws and any regulations or guidelines set forth by the Indiana State Board of Accounts and/or the Indiana Department of Local Government Finance.
(Res. 1-2011, passed 6-20-2011)

FISCAL OFFICER

§ 31.25 FISCAL OFFICER AUTHORITY.

(A) The Town Council hereby preapproves and authorizes the Town Fiscal Officer to make payment on the following types of claims prior to Town Council allowance:

(1) Property or services purchased from the United States government;

(2) License or permit fees;

(3) Insurance premiums;

(4) Utility payments and connection charges;

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

(6) Grants of state funds;

(7) Maintenance and service agreements;

(8) Leases and rental agreements;

(9) Bond or coupon payments;

(10) Payroll obligations;

(11) State, federal, and county taxes;

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

(13) Expenses described in a town ordinance.

(B) The legislative body or the board having jurisdiction over the allowance of the claim(s) shall review and allow the claim(s) at the body's or board's next regular or special meeting following the preapproved payment of the expense.
(Ord. 1-1996, passed 5-6-1996)

TOWN MANAGER

§ 31.35 CREATION OF POSITION.

The Town Council may employ a Town Manager, to be the administrative head of the town government, and the Town Council may fix his or her compensation and terms of employment. Any Town Manager so employed shall serve at the pleasure of the Town Council. The Town Council may

not employ one of its members as the Town Manager. The Town Manager must not be employed as a Town Manager of any other town at the time of his or her employment with the Town of Hagerstown.
(Ord. 4-2003, passed 7-7-2003)

§ 31.36 ABSENCE.

The Town Council may appoint a qualified person to perform the duties of the Town Manager whenever he or she is absent or unable to perform his or her duties.
(Ord. 4-2003, passed 7-7-2003)

§ 31.37 ISSUANCE OF WARRANTS OR EXECUTION OF NOTES OR BONDS PROHIBITED.

The Town Council may not authorize the Town Manager to issue or execute bonds, notes, or warrants of the town.
(Ord. 4-2003, passed 7-7-2003)

§ 31.38 POWERS AND DUTIES.

(A) The Town Manager, under the direction of the Town Council, is responsible for the administrative duties of the Town Council. Unless a written order or ordinance of the legislative body provides otherwise, the Town Manager:

(1) Shall attend the meetings of the Town Council and recommend actions he or she considers advisable;

(2) Shall hire town employees according to the current wage and salary ordinance, and procedures fixed by the Town Council or by statute;

(3) Shall suspend, discharge, remove, or transfer town employees, if necessary, for the welfare of the town;

(4) May delegate temporary operational authority to an employee responsible to him or her;

(5) Shall assist in administering and enforcing all ordinances, orders, and resolutions of the Town Council;

(6) Shall see that all statutes and laws that are required to be administered by the Town Council or a town officer subject to the control of the Town Council are faithfully administered;

(7) Shall prepare budget estimates when required;

(8) Shall execute contracts on behalf of the town for materials, supplies, services, or improvements, after the completion of the appropriations, notice, and competitive bidding required by law;

(9) May receive service of summons on behalf of the town; and

(10) Shall perform all lawful duties requested of him or her by the Town Council.

(B) The Town Council may, at its discretion, amend the powers and duties of the Town Manager at any time in the future.
(Ord. 4-2003, passed 7-7-2003; Am. Ord. 9-2007, passed 10-1-2007)

§ 31.39 PARTICIPATION IN HEARING ON DISCIPLINARY CHARGES.

The Town Manager may not serve as a member of any body that hears disciplinary charges against:

(A) The Town Marshal; or

(B) A member of the Town Police Department.
(Ord. 4-2003, passed 7-7-2003)

§ 31.40 TOWN MANAGER TO ASSUME POWERS AND DUTIES OF THE DIRECTOR OF MUNICIPAL OPERATIONS.

The Town Code currently contains various references to a Director of Municipal Operations or Manager. The Town Manager shall have all duties, responsibilities, and authorities given to the Director of Municipal Operations or Manager as it is used in other areas of the Town Code. The Town Manager shall assume the role of the Director of Municipal Operations for the town, including the powers and duties thereof, in addition to any other powers and duties provided for in this chapter, as well as any other duties assigned to the Town Manager by the Town Council.
(Ord. 4-2003, passed 7-7-2003)

§ 31.41 STATUTORY BASIS.

The position of Town Manager, and the provisions of the sections of the Town Code regarding the Town Manager, are based on I.C. 36-5-5, and all provisions of the Town Code shall be consistent with I.C. 36-5-5, and any future amendments thereto.
(Ord. 4-2003, passed 7-7-2003)

CHAPTER 32: LEGISLATIVE

Section

32.01 Legislative authority
32.02 Council members; districts
32.03 Council meetings
32.04 Presiding officer
32.05 Duties of Clerk-Treasurer
32.06 Authority to fix compensation of officers and employees
32.07 Power of Council concerning ordinances
32.08 Town expenses

§ 32.01 LEGISLATIVE AUTHORITY.

The Town Council may make and establish the bylaws, ordinances, and regulations, not repugnant to the laws of this state, as may be necessary to carry into effect the powers granted it under the provisions of I.C. 36-5-1-1 *et seq.* through 36-5-7-1 *et seq.*, and to repeal, alter, or amend the same as they shall seem to require; but every bylaw, ordinance, or regulation imposing a penalty for its violation shall be published in accordance with I.C. 36-5-2-10.

§ 32.02 COUNCIL MEMBERS; DISTRICTS.

(A) Two of the five Council members shall be elected for two-year terms in the 1979 election, the terms to begin 1-1-1980, and the remainder of the Council members shall be elected in the 1979 election for a term of four years commencing 1-1-1980.

(B) The Council members whose terms will be for a period of two years commencing 1-1-1980 shall be elected from Wards 2 and 4 of the town, and the Council members whose term of office shall be for the period of four years commencing 1-1-1980 shall be elected from Wards 1, 3, and 5 of the town.

(C) The successors of the Council members elected for two-year terms commencing 1-1-1980 shall thereafter be elected every four years to serve four-year terms. Those Council members elected to four-year terms commencing 1-1-1980 shall thereafter be elected and serve four-year terms.

(D) After 1-1-1998, all candidates for the Office of Member of Town Council shall be nominated at large from within the corporate boundaries of the town. A candidate may not be nominated unless the candidate resides within the corporate boundaries of the town at the time of nomination.

(E) All candidates for the Office of Council Member of the Town Council shall reside within the corporate boundaries of the town, shall be elected to serve as at large members of the Town Council, and shall forfeit the Office of Town Council Member if the candidate or elected member ceases to reside within the corporate boundaries of the Town of Hagerstown or resigns as a member.
(I.C. 36-5-2-3) (Ord. 6-1978, passed - -; Am. Ord. 1-1997, passed 4-7-1997; Am. Ord. 3-1997, passed 10-6-1997)

§ 32.03 COUNCIL MEETINGS.

The regular meetings of the Town Council shall be as established by the Town Council from time to time, with any change thereof to be voted upon by the Town Council in an open, public meeting. In any event, the Town Council must have at least one regular meeting of the Town Council each month.
(Ord. 10-2006, passed 9-5-2006)

§ 32.04 PRESIDING OFFICER.

The Town Council shall select one of its members to be its President for a definite term, which may not exceed his or her term of office as a member of the Town Council.
(I.C. 36-5-2-7)

§ 32.05 DUTIES OF CLERK-TREASURER.

(A) The Clerk-Treasurer shall attend all meetings of the Town Council and record the proceedings thereof.

(B) The Clerk-Treasurer is an ex officio member for the purpose of casting the deciding vote to break a tie.
(I.C. 36-5-2-8)

§ 32.06 AUTHORITY TO FIX COMPENSATION OF OFFICERS AND EMPLOYEES.

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

COMPENSATION. The total of all money paid to an elected town officer for performing duties as a town officer, regardless of the source of funds from which the money is paid.

(B) The Town Council members shall, by ordinance, fix the compensation of its own members, the Clerk-Treasurer, and the Marshal. The Town Council shall provide reasonable compensation for other town officers and employees.
(I.C. 36-5-3-2(a), (b))
Statutory reference:
Changing compensation in year for which it is fixed prohibited, see I.C. 36-5-3-2(c)
Compensation for additional services, see I.C. 36-5-3-2(d)

§ 32.07 POWER OF COUNCIL CONCERNING ORDINANCES.

The Town Council members may:

(A) Adopt ordinances and resolutions for the performance of functions of the town;

(B) Purchase, hold, and convey any interest in property, for the use of the town; and

(C) Adopt and use a common seal.
(I.C. 36-5-2-9)

§ 32.08 TOWN EXPENSES.

(A) The Town Council hereby authorizes the Council to budget and appropriate funds from the General Fund of the town, to pay the expenses of or to reimburse town officials for expenses incurred in promoting the best interests of Hagerstown, Indiana.

(B) The expenses may include, but not necessarily be limited to, rental of meeting places, meals, decorations, memorabilia, awards, expenses incurred in interviewing job applicants, expenses incurred in promoting industrial, commercial, and residential development, expenses incurred in developing relationships with other units of government, and any other expenses of a civic or governmental nature deemed by the Town Council to be in the best interests of the town.
(Ord. 2-1996, passed 5-6-1996)

CHAPTER 33: LAW ENFORCEMENT

Section

33.01 Appointment of Marshal; term
33.02 Appointment of Deputy and Reserve Deputy Marshals; terms
33.03 Powers and duties of Marshal
33.04 Powers and duties of Deputy and Reserve Deputy Marshals
33.05 Compensation
33.06 State training requirements

§ 33.01 APPOINTMENT OF MARSHAL; TERM.

The Town Council shall appoint a Marshal and shall fix his or her compensation.
(I.C. 36-5-7-2)

§ 33.02 APPOINTMENT OF DEPUTY AND RESERVE DEPUTY MARSHALS; TERMS.

(A) The Marshal is authorized to appoint Deputy Marshals and the appointments are subject to approval by the Town Council. The Deputies shall serve during the pleasure of the Town Council.
(I.C. 36-5-7-6) (1963 Code, Ch. 2, § 3) (Ord. 2-l922, passed - -)

(B) The Marshal is authorized to appoint Reserve Deputy Marshals and the appointments are subject to approval by the Town Council. The Reserve Deputy Marshals may be discharged by the Marshal at any time.
(Ord. 3-1976, passed 8-30-1976; Am. Ord. 6-2012, passed 8-20-2012)

§ 33.03 POWERS AND DUTIES OF MARSHAL.

(A) The Marshal shall be the Chief Police Officer of the town and has the powers of other law enforcement officers in executing the orders of the Town Council and enforcing laws. The Marshal or his or her deputy:

(1) Shall serve all process directed at him or her by the Town Court or Town Council;

(2) Shall arrest without process all persons who commit an offense within his or her view, take them before a court having jurisdiction, and detain them in custody until the cause of the arrest has been investigated;

(3) Shall suppress breaches in peace;

(4) May, if necessary, call the power of the town to his or her aid;

(5) May execute search warrants and arrest warrants; and

(6) May pursue and jail persons who commit an offense.
(I.C. 36-5-7-4)

(B) In executing the orders of the Town Council and enforcing the ordinances of the town and the laws of the state, the Marshal shall possess all the common law and statutory powers of constables, except in relation to the service of civil process; and any warrant of search or arrest, issued by any judge, or magistrate, or justice of the peace of this state, may be executed in any part thereof by the Marshal subject to laws of this state governing arrest and bail.

(C) He or she shall be conservator of the peace in the town, and shall arrest, without process, all persons who within his or her view commit any crime or misdemeanor contrary to the statutes of this state or ordinances of the town, and take them before the court having jurisdiction of the offense with which the person is charged and retain them in custody until the cause of the arrest has been investigated, and shall suppress all breaches of the peace within his or her knowledge. Authority is given for him or her to call to his or her aid the power of the town and to pursue and commit to jail all persons who commit a jailable offense in violation of the statutes of this state or the ordinances of the town.

(D) The Marshal shall have the power, and it shall be his or her duty, to serve all process issuing either from the Town Court or the Town Council.

§ 33.04 POWERS AND DUTIES OF DEPUTY AND RESERVE DEPUTY MARSHALS.

(A) The Deputies, in executing the orders of the Town Council or enforcing the ordinances of the town, shall possess the powers and be subject to the liabilities of the Marshal.
(1963 Code, Ch. 2, § 3) (Ord. 2-1922, passed - -)

(B) Reserve officer acceptance, training, and operational procedures shall meet the current regulatory and operational directives of the Marshal and the town for regular Deputy Marshals in current duty status, all as may be finally determined by the Town Council. In executing the orders of the Town Council or enforcing all laws and ordinances by direction of the Marshal, Reserve Deputy Marshals shall possess the powers and be subject to the liabilities of the Marshal.
(I.C. 36-5-7-6) (Ord. 3-1976, passed 8-30-1976)

§ 33.05 COMPENSATION.

(A) The Town Council shall regulate the amount of compensation to be received by the Marshal and the Deputy Marshals.

(B) Reserve officer personnel shall not receive compensation for services rendered while serving as Reserve Deputy Marshals.
(I.C. 36-5-7-2, 36-5-7-6) (Ord. 3-1976, passed 8-30-1976)

§ 33.06 STATE TRAINING REQUIREMENTS.

The Marshal and the Deputy Marshals, but not the Reserve Deputy Marshals, must meet the state training requirements of the Law Enforcement Training Academy.
Statutory reference:
Law enforcement training, see I.C. 5-2-1-1 et seq.
Mandatory training for law enforcement officers, see I.C. 5-2-1-1 through 5-2-1-15

CHAPTER 34: BOARDS AND COMMISSIONS

Section

Economic Development Commission

34.01 Purpose
34.02 Creation of Economic Development Commission

Board of Parks and Recreation

34.05 Board of Parks and Recreation

Board of Examination for Electrical Wiring

34.15 Establishment of Board

Board of Examination for Heating and Ventilation

34.20 Establishment of Board

Town Plan Commission

34.25 Town Plan Commission

Board of Aviation Commissioners

34.30 Board of Aviation Commissioners

Redevelopment Commission and Department

34.35 Establishment
34.36 Appointments
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34.38 Terms
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Board of Cemetery Regents

34.50 Establishment
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34.56 West Lawn Cemetery
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34.58 Rules and regulations
34.59 Gifts
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ECONOMIC DEVELOPMENT COMMISSION

§ 34.01 PURPOSE.

Promoting and improving employment opportunities, sufficient diversification of economic development facilities, economic stability, financing of economic development facilities and pollution control facilities, and the general economic development and welfare of the town would be in the best interests of its citizens, therefore, a Department of Economic Development should be established in support of the program.
(Ord. 3-1978, passed 12-3-1978)

§ 34.02 CREATION OF ECONOMIC DEVELOPMENT COMMISSION.

(A) There is created in the town a Department of Economic Development.

(B) The Department shall be under the control of the Development Commission.

(C) The Development Commission shall consist of three members, to be known as the Hagerstown Economic Development Commission; the members shall be selected for appointment by the President of the Town Council as follows.

(1) One member shall be selected by the President of the Town Council, one shall be nominated by the County Council, and one shall be nominated by the Town Council. The members of the Commission shall take office upon their appointment and their terms of office shall run the following number of years from 2-1-1978:

(a) The Commissioner nominated by the Town Council - two years;

(b) The Commissioner nominated by the County Council - one year; and

(c) The Commissioner selected by the President - three years.

(2) The nominations and selection for Commissioners of the Development Commission shall be made by the President, the Town Council, and the County Council within 15 days after receiving notice from the Clerk-Treasurer that they are required to make the nominations and selection. The selectee and nominees shall be appointed by the President within ten days after receiving the nominations. At the expiration of the respective terms of each of the Commissioners originally appointed, their respective successors shall be selected and nominated before the expiration of the term in the same manner as the original appointee, and each succeeding member shall serve for a term of four years. In the event that any governing body fails to make a nomination within the time specified, the President may select and appoint a person without a nomination. In the event any person appointed as Commissioner shall fail to qualify as hereinafter provided within ten days after the mailing to him or her of notice of his or her appointment, or if any member after qualifying shall die, resign, or vacate the office, or be removed as hereinafter provided, a new Commissioner shall be selected or nominated and appointed to fill the vacancy in the same manner as the Commissioner in respect to whom the vacancy occurred, and the Commissioners so appointed shall serve for the remainder of the vacated term. Commissioners shall hold over after the expiration of their terms until their respective successors have been duly appointed and have qualified. The Commissioners shall receive no salaries but shall be entitled to reimbursement for any expenses necessarily incurred in the performance of their duty and a per diem allowance for each day he or she attends a Commission meeting as set forth in I.C. 36-7-12-15(2).

(D) Each Commissioner, before entering upon his or her duties, shall take and subscribe on oath of office in the usual form, to be endorsed upon the certificate of his or her appointment, which shall be promptly filed with the Clerk-Treasurer. The Commission originally appointed shall meet within 30 days after its appointment at a time and place designated by the President of the Town Council for the purpose of organization and shall meet to reorganize in the month of February of each succeeding year. The Commission shall elect one of its members as President, one as Vice-President, and one as Secretary, each of which officers shall serve from the day of his or her election until January 31 next following his or her election and until his or her successor is elected and qualified.

(E) The Commission is authorized to adopt the bylaws, rules, and regulations as it may deem necessary for the proper conduct of its proceedings, the carrying out of its duties, and the safeguarding of the funds and property placed in its custody. Regular or special meetings shall be held at the time as it may determine and upon the notice as it may fix, either by resolution or in accordance with the provisions of the bylaws, rules, and regulations adopted. A majority of the Commission shall constitute a quorum and the concurrence of a majority shall be necessary to authorize any action.

(F) The Commission shall have all powers, privileges, and duties as provided by state statute and as granted by all acts of the General Assembly.
(Ord. 3-1978, passed 12-3-1978)
Statutory reference:
Promotion of economic development, see I.C. 36-7-12-6 through 36-7-12-15

BOARD OF PARKS AND RECREATION

§ 34.05 BOARD OF PARKS AND RECREATION.

For provisions concerning the Board, see Chapter 93.

BOARD OF EXAMINATION FOR ELECTRICAL WIRING

§ 34.15 ESTABLISHMENT OF BOARD.

For provisions concerning the Board, see Title XV.

BOARD OF EXAMINATION FOR HEATING AND VENTILATION

§ 34.20 ESTABLISHMENT OF BOARD.

For provisions concerning the Board, see Title XV.

TOWN PLAN COMMISSION

§ 34.25 TOWN PLAN COMMISSION.

For provisions concerning the Town Plan Commission, see §§ 150.15 *et seq.*
Statutory reference:
Planning commissions, see I.C. 36-7-4-101 et seq.

BOARD OF AVIATION COMMISSIONERS

§ 34.30 BOARD OF AVIATION COMMISSIONERS.

For provisions concerning the Board of Aviation Commissioners, see §§ 36.35 and 36.36 and Chapter 96.

REDEVELOPMENT COMMISSION AND DEPARTMENT

§ 34.35 ESTABLISHMENT.

There is hereby created a Redevelopment Commission, which shall control the Department of Redevelopment. The Redevelopment Commission shall have all the powers and authorities set for the commissions in I.C. 36-7-14, Redevelopment of Blighted Areas and Economic Development Areas, and shall bear the duties and responsibilities as are therein set out. The Redevelopment Commission shall follow the rules and procedures as are now set out in I.C. 36-7-14, or as shall be added by future amendments to the Indiana Code.
(Ord. 3-1992, passed 7-6-1992)

§ 34.36 APPOINTMENTS.

The five members of the Redevelopment Commission shall be appointed as follows: three by the President of the Town Council and two by the Town Council.
(Ord. 3-1992, passed 7-6-1992)

§ 34.37 QUALIFICATIONS.

A Redevelopment Commissioner must be at least 18 years old and a resident of the town.
(Ord. 3-1992, passed 7-6-1992)

§ 34.38 TERMS.

Each Redevelopment Commissioner shall serve for one year from the first day of January after his or her appointment and until his or her successor is appointed and after that from the date of their appointment until the first day of January in the second year after their appointment. Redevelopment Commissioners shall serve at the pleasure of the appointing authority, who may summarily remove its appointees from office at any time.
(Ord. 3-1992, passed 7-6-1992)

§ 34.39 MEETINGS.

The Redevelopment Commissioners shall hold a meeting for the purpose of organization not later than 30 days after they are appointed and, after that, on January 2 of each year.
(Ord. 3-1992, passed 7-6-1992)

§ 34.40 RULES AND BYLAWS.

The Redevelopment Commissioners may adopt the rules and bylaws they consider necessary for the proper conduct of their proceedings, the carrying out of their duties, and the safeguarding of the money and property in their custody.
(Ord. 3-1992, passed 7-6-1992)

§ 34.41 MAJORITY VOTE.

Concurrence of three members of the Commission is necessary to authorize any action.
(Ord. 3-1992, passed 7-6-1992)

§ 34.42 DEPARTMENT OF REDEVELOPMENT.

There is hereby created a Department of Redevelopment which shall be responsible, pursuant to statute, for the redevelopment of blighted areas and economic development areas. All of the territory within the corporate boundaries of the town constitutes a taxing district for the purpose of levying and collecting special benefit taxes for redevelopment purposes.
(Ord. 3-1992, passed 7-6-1992)

§ 34.43 ADMINISTRATION OF DEPARTMENT.

The Department of Redevelopment shall be administered by the Redevelopment Commission and a Director and any necessary staff may be appointed or employed by the Redevelopment Commission with the approval of the Town Council and shall serve at the pleasure of the Redevelopment Commission subject to Town Council approval and budget limitations.
(Ord. 3-1992, passed 7-6-1992)

BOARD OF CEMETERY REGENTS

§ 34.50 ESTABLISHMENT.

There is created in the town a board of trustees to be known as the Board of Cemetery Regents of the town.
(Ord. 2-1992, passed 7-6-1992)

§ 34.51 COMPOSITION.

The Board of Cemetery Regents shall be composed of four residents of the town, not more than two of whom may be members of the same political party. Each Board member must own a lot or lots in the town cemetery known as West Lawn Cemetery, or be a freeholder of the town.
(Ord. 2-1992, passed 7-6-1992)

§ 34.52 MEMBERS.

(A) The President of the Town Council shall appoint the members as follows:

(1) One member for a term of one year;

(2) One member for a term of two years;

(3) One member for a term of three years;

(4) One member for a term of four years; and

(5) Each member serves until his or her successor is appointed and qualified as the term of each member expires; his or her successor serves for a term of four years.

(B) All vacancies in the Board shall be filled by appointment of the Town Council President and the person appointed to a vacancy shall serve until expiration of the term of the member whom he or she is appointed to succeed. Each member shall take and subscribe, before beginning the duties of office, the usual oath of office to be endorsed on the certificate of appointment. This shall be filed with the Clerk-Treasurer within 30 days after beginning the term for which he or she is appointed. Otherwise, the appointment is considered declined and the office is vacant.

(C) The President of the Town Council may at any time remove a member of the Board from office upon filing his or her reasons therefor in writing with the Clerk-Treasurer.
(Ord. 2-1992, passed 7-6-1992)

§ 34.53 OFFICERS.

The officers of the Board shall consist of a President, a Vice President, and a Secretary who shall be elected by the Board members at the first meeting of the Board and every subsequent year.
(Ord. 2-1992, passed 7-6-1992)

§ 34.54 MAJORITY.

A majority of the Board constitutes a quorum and an action of the Board is binding only when authorized by a majority of all members of the Board taken at a regular or special meeting of the Board. If there is a tie vote with two members voting each way, the President of the Town Council is entitled to vote on the matter under consideration. All meetings of the Board shall comply with the provisions of I.C. 5-14-1.5.
(Ord. 2-1992, passed 7-6-1992)

§ 34.55 OFFICIAL BOND.

Each officer and employee whose duty includes handling any funds in carrying out the purpose of management and control of the cemetery shall execute an official bond before beginning the duties of office or employment, in the manner prescribed by I.C. 5-4-1.
(Ord. 2-1992, passed 7-6-1992)

§ 34.56 WEST LAWN CEMETERY.

The Board of Cemetery Regents shall have exclusive management and control of the West Lawn Cemetery and all additions thereto subject to the limitations set forth in § 34.57. In carrying out its duties, the Board of Cemetery Regents shall have all the powers and duties provided by I.C. 23-14-65 *et seq.*, governing town cemeteries as now existing and as amended thereafter. The Board of Cemetery Regents shall also have any powers and duties not in conflict therewith that are provided and required by Indiana. However, the Town Council shall reserve to itself the powers and duties as are set forth within this subchapter or as amended hereafter.
(Ord. 2-2013, passed 4-1-2013)

§ 34.57 MONIES.

(A) The collection, preservation, and payment of all monies, funds, securities, obligations, and property of any kind related to cemetery purposes is hereby reserved to the Town Council.

(B) Gifts, donations, and bequests, or devises of money or property, real or personal, for the use of the cemetery or permanent maintenance fund of the cemetery shall be in the name of the town and shall be subject to deposit, investment, and appropriation by the Town Council. The Board of Cemetery Regents shall assist the Town Clerk-Treasurer in preparing and submitting an annual budget to the Town Council for its approval. The Board shall also submit all lawful claims for payment that it receives to the Town Clerk-Treasurer for submission to the Town Council for approval and authorization of payment.

(C) The powers to execute deeds to cemetery lots and property, the execution of contracts binding the town that are not funded by the annual budget of the Board of Cemetery Regents, and the exercise of eminent domain powers are all reserved to the Town Council, except that the Town Clerk-Treasurer is empowered to issue certificates of purchase and deeds to cemetery lots upon authorization for sale of a lot and full payment thereof to the satisfaction of the Town Clerk-Treasurer. Any disputes shall be resolved by the Town Council or as provided by law.
(Ord. 2-2013, passed 4-1-2013)

§ 34.58 RULES AND REGULATIONS.

The Town Marshal shall assist the Board of Cemetery Regents in enforcing existing rules and regulations governing the use of the cemetery and the Town Manager shall assist the Board of Cemetery Regents with respect to the use of utilities in the cemetery. All records of the Board of Cemetery Regents and all meeting of the Board shall be held at the Hagerstown Town Hall.
(Ord. 2-2013, passed 4-1-2013)

§ 34.59 GIFTS.

Gifts to the town restricted to cemetery use shall be held in a special fund subject to any specific restriction specified by the donor, and the fund shall be designated as the West Lawn Cemetery Improvement Fund. Any gifts restricted to perpetual maintenance of the cemetery shall be held in a fund designated as the West Lawn Cemetery Perpetual Maintenance Fund. No gifts may be accepted for maintenance of individual lots but only for the benefit of the entire cemetery. The funds shall be established as are approved by the state.
(Ord. 2-1992, passed 7-6-1992)

§ 34.60 MANAGEMENT.

The management team and control of the Hagerstown Cemetery, known as West Lawn Cemetery, is hereby transferred subject to the provisions herein to the Board of Cemetery Regents effective after adoption and passage of the ordinance by the Town Council and publication and hearing as required by law.
(Ord. 2-1992, passed 7-6-1992)

§ 34.99 PENALTY.

The penalty for any violation shall be the penalty prescribed by and set forth in § 10.99 of Chapter 10 (Rules of Construction; General Penalty) of Title I (General Provisions) of the Town Code of Hagerstown, Indiana.
(Ord. 2-1992, passed 7-6-1992; Am. Ord. 8-2007, passed - -)

CHAPTER 35: EMPLOYMENT POLICIES

Section

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§ 35.01 WORK TIME.

(A) Job classification and a wage schedule for hourly paid employees are established and shall continue each year hereafter until changed by the Town Council. The following work periods are established for all the various full-time employees of the town.

(1) *All hourly paid employees except Deputy Marshals*. Hourly workers shall be compensated on the basis of a work period consisting of seven consecutive days commencing at 0001 hours on the first scheduled workday and terminating at 2400 hours on the seventh day thereafter. The scheduled work week shall consist of 40 hours in the form of five, eight-hour shifts, excluding not more than one-half hour for lunches. No overtime compensation shall be given until after 40 hours has been worked in any work period, with the overtime hours of work being measured in no less than one-half hour increments.

(2) *Deputy Marshals*. Deputy Marshals shall be compensated on the basis of a work period consisting of eight consecutive days commencing at 0001 hours on the first scheduled workday and terminating at 2400 hours on the eighth day thereafter. The scheduled work week shall consist of 48

hours in the form of six, eight-hour shifts. No overtime compensation shall be given until 48 hours has been worked in any work period, with the overtime hours of work being measured in no less than one-half hour increments.

(3) *Salaried employees*. The following positions shall be deemed salaried: Director of Municipal Operations; Clerk-Treasurer; Coordinator of Municipal Operations; Chief Marshal; Judge of the Town Court; Clerk of the Town Court and the Building Inspector. Further, the town hereby adopts federal specifications for salaried employees as established by the Fair Labor Standards Act, 29 U.S.C. § 201 (1982), in that salaried employees shall be paid their set salary if they work more or less hours than the usual 40-hour scheduled work week as set forth in 29 C.F.R. § 541.118(a).

(B) Overtime shall be paid to all hourly paid employees except Deputy Marshals, at an hourly rate of time and one-half for hours worked over 40 in any pay period, with double the regular hourly rate of the employee to be paid for hours worked on the seventh day of the pay period or holidays as set forth in § 35.07. All hourly paid employees, except Deputy Marshals, shall receive a minimum of two hours pay for all emergency call outs.

(C) Overtime shall be paid to all hourly paid Deputy Marshals at time and one-half for hours worked over 48 in any pay period, with double the regular hourly rate of the Deputy Marshal to be paid for hours worked on scheduled days off or holidays as set forth in § 35.07. All hourly paid employees shall receive a minimum of two-hours' pay for all emergency call outs.

(D) Two times an employee's hourly rate or double time shall be calculated in the following manner during work periods wherein the rate is authorized by this chapter.

(1) The employee's established hourly rate shall be multiplied by two. The resulting sum shall be multiplied by the number of hours worked during the authorized double time pay period. This sum shall be added to the employee's pay entitlements for the pay period the work was accomplished.

(E) The following definitions shall be applied to those person's whose employment with the town is less than full-time employment, as set forth in division (A) above.

(1) ***PART-TIME EMPLOYEES.*** A part-time employee of the town is an at-will employee who shall work no more the 28 hours per week in a given week. Part-time employees shall not be entitled to sick leave, vacation pay, holiday pay or any other fringe benefits as otherwise may be applicable to full-time or salaried employees of the town.

(2) ***TEMPORARY/SEASONAL EMPLOYEES.*** A temporary and/or seasonal employee is an at-will employee of the town who performs labor or provides services on a seasonal or temporary basis. These temporary and/or seasonal employees are persons who are employed for a limited time only, usually of a short duration or to perform a specific task that can be completed within a certain amount of time. Temporary and/or seasonal employees are not entitled to sick leave, vacation pay, holiday pay

or any other fringe benefits as otherwise may be applicable to full-time or salaried employees of the town.
(Ord. 8-1992, passed - -1992; Am. Ord. 6-1996, passed 10-7-1996; Am. Ord. 1-2003, passed 4-7-2003; Am. Ord. 3-2013, passed 5-20-2013)

§ 35.02 SENIORITY.

(A) Seniority shall be maintained during interdepartmental transfers for the purpose of maintaining all benefits except hourly rate compensation. Hourly rate compensation shall be derived by having the receiving supervisor evaluate the transferees skills in relation to the job classification in which the employee has transferred, and recommend an hourly compensation to the Council.

(B) Total years seniority (service) is defined as the number of years service worked for the town. Total years service is computed by chronological progressive service from the initial anniversary date of employment, and breaks in service other than authorized absences shall not be credited toward this total. A total of 12-months' service shall constitute one year when computing years of service.
(Ord. 8-1992, passed - -1992)

§ 35.03 TRAVEL ALLOWANCE.

(A) *Mileage allowance*. All officers and employees who are authorized by the Town Council, Town Marshal, Clerk-Treasurer, or Town Manager to use a private automobile for town business shall be reimbursed for the mileage actually used on town business in accordance with this section.

(1) There shall be no advanced expense payments from the town. No officer or employee shall be reimbursed under division (A) above unless and until the officer or employee presents a written record, with entries made at the time of each trip, the record to include, at a minimum, the date of the trip, the purpose of the travel, the destination, the miles driven for town business, and the mileage on the odometer of the officer's or employee's vehicle at the start of the trip and the mileage shown immediately on the completion of the trip. The records shall be submitted on a form furnished by the Clerk-Treasurer.

(2) The rate paid per mile shall be based on a rate approved by the Town Council by separate resolution or action, and the rate may be a changing rate based on a measurable standard, such as the current mileage reimbursement rate being paid by the State of Indiana which is in place at the time of any such travel.

(B) *Meal reimbursement*. All officers and employees who are authorized by the Town Council, Town Marshal, Clerk-Treasurer, or Town Manager to travel to and/or attend an event, meeting, or conduct business on behalf of the town which takes the officer or employee outside of municipal limits to an extent or nature, based on the determination of the authorizing person (Town Council, Town Marshal, Clerk-Treasurer, or Town Manager), to warrant an allowance for meals, the town shall be reimbursed for meals in accordance with this section.

(1) The Clerk-Treasurer may allow an advance for meal allowances based on the allowable rate per meal as approved by the Town Council by separate resolution or action. In the event that an advance for meal allowances is provided, the officer or employee receiving the advance shall no later than two weeks from the date that the allowance is provided present a written record to the Clerk-Treasurer, the record to include, at a minimum, copies of the receipts from the establishments from which the meal expense(s) were incurred, reflecting a date(s) and location(s) consistent with the event, meeting, or business for the town, the purpose of the travel, and the destination. The records shall be submitted on a form furnished by the Clerk-Treasurer. The officer or employee shall be entitled to keep the amount of the actual meal expense(s) incurred and verified by receipt(s) or the amount of the advanced meal allowance, whichever is less. In the event that the actual meal expense(s) incurred and verified by receipt(s) is less than the advanced meal allowance, the officer or employee must return the difference to the Clerk-Treasurer no later than two weeks from the date that the allowance is provided, and in the event that the officer or employee fails to do so, the difference shall be deducted from the officer or employee's next available check from the town payable to the officer or employee.

(2) The rate paid per meal shall be based on a rate approved by the Town Council by separate resolution or action.

(C) *Toll road and parking expenses reimbursement.*

(1) All officers and employees who are authorized by the Town Council, Town Marshal, Clerk-Treasurer, or Town Manager to travel to and/or attend an event, meeting, or conduct business on behalf of the town, shall be reimbursed for toll road expenses and parking fee expenses incurred in such activities based on the actual expense incurred.

(2) The Clerk-Treasurer may allow a reasonable amount in advance for such expenses, provided, however, no officer or employee shall be allowed to keep any advance expenses or be reimbursed under division (C) above for the expenses unless the officer or employee presents a written record to include, at a minimum, copies of receipt(s) for the toll road expenses and/or parking fee expenses, and the date(s) incurred, and the purpose of the travel or event. The records shall be submitted on a form furnished by the Clerk-Treasurer. In the event that an advance for the expenses is provided, the officer or employee receiving the advance shall no later than two weeks from the date that the allowance is provided present the aforementioned written record to the Clerk-Treasurer, and, in the event that the actual expenses incurred and verified by receipt(s) is less than the advanced allowance for the expenses, the officer or employee must return the difference to the Clerk-Treasurer no later than two weeks from the date that the allowance is provided. In the event that the officer or employee fails to do so, the difference shall be deducted from the officer or employee's next available check from the town payable to the officer or employee.

(D) *Lodging.* All officers and employees who are authorized by the Town Council, Town Marshal, Clerk-Treasurer, or Town Manager to incur overnight lodging expenses shall work with the authorizing authority to make arrangements for the lodging facility to accept and use a purchase order, with the hotel billing issued after the stay is completed. In the event that the officer or employee works with the authorizing authority and the arrangements cannot be made, then the authorizing authority may grant the officer or employee permission to incur the expense for lodging to be reimbursed by the town, subject to the limitations set forth in this section.

(1) The Clerk-Treasurer may allow a reasonable amount in advance for lodging expenses, provided, however, no officer or employee shall be allowed to keep any advance expenses or be reimbursed under division (D) above for the expenses unless the officer or employee presents a written record to include, at a minimum, copies of the receipts from the place of lodging, reflecting a date(s) and location(s), and purpose of the lodging. The records shall be submitted on a form furnished by the Clerk-Treasurer. In the event that an advance for such expenses is provided, the officer or employee receiving the advance shall no later than two weeks from the date that the allowance is provided present the aforementioned written record to the Clerk-Treasurer, and, in the event that the actual expenses incurred and verified by receipt(s) is less than the advanced allowance for the expenses, the officer or employee must return the difference to the Clerk-Treasurer no later than two weeks from the date that the allowance is provided. In the event that the officer or employee fails to do so, the difference shall be deducted from the officer or employee's next available check from the town payable to the officer or employee.

(2) The rates for reimbursement for lodging, if applicable, shall be based on a rate approved by the Town Council by separate resolution or action.

(E) *Other expenses*. No other expenses may be reimbursed to officers or employees unless the expenses are approved by the Town Council. In order to be considered for reimbursement for any expense other than those listed specifically above in divisions (A) through (D), the officer or employee shall submit a written record to the Town Council requesting the reimbursement, the record to include, at a minimum, copies of receipt(s) for purchase(s) or item(s) for which the officer or employee is seeking reimbursement, the date(s) incurred, and the purpose of the expense related to a town purpose. The records shall be submitted on a form furnished by the Clerk-Treasurer.
(Ord. 8-1992, passed - -1992; Am. Ord. 4-2008, passed 6-2-2008)

§ 35.04 VACATIONS.

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

(A) Employees who have completed six months of continuous service shall receive a vacation of one week with pay which shall consist of the number of days the employee is scheduled to work in a pay period excluding overtime requirements.

(B) Employees who have completed one year of continuous service shall receive vacations of two weeks with pay which shall consist of two times the number of days the employee is scheduled to work in a pay period excluding overtime requirements.

(C) Employees who have completed five years of continuous service shall receive a vacation of three weeks with pay which shall consist of three times the number of days the employee is scheduled to work in a pay period excluding overtime requirements.

(D) Employees who have completed ten years or more of continuous service shall receive a vacation of four weeks with pay which shall consist of four times the number of days the employee is scheduled to work in a pay period excluding overtime requirements.

(E) In no case shall the employee be entitled to more than one application of on vacation allowance in one 365-day period.

(F) The employee's beginning date of service shall be the anniversary date to compute vacation allowances. The anniversary date shall be achieved by the employee prior to receiving the applicable vacation allowed. Part-time service shall not be computed as part of total service for vacation

allowances. The most recent date hired shall be considered the anniversary date for employees with breaks in service wherein the employee had been employed from the active list of town employees and was subsequently rehired.
(Ord. 8-1992, passed - -1992)

§ 35.05 SICK LEAVE; SICK PAY.

All full-time employees of the town currently receiving benefits in addition to wage compensation for hours worked, and who have completed a satisfactory 90-day orientation period and have been employed by the town for no less than one year, shall receive sick leave and sick pay as follows.

(A) Employees shall receive five days sick leave with full pay each year, with accumulation from year to year not to exceed a total accumulation of 15 days in all. A maximum of 15 days unused sick leave may be accumulated and carried over from previous calendar years. No employee shall be granted paid sick leave in excess of 20 days during any calendar year, except as provided for and set forth herein under the requisites of extended sick leave. Any unused sick leave accumulated in excess of 15 days shall expire and not be carried over from year to year. Sick leave available in any calendar year shall be granted only for sickness or injury of an employee or member of the employees immediate family or household or for dental and medical appointments scheduled by the employee.

(B) Hourly paid employees shall receive a maximum of eight-weeks' extended sick leave per year for absence due to personal sickness in excess of one week when hospitalized or unable to work due to sickness, injury, or medical condition certified by a physician approved by the Council, the extended sick leave and pay to commence only after one week of any such continuous sickness or injury.

(C) Salaried employees shall receive a maximum of ten-weeks' extended sick leave per year for absence due to personal sickness in excess of one week when hospitalized or unable to work due to sickness, injury, or medical condition certified by a physician approved by the Council, the extended sick leave to commence after one week of any such continuous sickness or injury.

(D) Hourly paid employees of the town will be paid their regular wages for not more than their designated sick leave per year for personal sickness, injury, or medical condition when hospitalization or inability to physically perform work is certified by a physician approved by the Town Council.

(E) The certification shall be in the form of a written document signed by a physician, approved by the Town Council, and shall specify one of the following categories and provide the information required.

(1) *Restricted duty*. Ability to perform work is limited to certain activities with certain activities being prohibited. The prohibited activities shall be specified on the certification.

(2) *No duty*. The employee does not have the physical or mental ability to perform work, or the employees condition or circumstance may be considered medical under authorized leave guidelines as set by law.

(F) Personnel must apply for extended sick leave by completing the application form prescribed by Council, and complying with the preceding requirements. The form will be forwarded to the Director of Municipal Operations no less than one week prior to the time the benefit is requested to commence.

(G) Personnel injured on the job in the performance of assigned work may be entitled to either sick leave wage benefits or worker's compensation benefits. In no case when receiving sick leave benefits shall the employee be entitled to receive both benefits simultaneously. Any monies received from worker's compensation during the period of receiving sick leave benefits shall be immediately surrendered to the Clerk-Treasurer for proper disposition. Once sick leave benefits have been exhausted, the employee shall then be entitled to receive the worker's compensation wage benefit.
(Ord. 8-1992, passed - -1992; Am. Ord. 8-2004, passed 12-6-2004; Am. Ord. 7-2005, passed - -2005)

§ 35.06 EMPLOYEE INSURANCE.

Life, accident, medical, hospitalization, and dental insurance shall be provided to eligible employees in amounts and with the insurance companies, as shall be determined and approved by the Town Council, as set forth in the minutes and records of the Council, with the policies to be on deposit with the Clerk-Treasurer and copies of same to be provided to employees or made available to them upon request.
(Ord. 8-1992, passed - -1992)

§ 35.07 HOLIDAYS.

New Year's Day, Presidents' Day, Good Friday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day shall be authorized by the Town Council as paid holidays. Each full-time employee currently receiving benefits, in addition to wage compensation for hours worked, and who has completed a satisfactory 90-day orientation period, shall be excused from work and receive eight hours of straight time pay at the employee's set rate, and further, all the employees required to work on any of the holidays shall be paid at a rate of two times the employee's set hourly rate for the hours worked on the holiday. If one of the preceding holidays falls upon another Town Council authorized holiday or the employee's scheduled day off, the day following or preceding the holiday or day off shall be administratively set by the Town Manager as the day of observance.
(Ord. 8-1992, passed - -1992; Am. Ord. 5-1999, passed 10-18-1999; Am. Ord. 8-2004, passed 12-6-2004; Am. Ord. 7-2005, passed - -2005)

§ 35.08 BEREAVEMENT LEAVE.

All employees of the town shall receive bereavement leave with pay up to a maximum of three days on the workdays immediately following the death of the employee's spouse, child, parent, sibling, or grandparent of the employee or the employee's spouse, with no accumulation of the leave from year to year, except that town employees shall not receive bereavement leave during periods of absence from work for any reason, including layoffs, sick leave, holidays, vacations, and any other authorized or unauthorized absence.
(Ord. 8-1992, passed - -1992)

§ 35.09 EMPLOYEES NOT RECEIVING FRINGE BENEFITS.

(A) A school-crossing guard shall be paid a sum set by the Town Council for each day the Hagerstown Elementary School is in session, provided the school crossing guard performs morning and afternoon duties as required. No other benefits shall apply.

(B) The Park Superintendent shall be paid a yearly salary as prescribed by Town Council resolution payable monthly without other benefits in accordance with job descriptions and other duties directed by the Park Board.

(C) Temporary employees shall be paid at an hourly rate set by the Town Council, and for the duration as determined necessary by the Town Council to meet temporary labor requirements. No other benefits shall apply.

(D) Part time communications specialists each year hereinafter shall be paid weekly at the hourly rate established in the compensation schedules for duty scheduled by the Chief Marshal and performed by the employee. The scheduled duty shall not be more than 32 hours in any one pay period. Duty in excess of that so scheduled for communications specialists shall be compensated for as overtime at one and one-half times the regular rate for each excess hour of work, with no other compensation or benefits for regular or overtime work.
(Ord. 8-1992, passed - -1992)

§ 35.10 SALARIES AND OVERTIME RELATED CONSIDERATIONS.

The following positions are deemed to be excluded or exempt from overtime or compensation time.

(A) The Clerk-Treasurer shall, as of January 1 of each calendar year, receive an annual salary payable weekly as prescribed by Town Council resolution, of which a specified amount shall be paid from the civil town budget and the balance by the Hagerstown Utilities apportioned as determined by the Town Council and shall be subject to call without extra compensation unless approved by resolution of the Town Council.

(B) The Town Marshal shall, as of January 1 of each calendar year, receive an annual salary payable weekly as prescribed by Town Council resolution and shall be subject to call without extra compensation unless approved by resolution of the Town Council.

(C) The Director of Municipal Operations shall, as of January 1 of each calendar year, receive an annual salary payable weekly as prescribed by Town Council resolution and shall be subject to call without extra compensation unless approved by resolution of Town Council.

(D) The Coordinator of Municipal Operations shall, as of January 1 of each calendar year, receive an annual salary payable weekly as prescribed by Town Council resolution and shall be subject to call without extra compensation unless approved by resolution of Town Council.

(E) The Building Inspector shall, as of January 1 of each calendar year, receive an annual salary payable monthly as prescribed by Town Council resolution with no additional benefits or allowances unless approved by Town Council.

(F) The Judge of the Town Court shall, as of January 1 of each calendar year, receive an annual salary payable monthly as prescribed by Town Council resolution with no additional benefits or allowances unless approved by the Town Council.

(G) The Clerk of the Town Court shall be appointed by the Judge of the Town Court and shall, as of January 1 of each calendar year, receive an annual salary payable monthly as prescribed by Town Council resolution with no additional benefits or allowances unless approved by the Town Council.
(Ord. 8-1992, passed - -1992)

§ 35.11 SOCIAL SECURITY COVERAGE.

(A) The Town Council elects coverage under the Social Security Coverage for Public Employees Act, as provided by I.C. 5-10.1-1-1 through 5-10.1-6-4, as amended. Coverage shall be effective as of 1-1-1952. All positions not covered by an existing retirement plan are designated as those which are to be covered.

(B) For the intent and purpose of carrying out the provisions of Title II, SS 218 of the Federal Social Security Act and all 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 section and shall be termed as an agreement between this town and the Social Security Administrator. Active membership shall begin on 1-1-1952.
(Ord. 8-1992, passed - -1992)

§ 35.12 PUBLIC EMPLOYEES' RETIREMENT FUND.

(A) The town elects to become a participant in the Public Employees' Retirement Fund as established by I.C. 5-10.3-2-1 *et seq.* and all acts amendatory and supplemental thereto.

(B) The town agrees to make the required contributions under the Public Employees' Retirement Fund Act established by I.C. 5-10.3-2-1 *et seq.* and all amending and supplementary acts.

(C) All eligible town employees and eligible elected officials as defined in I.C. 5-10.1-1-1, as amended, are declared to be covered by the fund.

(1) Note of the classification or positions specified in this division are compensated on a fee basis of an emergency nature, or in a part-time category.

(2) The active participating membership of the town shall begin on 1-1-1966.
(Ord. 8-1992, passed - -1992)

§ 35.13 TERMINATION NOTICE.

(A) Any employee who gives less than two-weeks' advance notice of their intent to terminate employment with the town or who is terminated by the town, shall be entitled only to their wages accrued in the pay period(s) falling between the last pay period wherein the employee received wages in the form of a payroll check and the last day the employee performed scheduled work for the town. No other benefits provided by the town that may be accruable or payable shall be authorized or allowed in the preceding circumstances.

(B) Any employee who is absent from scheduled duties for five consecutive scheduled work days without notifying the employees immediate supervisor or the office of the Director of Municipal Operations and without receiving approval for the absence from the supervisor or office shall be deemed to have terminated the employee's employment with the town and all wages and benefits shall thereupon immediately cease.

(C) Events requiring temporary or permanent personnel reductions shall be conducted by evaluating each affected employee's job performance and total years of service, with final determination to be made on recommendation of supervisors and approval by the Town Council.
(Ord. 8-1992, passed - -1992; Am. Ord. 8-2004, passed 12-6-2004; Am. Ord. 7-2005, passed - -2005)

§ 35.14 PERSONAL DAYS.

(A) Each full-time employee currently receiving benefits in addition to wage compensation for hours worked, and who has completed a satisfactory 90-day orientation period and has been employed by the

town for no less than one year, shall be entitled to four days per calendar year with pay for absences deemed by the employee as personal days.

(B) The personal days shall not be cumulative from year to year.

(C) Whenever possible, an employee shall schedule personal days in advance of using them.
(Ord. 8-1992, passed - -1992; Am. Ord. 8-2004, passed 12-6-2004; Am. Ord. 7-2005, passed - -2005)

§ 35.15 COMPOUNDING WAGE AUTHORIZATIONS.

Wages paid for authorized absences occurring within the same 24-hour period may not be claimed simultaneously in order to receive a greater wage benefit than is authorized by Town Council ordinance or resolution.
(Ord. 8-1992, passed - -1992; Am. Ord. 6-1996, passed 10-7-1996)

§ 35.16 FLEX TIME.

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

(B) Salaried employees who are exempt from overtime compensation and are required to maintain varied mandatory schedules during the day, evenings, holidays, and weekends, shall be granted the latitude to schedule flex time commensurate with the varied schedules in maintaining their required time in the workplace. Flex time is not limited to being taken within the pay period incurred. Department heads shall have the authority to monitor and approve flexible schedules.
(Ord. 8-1992, passed - -1992)

§ 35.17 NEPOTISM POLICY.

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

DIRECT LINE OF SUPERVISION. An elected officer or employee of the town who is in a position to affect the terms and conditions of another individual's employment, including making decisions about work assignments, compensation, grievances, advancement, or performance evaluation. The term does not include the responsibilities of the executive, legislative body or fiscal body of the town, as provided by law, to make decisions regarding salary ordinances, budgets, or personnel policies of the town.

EMPLOYED. An individual who is employed by the town on a full-time, part-time, temporary, intermittent, or hourly basis. The term does not include an individual who holds only an elected office of the town. The term includes an individual who is a party to an employment contract with the town.

RELATIVE. Means any of the following:

(a) A spouse;

(b) A parent or stepparent;

(c) A child (natural or adopted) or stepchild;

(d) A brother, half-brother, sister, half-sister, step-brother, or step-sister;

(e) A niece or nephew;

(f) An aunt or uncle; and/or

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

(B) *Anti-nepotism policy regarding employment matters*. In order to comply with state law and in order to avoid potential conflicts of interest, misunderstandings and appearances of favoritism, impropriety or bias, the legislative body has adopted the following policy to establish certain minimum requirements regarding the employment of relatives by any department, office or elected official of the town. Except as otherwise provided herein, individuals who are relatives may not be employed by the town in a position that results in one relative being in the direct line of supervision of the other relative. Accordingly, this policy generally prohibits employment of more than one family member when that employment causes either two members of the same family being employed in the same department, or any form of reporting or supervisory relationship between family members.

(C) *Change in relationship; procedure to comply*. If, as a result of marriage, birth, adoption, the creation of other family relationships, election results, or hiring decisions, two or more relatives (who are current employees of any office or department in the town) are inadvertently placed into one of the two categories described in the division above, then the relatives shall determine which of the relatives will seek to transfer to another job or otherwise take action to comply with this policy. The town shall have no obligation to either create a new position or job opening for any current employee, or transfer any current employee to a new or existing position or job opening if the individual does not meet all selection standards or fulfill all qualifications deemed to be required for the position by the town. If the relatives are unable to determine which individual(s) will seek to transfer into another position or otherwise take action to comply with this policy, then the Town Council will make a determination to ensure the town's compliance with this policy. A determination fo the Town Council may include a decision to transfer, reassign, terminate or otherwise take action regarding one of the employees to

ensure compliance with this policy. A decision of the Town Council may be based upon a variety of factors and criteria, including, but not limited to: staffing and other needs; the jobs being performed by the employees and the necessity of each job relative to the continued operation of the town government; and each employee's skills, job knowledge, prior work history, job performance and abilities.

(D) *Town employees related to elected officers; promotions*. In the event that an individual is an existing employee of the town to whom the provisions of this policy apply on the date the individual's relative begins serving a term of an elected office of the town, the individual may not remain employed by the town and maintain the individual's position or rank if the circumstances result in the elected officer being in the direct line of supervision of the existing employee. In this event, the employee who is not an elected official will be required to take action to comply with this policy.

(E) *Annual certification by elected officers*. Each elected officer of the town shall annually certify in writing, subject to the penalties for perjury, that the officer has not violated this policy or I.C. 36-1-20.2. Each officer shall submit the certification to the Town Council not later than December 31 of each year.

(F) *Interpretation of policy*. This policy is intended to implement the minimum requirements necessary to comply with I.C. 36-1-20.2, as the same may be amended from time to time. If and to the extent this policy is not in compliance with I.C. 36-1-20.2, this policy shall be deemed to include any terms not otherwise included herein, and to exclude the terms not otherwise excluded herefrom, as are necessary to cause this policy to implement the minimum requirements set forth in I.C. 36-1-20.2. To the extent this policy is inconsistent with any provisions of state law, including, without limitation, I.C. 36-1-20.2, the other provisions of state law shall control. If any portion of this policy is held or deemed to be, or is, invalid, illegal, inoperable or unenforceable, the validity, legality, operability and enforceability of the remaining portions of this policy shall not be affected, and this policy shall be construed as if it did not contain such invalid, illegal, inoperable or unenforceable portion.

(G) *Right to review application of policy and make amendments*.

(1) The town reserves the right to review the specific facts of any case where this policy is implicated and make exceptions on a case-by-case basis consistent with the provisions of state law, including, without limitation, the provisions of I.C. 36-1-20.2. Furthermore, the town reserves the right to modify or amend the provisions of this policy from time to time consistent with the provisions of state law, including, without limitation, the provisions of I.C. 36-1-20.2.

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

(H) *Anti-nepotism policy regarding town contracts*. In order to comply with state law and in order to avoid potential conflicts of interest, misunderstandings and appearances of favoritism, impropriety or bias, the legislative body has adopted the following policy to establish certain minimum requirements regarding contracts between any department, office or elected official of the town, and relatives (or businesses wholly or partially owned by relatives) of elected officials of the town. Except as otherwise provided herein, the town may enter into or renew a contract for the procurement of goods and services or a contract for public works with either: an individual who is a relative of an elected official, or a business entity that is wholly or partially owned by a relative of an elected official; only if the requirements of this policy are satisfied and the contract would not result in a violation of state law by the elected official.

(I) *Procedure to comply*. Notwithstanding any provisions of this policy and I.C. 36-1-21, the town may enter into or renew a contract with an individual or business entity described in the paragraph above only if the following conditions are met:

(1) The elected official shall file with the Town Council a full disclosure statement, which must:

(a) Be in writing;

(b) Describe the contract or purchase to be made by the town;

(c) Describe the relationship that the elected official has to the individual or business entity with whom the town seeks to contract or from whom the town seeks to purchase;

(d) Be affirmed under penalty of perjury;

(e) Be submitted to the legislative body of the town and be accepted by the legislative body of the town in a public meeting of the legislative body prior to final action on the contract or purchase; and

(f) Be filed, not later than 15 days after the final action on the contract or purchase, with the State Board of Accounts, and the Clerk of the Circuit Court of Wayne County, Indiana.

(2) The appropriate agency of the town shall file a certified statement with the Town Council: that the contract amount or purchase price was the lowest amount or price bid or offered; or setting forth the reasons why the vendor or contractor was selected.

(3) The town satisfies any other contracting requirements under I.C. 5-22 (concerning the purchase of goods or services) or I.C. 36-1-12 (concerning public works).

(4) The elected official also complies with the disclosure provisions required by state law, if applicable.

(J) *Annual certification by elected officers*. Each elected officer of the town shall annually certify in writing, subject to the penalties for perjury, that the officer has not violated this policy or I.C. 36-1-21. Each officer shall submit the certification to the Town Council not later than December 31 of each year.

(K) *Interpretation of policy*. This policy is intended to implement the minimum requirements necessary to comply with I.C. 36-1-21, as the same may be amended from time to time. If and to the extent this policy is not in compliance with I.C. 36-1-21, this policy shall be deemed to include the terms not otherwise included herein, and to exclude the terms not otherwise excluded herefrom, as are necessary to cause this policy to implement the minimum requirements set forth in I.C. 36-1-21. To the extent this policy is inconsistent with any provision of state law, including, without limitation, I.C. 36-1-21, such other provisions of state law shall control. If any portion of this policy is held or deemed to be, or is, invalid, illegal, in operable or unenforceable, the validity, legality, operability and enforceability of the remaining portions of this policy shall not be affected, and this policy shall be construed as if it did not contain such invalid, illegal, inoperable or unenforceable portion.

(L) *Right to review application of policy and make amendments*. The town reserves the right to review the specific facts of any case where this policy is implicated and make exceptions on a case by case basis consistent with, the provisions of state law, including, without limitation, the provisions of I.C. 36-1-21. Furthermore, the town reserves the right to modify or amend the provisions of this policy from time to time consistent with the provisions of state law, including, without limitation, the provisions of I.C. 36-1-21.
(Res. 6-2012, passed 12-17-2012)

Hagerstown - Administration

CHAPTER 36: DEPARTMENTS

Section

Municipal Electric Department

36.01 Municipal Electric Department

Municipal Water Department

36.05 Municipal Water Department

Sewage Treatment Works Department

36.10 Sewage Treatment Works Department

Department of Parks and Recreation

36.15 Department of Parks and Recreation

Fire Department

36.20 Name; purpose
36.21 Officers and duties
36.22 Selection of new members
36.23 Equipment
36.24 Duties of firefighters
36.25 Compensation; termination
36.26 Associate membership

Department of Aviation

36.35 Establishment
36.36 Members

MUNICIPAL ELECTRIC DEPARTMENT

§ 36.01 MUNICIPAL ELECTRIC DEPARTMENT.

For provisions concerning this Department, see Chapter 51.

MUNICIPAL WATER DEPARTMENT

§ 36.05 MUNICIPAL WATER DEPARTMENT.

For provisions concerning this Department, see Chapter 52.

SEWAGE TREATMENT WORKS DEPARTMENT

§ 36.10 SEWAGE TREATMENT WORKS DEPARTMENT.

For provisions concerning this Department, see Chapter 53.

DEPARTMENT OF PARKS AND RECREATION

§ 36.15 DEPARTMENT OF PARKS AND RECREATION.

For provisions concerning this Department, see Chapter 93.

FIRE DEPARTMENT

§ 36.20 NAME; PURPOSE.

(A) The name of this organization will be the Hagerstown-Jefferson Township Volunteer Fire Department.

(B) The purposes of this organization are as follows:

(1) To respond to all fire alarms and any other assigned emergencies named by the Chief, and to extinguish, overhaul, salvage, investigate, and protect until properly relieved, all reported fires in Hagerstown and Jefferson Township, Wayne County, Indiana;

(2) To raise the level of the fire service for Hagerstown and Jefferson Township and present a united and concentrated front in any efforts to petition the two governments for materials and equipment, or for the institution of adequate laws for promotion of fire prevention, fire safety, the protection of life and property, and economy in performance; and

(3) To promote an esprit de corps among the individual firefighters of the Hagerstown-Jefferson Township Fire Department, that training may be regarded as a desire rather than a task.

§ 36.21 OFFICERS AND DUTIES.

(A) *Officers.*

(1) The Chief of the Department shall be appointed by the Town Council, and will assume the rank officer title of Chief.

(2) The Assistant Chief of the Department shall be appointed by the Chief, and will assume the rank officer title of Assistant Chief.

(3) The rank officer of Captain shall be appointed by the Chief, with duties to be assigned by the Chief Officer.

(4) The rank officer of Lieutenant shall be appointed by the Chief, with duties to be assigned by the Chief Officer.

(B) *Duties.*

(1) The Chief of the Department shall be responsible for all actions of the Department. At business meetings, the Chief shall be the presiding officer and perform those duties that commonly belong to the office of President or Chairperson.

(2) The Assistant Chief shall act as assistant to, and in the absence of, the Chief Officer.

(3) Other officers will be given specific assignments by the Chief.

§ 36.22 SELECTION OF NEW MEMBERS.

(A) Any person interested in becoming a member of the Hagerstown-Jefferson Township Volunteer Fire Department shall obtain an application from the Chief Officer, which he or she shall properly fill out and sign. These applications shall be used in filling all vacancies.

(B) As vacancies occur, the Chief will convene his or her membership advisory group of officers, weigh all possibilities and probabilities, and after due deliberation, the Chief will make an appointment.

(C) The appointment will be made under a 90-day period of probation during which time the individual will be observed and tested as to his or her ability to adapt to the rigors of fire prevention, fire extinguishment, fire overhaul, fire investigation, maintenance, and esprit de corps.

§ 36.23 EQUIPMENT.

Each firefighter will be furnished sufficient protective equipment and physical equipment, as budgets will allow, for his or her performance of § 36.22(C).

§ 36.24 DUTIES OF FIREFIGHTERS.

(A) Each firefighter shall respond to all alarms, monthly business meetings, monthly and called training meetings, and other meetings ordered by the Chief, unless excused by a rank officer. Failure to comply may mean that the Chief will call a conference with the individual, or with a board of rank officers, concerning negligence of duty.

(B) Each firefighter shall be expected to seize every opportunity to improve his or her skills and ability as a firefighter, to better acquaint himself or herself with the equipment, to better his or her efficiency as a firefighter, and for the safety of himself and herself and his or her fellow firefighters.

§ 36.25 COMPENSATION; TERMINATION.

(A) *Volunteer firefighters receive no pay*. Firefighters will be compensated for the loss and maintenance of clothing, to the extent of an annual budgetary allowance distributed monthly, plus any mandated allotment from other sources.

(B) Any firefighter's services will be terminated only after due process.

§ 36.26 ASSOCIATE MEMBERSHIP.

(A) After 15 years of service as a firefighter, and after he or she has been honorarily retired from active service as a member of the Hagerstown-Jefferson Township Fire Department, a firefighter may request status as an Associate Member of the Department.

(B) All requests shall, first, be reviewed by a committee of rank officers. If associate membership is granted, the following shall apply.

(1) The associate member will receive no formal clothing allowance and will not be required to attend meetings, though he or she may do so.

(2) He or she will not be required to answer alarms.

(3) It is hoped that he or she might respond, upon request, with his or her expertise, experience, and particular abilities, for consultation, training periods, or emergency duties.

(4) He or she shall be responsible for his or her own IVFA Associate dues. He or she shall receive all benefits, and may be responsible for all requirements promulgated by the Indiana Volunteer Firefighter's Association as an associate member.

DEPARTMENT OF AVIATION

§ 36.35 ESTABLISHMENT.

The Department of Aviation of the town is created and established with full power and authority to act as provided in I.C. 8-22-2-l *et seq*. The Department of Aviation shall be under the control of a Board of four members, to be known as the Board of Aviation Commissioners. The Board shall be constituted and appointed and have those powers and duties as provided by I.C. 8-22-2-l *et seq*.
(Ord. 1979-10A, passed 9-4-1979)

§ 36.36 MEMBERS.

The President of the Town Council is authorized and empowered to appoint, in the manner provided by I.C. 8-22-2-l *et seq.*, the members of the Board of Aviation Commissioners. The Board of Aviation Commissioners is authorized and empowered to do any and all things necessary for the promotion of the business of the Department of Aviation.
(Ord. 1979-10A, passed 9-4-1979)

CHAPTER 37: TOWN COURT

Section

37.01 Establishment
37.02 Jurisdiction
37.03 Judge of the Town Court
37.04 Ordinance Violations Bureau

§ 37.01 ESTABLISHMENT.

(A) In accordance with the provisions of I.C. 33-35-1-1, there is hereby established the Town Court of Hagerstown, Indiana.

(B) The Town Court, as established in this section, shall come into existence on 1-1-1984.
(Ord. 9-1982, passed 11-15-1982)

§ 37.02 JURISDICTION.

This Court shall have exclusive jurisdiction of all violations of the ordinances of the town, and shall have jurisdiction of all misdemeanors and all infractions in accordance with I.C. 33-35-2-8.
(Ord. 9-1982, passed 11-15-1982)

§ 37.03 JUDGE OF THE TOWN COURT.

(A) *Election*. On 11-8-1983 election of a judge of the Town Court shall be held. Thereafter, election of the judge shall be held in the general election every fourth year after 1983.

(B) *Powers and duties*. The judge of the Town Court shall exercise the powers and perform the duties as provided for in I.C. 33-35.

(C) *Salary*. The salary of the judge of the Town Court shall be fixed by the Town Council by ordinance as now provided by law for the fixing of the salaries of other elected town officers.
(Ord. 9-1982, passed 11-15-1982; Am. Ord. 4-1983, passed 11-7-1983)

§ 37.04 ORDINANCE VIOLATIONS BUREAU.

(A) The establishment of an Ordinance Violations Bureau is authorized.

(B) The appointed Clerk of the Town Court shall also be the Ordinance Violations Clerk.

(C) The appointment of Deputy Ordinance Violations Bureau Clerk is authorized.
(Ord. 4-1985, passed 3-18-1985)

CHAPTER 38: ORDINANCE VIOLATIONS BUREAU

Section

38.01 Created
38.02 Town Clerk-Treasurer to administer Bureau
38.03 Town Clerk-Treasurer to receive appearances, waivers, admissions, and payment of civil penalties
38.04 Penalty schedule

§ 38.01 CREATED.

There shall be created an Ordinance Violations Bureau pursuant to I.C. 33-36-2-1 through 33-36-2-3 and 33-36-3-1 through 33-36-3-7, as amended, for the town.
(Ord. 1-1990, passed 6-18-1990)

§ 38.02 TOWN CLERK-TREASURER TO ADMINISTER BUREAU.

The Town Clerk-Treasurer is appointed and shall serve as the Violations Clerk, who administers the Bureau.
(Ord. 1-1990, passed 6-18-1990)

§ 38.03 TOWN CLERK-TREASURER TO RECEIVE APPEARANCES, WAIVERS, ADMISSIONS, AND PAYMENT OF CIVIL PENALTIES.

The Clerk-Treasurer and the Clerk's staff, as the Clerk's agents, shall accept written appearances, waivers of trial, admissions of violations, and payment of civil penalties in the amount and for the violation as provided below.
(Ord. 1-1990, passed 6-18-1990)

§ 38.04 PENALTY SCHEDULE.

(A) The following schedule of ordinances and Hagerstown code provisions shall be subject to the jurisdictions of the Ordinance Violations Bureau and the first violations within a calendar year of the ordinances and code provisions shall be subject to the civil penalty set forth.

Ordinance or Code Provisions		*Civil Penalty*
§ 70.07	Obedience to police officers	$100
§ 71.26	Roller skating or toy vehicles	$25
§ 72.01	Signs at hazardous or congested places (parking)	$25
§ 72.02	Signs adjacent to school property or other designated places (parking)	$25
§ 72.03	Stopping, standing, or parking on streets or alleys	$25
§ 72.04	Parallel standing or parking	$25
§ 72.05	Standing or parking to display, wash or repair vehicles	$25
§ 72.06	Areas where stopping, standing or parking prohibited	
	Overtime parking	$25
	Left side parking (against traffic flow)	$25
	Parking within fire lane	$50
	Within 30 feet of a crosswalk at any intersection constituting a passenger bus stop on regularly operated bus routes within the town	$25
	Where official signs or markings prohibit stopping	$25
	Parked as to obstruct the flow of traffic	$25
	Double parking	$25
	Parking on sidewalk	$25
	Withing handicap designated area, no placard	$50
§ 73.01	Pedestrians subject to traffic control signs	$25
§ 74.09	Riding bicycle on sidewalk in business district	$50
§ 90.13	Allowing dog(s) to run at large	$50
§ 90.18	Resisting animal enforcement	$100
§ 90.22	Dogs that habitually bark, yelp or howl	$50
§ 91.05	Violating cemetery visiting regulations	$50

Ordinance or Code Provisions		*Civil Penalty*
§ 92.02	Property to be kept free from rubbish	$50
§ 92.03	Littering	$50
§ 92.11	Open burning	$50
§ 95.03	Nonregulated (garage sale prohibitions)	$25
§ 130.03	Distribution of handbills and circulars	$25
§ 130.04	Killing or injuring birds	$50
§ 130.05	Throwing or shooting missiles	$25
§ 131.01	Curfew violations	$50
Ch. 131	Permitting curfew violations	$50
§ 131.03	First offense	Up to $50
	Second offense	Up to $100
	Third offense	Up to $250
	Fourth and subsequent offenses	Up to $500
§ 131.04	Loitering	$100

(B) The second admission or judgement of a violation of the same ordinance or code provision of one scheduled above within a calendar year shall be subject to the penalty set forth above plus $25 as the total civil penalty. Any third admission or judgement of a violation of the same ordinance or code provision of one scheduled above within a calendar year shall be subject to the penalty set forth above plus $50 as the total civil penalty.

(Ord. 1-1990, passed 6-18-1990; Am. Ord. 2-2012, passed 3-5-2012; Am. Ord. 1-2015, passed 2--2015)

CHAPTER 39: PURCHASING

Section

Purchasing Rules

39.01 Purchase of supplies manufactured in the United States
39.02 Purchase of supplies and services produced or manufactured by the Department of Correction

Purchasing Agency

39.10 Designation of purchasing agency
39.11 Powers and duties
39.12 Acts of purchasing agency

General Provisions

39.20 Credit cards

PURCHASING RULES

§ 39.01 PURCHASE OF SUPPLIES MANUFACTURED IN THE UNITED STATES.

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

(A) The supplies are not manufactured in the United States in reasonable 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; or

(D) The purchase of supplies manufactured in the United States is not in the public interest.
(Ord. 7-1998, passed 8-17-1998)

§ 39.02 PURCHASE OF SUPPLIES AND SERVICES PRODUCED OR MANUFACTURED BY THE DEPARTMENT OF CORRECTION.

(A) Supplies and services produced or manufactured by the Department of Correction as listed in the Department's printed catalog shall be specified for all town purchases unless the supplies and services cannot be furnished in a timely manner.

(B) Supplies and services purchased from the Department of Correction must:

(1) Meet the specifications and needs of the town; and

(2) Be purchased at a fair market price.

(C) If these requirements are not met, the town is not required to purchase supplies from the Department of Correction.
(Ord. 7-1998, passed 8-17-1998)

PURCHASING AGENCY

§ 39.10 DESIGNATION OF PURCHASING AGENCY.

The Town Council is designated as the purchasing agency for the town.
(Ord. 6-1998, passed 8-17-1998)

§ 39.11 POWERS AND DUTIES.

The purchasing agency shall have all the powers and duties authorized under I.C. 5-22, as may be amended, supplemented, or recodified from time to time by law, or as amended or supplemented from time to time by ordinance adopted by the Town Council. Additionally, the purchasing agency may adopt, from time to time, policies and procedures for purchasing to further supplement this chapter.
(Ord. 6-1998, passed 8-17-1998; Am. Ord. 1-2007, passed 2-5-2007)
Editor's note:
For purchasing policies and procedures see Res. 1-2007, passed 5-7-2007.

§ 39.12 ACTS OF PURCHASING AGENCY.

The purchasing agency shall act as purchasing agency for every agency, board, office, branch, bureau, commission, council, and department. The Clerk-Treasurer and Town Manager shall be purchasing agents of the purchasing agency, which is the Town Council. In addition to the Clerk-Treasurer and the Town Manager, the Town Council may designate in writing, from time to time, any employee of the town as a purchasing agent for the town.
(Ord. 6-1998, passed 8-17-1998; Am. Ord. 1-2007, passed 2-5-2007)

GENERAL PROVISIONS

§ 39.20 CREDIT CARDS.

(A) The Town Council authorizes the procurement of one credit card for use by, and under the control of, the Town Manager for the purpose of travel and related expenses that have been approved by the Town Council.

(B) The Town Council authorizes the procurement of, and control of use by, the Clerk-Treasurer, one credit card to facilitate the purchase of miscellaneous items necessary for the operation of the various Town departments. These purchases will be subject to the same provisions for approval of purchase and typical payment procedures as if purchase orders were being issued prior to the purchase with an invoice issued after receipt, with any use to be conducted in such a fashion as to comply with any requirements of the Indiana State Board of Accounts or appropriate state auditing agency.

(C) Payment for purchases made with an authorized credit card will not be made on the basis of a statement or credit card slip only. Supporting documents such as paid bills and receipts must be available and furnished to the fiscal officer. It shall be the responsibility of the person who is in control of the credit card, as referenced above by position (either the Clerk-Treasurer or the Town Manager, as the appropriate case may be), to provide the Town Council with the appropriate supporting documentation in a timely fashion.

(D) As with all purchases, final approval for payment rests with Town Council. In an attempt to avoid late payment fees, reasonable effort should be made by the authorized holders of credit cards to obtain statement billing cycles that permit prior review and approval by Town Council members before payment is made.

(E) Any interest or penalty incurred due to late filing or furnishing of documentation by an office or employee may be the responsibility of that officer or employee.

(F) Annual fees for a credit card are not permitted without prior approval by the Town Council.

(G) Use of an authorized credit card for personal expenses is expressly prohibited.
(Ord. 9-2005, passed 8-1-2005)

CHAPTER 40: FUNDS

Section

40.01 Fire Department Donation Fund
40.02 Cost-sharing repair and maintenance program for pedestrian thoroughfares
40.03 Rainy Day Fund
40.04 Police Department Donation Fund
40.05 Park Special Donation Fund
40.06 Christmas Lighting Donation Fund
40.07 Service Project Fund
40.08 Civic Events Donation Fund
40.09 Fire Service Response Fund

§ 40.01 FIRE DEPARTMENT DONATION FUND.

(A) (1) The Clerk-Treasurer of the town is hereby empowered to receive and deposit monetary donations which are donated for the purpose of enhancing, repairing, maintaining, and/or purchasing various equipment, supplies, and/or clothing for the Fire Department, as well as purchasing flowers for decedents with ties of some nature to the Fire Department, and purchasing books from a library in memory of a decedent with ties of some nature to the Fire Department, and/or other appropriate memorial gifts for decedents with ties of some nature to the Fire Department.

(2) The Clerk-Treasurer is hereby empowered to take receipt of any currently existing funds being held by the Fire Department which represent donations collected prior to the passage of this section but subsequent to the most recent audit of the town, and to have the same duties and powers over the funds as if the funds had been collected subsequent to the passage of this section.

(B) The Clerk-Treasurer shall deposit the monetary donations in a separate fund which shall be entitled Fire Department Donation Fund, the deposits being placed with a financial institution named by the town as a depository.

(C) The Fund shall be used for the aforementioned purposes for which the funds were donated, and costs or expenses directly related thereto.

(D) The Clerk-Treasurer is also hereby empowered to disburse the funds to persons or agencies from whom services, equipment, or products are purchased, upon proper presentation of a claim before the Town Council and acceptance thereof.
(Ord. 2-1999, passed 6-7-1999)

§ 40.02 COST-SHARING REPAIR AND MAINTENANCE PROGRAM FOR PEDESTRIAN THOROUGHFARES.

(A) The Clerk-Treasurer of the town is hereby empowered to receive and deposit and disburse copayment funds from persons participating in the cost sharing repair and maintenance program for pedestrian thoroughfares.

(B) The deposits of copayments shall be placed in a separate fund with a financial institution named by the town as a depository.

(C) The Clerk-Treasurer is also hereby empowered to disburse the funds to persons doing the repair and maintenance work, upon proper presentation of a claim and acceptance of the work.
(Ord. 5-1998, passed 8-3-1998)

§ 40.03 RAINY DAY FUND.

(A) (1) The Town of Hagerstown hereby establishes a Rainy Day Fund, pursuant to I.C. 36-1-8-5.1, and the Clerk-Treasurer of the Town of Hagerstown is hereby empowered to establish a Rainy Day Fund for purposes of receiving monies authorized by Indiana law to be deposited into the Rainy Day Fund.

(2) The Clerk-Treasurer is hereby empowered to take receipt of monies ordered by the Town Council to be transferred to the fund, pursuant to I.C. 36-1-8-5, I.C. 36-1-8-5.1, and any other applicable section of Indiana law.

(B) (1) The Rainy Day Fund shall be used to receive funds pursuant to I.C. 36-1-8-5, which is applicable to all funds raised by a general or special tax levy on all the taxable property of the town. Additionally, the Rainy Day Fund shall be used to receive any and all other funds authorized by state law, including, but not limited to, I.C. 36-1-8-5.1.

(2) The town shall, whenever the purposes of a tax levy have been fulfilled and an unused and unencumbered balance remains in a fund (the fund being raised by a general or special tax levy as set forth above), order the balance of that fund be transferred as follows, unless a statute provides that it be transferred otherwise: to the General Fund or Rainy Day Fund of the town.

(3) The town, pursuant to I.C. 36-1-8-5.1, may transfer not more than 10% of the town's total budget for that fiscal year to the Rainy Day Fund.

(4) The Rainy Day Fund is subject to the same appropriation process as other funds that receive tax money, and before making an appropriation from the Rainy Day Fund, the Town Council shall make a finding that the proposed use of the Rainy Day Fund is consistent with the intent of the Fund.

(C) (1) The intent of the Rainy Day Fund is that the funds therein shall be used by the Town of Hagerstown in the area of capital outlays, including, but not limited to, the purchase of land, buildings, improvements other than buildings, and machinery and equipment, and to provide for improvements to be made to capital equipment, including, but not limited to, existing land, buildings, improvements other than buildings, and machinery and equipment, and the costs and expenses directly related thereto. This intent is subject to future amendments by the Town Council.

(2) In order to make an appropriation from the Rainy Day Fund, the Town Council must make a finding that the proposed use of the Rainy Day Fund is consistent with the intent of the Fund.
(Ord. 3-2004, passed 3-1-2004)

§ 40.04 POLICE DEPARTMENT DONATION FUND.

(A) The Clerk-Treasurer of the Town of Hagerstown is hereby empowered to receive and deposit monetary donations which are donated for use by the Hagerstown Police Department, and the donations shall be deposited in a separate fund which shall be entitled Hagerstown Police Department Donation Fund, the deposits being placed with a financial institution named by the town as a depository.

(B) The purposes that donations deposited in the Fund may be used for the Hagerstown Police Department (Department) include the following: purchase of equipment to enhance the Department, including, but not necessarily limited to, computer, technology, safety, and vehicle equipment, firearms, defense devises, body minor, clothing, and supplies; purpose of enhancing, repairing, maintaining various equipment, supplies, and or clothing for the Department; pay for training, schooling, or classes relative to law enforcement; as well as purchasing flowers for decedents with ties of some nature to the Hagerstown Police Department, and purchasing books from a library in memory of a decedent with ties of some nature to the Hagerstown Police Department, and/or other appropriate memorial gifts for decedents with ties of some nature to the Hagerstown Police Department, and costs or expenses directly related thereto.

(C) That although the purposes that donations deposited in the Hagerstown Police Department Donation Fund can be used for include those listed above, the Town Marshal and the Clerk-Treasurer of the town shall work together to internally account for the Fund in such a way as to give due regard to the intention of any donor in making any donation to the Fund. In the event that a donor gives a donation with a more specific intent, the town and the Department shall be guided by the donor's intent in selecting an appropriate purpose from those provided above in division (B).

(D) The Clerk-Treasurer is also hereby empowered to disburse the funds to persons or agencies from whom services, equipment, or products are purchased, upon proper presentation of a claim before the Town Council of Hagerstown and acceptance thereof.
(Ord. 3-2005, passed 4-4-2005)

§ 40.05 PARK SPECIAL DONATION FUND.

(A) *Established.*

(1) There is hereby established a special fund to be entitled Park Special Donation Fund. The Clerk-Treasurer of the town is hereby empowered to receive and deposit monetary donations which are donated for use by the Hagerstown Department of Parks and Recreation in said Park Special Donation Fund, said deposits to be placed with a financial institution named by the town as a depository.

(2) The donations made to the Park Special Donation Fund are to be used by the Hagerstown Department of Parks and Recreation for furtherance of the purposes of said Department, including but not necessarily limited to the purchase of equipment, repair and maintenance of current or future equipment, improvement of buildings or grounds of the Department, and the costs and expenses associated with activities of said Department.

(3) That although the purposes that donations deposited in the Park Special Donation Fund are to be used are provided in division (A)(2) above, the Hagerstown Department of Parks and Recreation and the Clerk-Treasurer of the town shall work together to internally account for said fund in such a way as to give due regard to the intention of any donor in making any donation to said fund in the event that a donor has a specific intent for such a donation. The town and the Department shall be guided by the donor's more specific intent provided said intent is within the purposes set forth above in division (A)(2).

(4) The Clerk-Treasurer is also hereby empowered to disburse amounts from the Park Special Donation Fund to persons or agencies from whom services, equipment, or products are purchased, upon proper presentation of a claim before the Town Council and acceptance thereof, and within the rules of the Indiana State Board of Accounts.

(B) *Transfer of funds.* The balance of funds currently in the Special Donation fund as referenced above in this section shall be transferred to the Park Special Donation Fund by the Clerk-Treasurer upon the adoption of this Ordinance, and the Clerk-Treasurer is directed to make said transfer.
(Ord. 2-2007, passed 5-7-2007)

§ 40.06 CHRISTMAS LIGHTING DONATION FUND.

(A) There is hereby established a special fund to be entitled Christmas Lighting Donation Fund. The Clerk-Treasurer of the town is hereby empowered to receive and deposit monetary donations which are donated for use by the town in said Christmas Lighting Donation Fund, said deposits to be placed with a financial institution named by the town as a depository.

(B) The donations made to the Christmas Lighting Donation Fund are to be used by the town to help offset costs associated with Christmas lighting and/or Christmas decorations within the town.

(C) The Clerk-Treasurer is hereby empowered to disburse amounts from the Christmas Lighting Donation Fund to persons or agencies from whom services, equipment, or products are purchased, upon proper presentation of a claim before the Town Council and acceptance thereof, and within the rules of the Indiana State Board of Accounts.
(Ord. 8-2009, passed 5-19-2009)

§ 40.07 SERVICE PROJECT FUND.

(A) There is hereby established a special fund to be entitled Service Project Fund. The Clerk-Treasurer of the town is hereby empowered to receive and deposit monies to deposit in the Service Project Fund as directed by the Town Council or that meet the intended purpose of said fund, said deposits to be placed with a financial institution named by the town as a depository.

(B) The purpose of the Service Project Fund is to receive monies from other sources that are to be used by the town, wherein they are received with a specific and designated purpose at the time of receipt. Funds may be received from various sources, including but not limited to the Wayne County Economic Development Corporation, and may be used for various purposes as designated by the Town Council.

(C) The Service Project Fund may be used to hold any funds contributed or obtained for a specific and designated purpose until said funds are expended for said purpose.

(D) The handling of any funds contributed or deposited to the Service Project Fund shall be in compliance with the practices, rules, and standards set forth by the Indiana State Board of Accounts.

(E) The Clerk-Treasurer is hereby empowered to disburse amounts from the Service Project Fund to persons or agencies from whom services, equipment, or products are purchased, upon proper presentation of a claim before the Town Council and acceptance thereof, and within the rules of the Indiana State Board of Accounts.
(Ord. 9-2009, passed 6-1-2009)

§ 40.08 CIVIC EVENTS DONATION FUND.

(A) There is hereby established a special fund to be entitled Civic Events Donation Fund. The Clerk-Treasurer of the town is hereby empowered to receive and deposit monetary donations which are donated for use by the town with respect to civic events, said deposits to be placed with a financial institution named by the town as a depository.

(B) Donations made to the Civic Events Donation Fund are to be used by the town for the furtherance of civic events and civic opportunities, including any and all related costs, expenses, purchases, services, equipment, and other products associated with the same.

(C) That although the purposes of the donations deposited in the Civic Events Donation Fund are to be used as provided herein, the Clerk-Treasurer of the town shall account for said fund in such a way as to give due regard to the specific intention of any donor making any donation to said fund.

(D) The Clerk-Treasurer is also hereby empowered to disburse amounts from the Civic Events Donation Fund to persons or agencies from whom services, equipment, or products are purchased or used, upon proper presentation of a claim before the Town Council and acceptance thereof, all in accordance with the rules and regulations of the Indiana State Board of Accounts.
(Ord. 1-2011, passed 4-18-2011)

§ 40.09 FIRE SERVICE RESPONSE FUND.

(A) There is hereby established a special fund to be entitled "Fire Service Response Fund." The Clerk-Treasurer is hereby empowered to receive and deposit monetary payments which are received in response to billing for fire services provided by the Hagerstown-Jefferson Township Volunteer Fire Department into said Fund with said deposits to be placed with a financial institution named by the town as a depository.

(B) Payments made to the Fire Service Response Fund are to be used by the Hagerstown-Jefferson Township Volunteer Fire Department:

(1) For the purchase of equipment, buildings, and property for firefighting, fire protection, or other emergency services; and

(2) To pay principal and interest on any loan made by the Department of Homeland Security established by I.C. 10-19-2-1, for a division of the Hagerstown-Jefferson Township Volunteer Fire Department for the purchase of new or used firefighting and other emergency equipment or apparatus.

(C) The Clerk-Treasurer is also hereby empowered to disburse amounts from the "Fire Service Response Fund" to persons or agencies from whom services, equipment, or products are purchased or used, as permitted by division (B) above, upon proper presentation of a claim before the Town Council and acceptance thereof, all in accordance with the rules and regulations of the Indiana State Board of Accounts.
(Ord. 3-2015, passed 4-20-2015)

CHAPTER 41: COMMUNITY AND ECONOMIC DEVELOPMENT

Section

General Provisions

41.01 Purpose

Operations

41.10 Revolving fund
41.11 Use of fund
41.12 Terms and conditions of loan from Town Revolving Fund
41.13 Issuance of bonds
41.14 Transfer to town's EDIT Fund
41.15 Clerk-Treasurer's duties

GENERAL PROVISIONS

§ 41.01 PURPOSE.

The Town of Hagerstown, Indiana, recognizes the need to provide structure to the town's efforts to promote community and economic development, and desires, by this chapter, entitled Community and Economic Development, to provide structure, organization, and planning involving matters related thereto.
(Ord. 1-2006, passed 2-6-2006; Am. Ord. 6-2006, passed 5-1-2006)

OPERATIONS

§ 41.10 REVOLVING FUND.

Pursuant to I.C. 6-3.5-7-13.1, the town hereby creates and establishes a Revolving Fund under I.C. 5-1-14-14, the Fund to be entitled Town of Hagerstown Economic Development Revolving Fund (hereinafter Town Revolving Fund).
(Ord. 1-2006, passed 2-6-2006; Am. Ord. 6-2006, passed 5-1-2006)

§ 41.11 USE OF FUND.

(A) The town may lend the money in the Town Revolving Fund to any borrower if the Town Council finds that the loan will be used by the borrower for one or more of the following economic development purposes:

(1) Promoting significant opportunities for the gainful employment of the county's or the town's residents;

(2) Attracting a major new business enterprise to the Town of Hagerstown; and/or

(3) Retaining or expanding a significant business enterprise in the Town of Hagerstown.

(B) Activities that may be undertaken by the borrower in carrying out an economic development purpose include expenditure for any of the following:

(1) Acquisition of land;

(2) Acquisition of property interests;

(3) Site improvements;

(4) Infrastructure improvements;

(5) Buildings;

(6) Structures;

(7) Rehabilitation, renovation, or enlargement of buildings or structures;

(8) Machinery;

(9) Equipment; and/or

(10) Furnishings.
(Ord. 1-2006, passed 2-6-2006; Am. Ord. 6-2006, passed 5-1-2006)

§ 41.12 TERMS AND CONDITIONS OF LOAN FROM TOWN REVOLVING FUND.

(A) In order for the town to make a loan from the Town Revolving Fund, the Town Council of the town must approve the loan by the adoption of a written resolution which must contain the following:

(1) The interest rate of the loan;

(2) The term of the loan;

(3) The form of the note or notes;

(4) The medium of payment;

(5) The place and manner of payment;

(6) The manner of execution of the note or notes;

(7) The terms of redemption;

(8) The funds or sources of funds for which the notes or notes are payable, which may be any funds and sources of funds available to the borrower; and

(9) Any other provisions not inconsistent with I.C. 5-1-14-14.

(B) In order to assist the Town Council in making determinations regarding loans from the Town Revolving Fund, the town hereby creates a Town Revolving Fund Loan Advisory Committee, hereinafter referred to as Loan Committee. The Loan Committee shall consist offive members as follows:

(1) The Town Manager;

(2) The Clerk-Treasurer;

(3) One Town Council member, to be appointed by the Town Council President and who may be the Town Council President, to serve a four-year term, with the exception of the first term, which shall end on the first Monday in January 2010 or upon the appointment of a replacement on the first date of the appointment thereafter;

(4) One member of the Town's Plan Commission, to serve a four-year term, with the exception of the first term, which shall end on the first Monday in January 2009 or upon the appointment of a replacement on the first date of the appointment thereafter. In the event that an appointee is no longer serving on the Town's Plan Commission, the appointee shall be considered to have resigned on the last effective date on which the appointee served on the Town's Plan Commission; and

(5) The town's representative to the Wayne County EDC, whose term is to coincide with the appointee's service on the Board of the Wayne County EDC. In the event that the town does not have a current representative to the Wayne County EDC, the Town Council President may appoint a citizen member to the Loan Committee, who must reside in the corporation limits. In the event that this appointee is a citizen member, the appointee's term shall be for four years, with the exception of the first term, which shall end on the first Monday in January 2008 or upon the appointment of a replacement on the first date of the appointment thereafter. In the event that a citizen member is appointed while the town does not have a representative to the Wayne County EDC and the town subsequently appoints a representative to the Wayne County EDC, the citizen member shall be replaced by the town's representative to the Wayne County EDC.

(C) The Loan Committee is strictly advisory in nature, and is formed for the sole purpose of studying, gathering information, and making recommendations to the Town Council regarding potential loans to be made from the town Revolving Fund based on the criteria established. The Loan Committee shall have no authority or capacity to make decisions for or on behalf of the town or bind the town to any obligation of any nature. The town may grant or deny a loan from the Town Revolving Fund with or without a recommendation or review by the Loan Committee, and contrary to any recommendation which may be made by the Loan Committee.

(D) The Loan Committee may recommend further loan criteria that the committee deems to be in the town's best interest in considering applications for loans from the Town Revolving Fund, and any such criteria may be adopted by the Town Council as criteria for the loans.

(E) The Town Council, as part of its resolution under division (A) above, may charge an applicant a loan processing fee not to exceed one point on any loan, which may be payable at closing or added to the principal amount of the loan to form an enlarged principal balance.

(F) All applicants for a loan from the Town Revolving Fund shall submit an application requesting the loan and the application must be submitted to the Town Council care of the Clerk-Treasurer or Town Manager. The Town Council may provide a form for the purpose, and if the town provides the same, any applicant is required to use the town's form in applying for such a loan. As part of the application, the Town Council or the Loan Committee may request any supporting documentation from the applicant that the Town Council or Loan Committee believes are necessary in evaluating the application.

(G) The Town Council may proceed on making a decision on the application without referring the same to the Loan Committee, or the Town Council may refer the application to the Loan Committee for review and recommendation, at the discretion of the Town Council. In the event that the Town Council

refers the application to the Loan Committee for review and recommendation, the Town Council may, at its discretion, proceed with denying or granting a loan application without waiting on the review and recommendation of the Loan Committee. In the event that the Town Council refers a loan application to the Loan Committee, the Loan Committee shall work to review the application in a reasonably prompt fashion, with any review and recommendation being completed no more than 30 days subsequent to the receipt thereof by the Loan Committee.
(Ord. 1-2006, passed 2-6-2006; Am. Ord. 6-2006, passed 5-1-2006)

§ 41.13 ISSUANCE OF BONDS.

The Town of Hagerstown may issue bonds pursuant to I.C. 36-9-32-7 for the economic development purposes listed in § 41.11, and may repay the indebtedness solely from the revenues derived from the repayment of loans made pursuant to this chapter.
(Ord. 1-2006, passed 2-6-2006; Am. Ord. 6-2006, passed 5-1-2006)

§ 41.14 TRANSFER TO TOWN'S EDIT FUND.

Money in the Town Revolving Fund may at any time be transferred in whole or in part to the Town's Economic Development Income Tax Fund.
(Ord. 1-2006, passed 2-6-2006; Am. Ord. 6-2006, passed 5-1-2006)

§ 41.15 CLERK-TREASURER'S DUTIES.

The Clerk-Treasurer shall be responsible for the financial management of the funds in the Revolving Fund, including, but not limited to, the proper accounting of funds and the investment of surplus funds.
(Ord. 1-2006, passed 2-6-2006; Am. Ord. 6-2006, passed 5-1-2006)

CHAPTER 42: PUBLIC RECORDS

Section

42.01 Access to public records
42.02 Procedure for access to public records
42.03 Fee schedule for the certification, copying or transmission of public records

§ 42.01 ACCESS TO PUBLIC RECORDS.

For the purposes of this chapter, I.C. 5-14-3 is incorporated herein and is made a part hereof by reference, and the same shall be treated as if it had been set forth in full herein.
(Ord. 10-2010, passed 9-20-2010)

§ 42.02 PROCEDURE FOR ACCESS TO PUBLIC RECORDS.

(A) For all town departments, except the Police Department, the Office of the Clerk-Treasurer shall prepare and make available for inspection and/or copying public records during normal business hours. The Town Marshal or his or her designee shall be responsible for the release of public records from the Police Department.

(B) Any person wishing to inspect or obtain copies of public records shall submit a written request to the Clerk-Treasurer. Such written request shall include:

(1) The name, mailing address, and telephone number of the person making the request; and

(2) A list of records the person requests to inspect and/or have copied.

(C) If the record requested concerns an employee, the Clerk-Treasurer shall notify the employee of the request.

(D) The town may waive any or all provisions under this policy when a request to inspect or obtain copies of records is made:

(1) By another governmental agency or an authorized representative of another governmental agency;

(2) By an agent of the town;

(3) By industrial or commercial prospects; or

(4) Pursuant to court order.

(E) The town shall make reasonable efforts to provide to a person making a request a copy of all disclosable data contained in the record.

(F) Any person who receives information in response to a public records request may not use the information for commercial purposes, including selling, advertising, or soliciting the purchase of merchandise, goods, or services, or selling, loaning, giving away, or otherwise delivering the information obtained by the request to any other person for these purposes. However, use of the information received in connection with the preparation or publication of news, for nonprofit activities, or for academic research is not prohibited.
(Ord. 10-2010, passed 9-20-2010)

§ 42.03 FEE SCHEDULE FOR THE CERTIFICATION, COPYING OR TRANSMISSION OF PUBLIC RECORDS.

(A) The town shall charge the following fees:

(1) Certification per document: $5.00;

(2) Copy of police accident/incident report: $5.00;

(3) Photocopy (8-1/2 x 11 or 14): $0.10 per page;

(4) Facsimile transmission: $1.00.

(B) When applicable, the actual cost of postage shall be added to the fees detailed in division (A) above in accordance with current postage rates.
(Ord. 10-2010, passed 9-20-2010)

CHAPTER 43: SCHEDULE OF FEES - VOLUNTEER FIRE DEPARTMENT

Section

43.01 Applicability
43.02 Definitions
43.03 Responsibility for administration
43.04 Compatibility with other chapter requirements
43.05 Response fees
43.06 Billing procedures and disposition of funds

§ 43.01 APPLICABILITY.

This chapter shall apply to all persons or organizations who receive services from the Volunteer Fire Department for incidents, including but not limited to fires and motor vehicle accidents or collisions, and shall apply to any non-resident responsible party as defined by this chapter.
(Ord. 8-2013, passed 11-4-2013)

§ 43.02 DEFINITIONS.

For the purposes of this chapter the following definitions shall apply. Any term in this chapter not defined below shall take on its common or dictionary meaning.

EXPENDABLE MATERIAL. An item that is regularly used during the course of a motor-vehicle accident or collision response, including, but not limited to, hazardous spill absorption materials, agents including but not limited to foam, absorbing agents, or emulsifiers used in cleanup operations, or any other item that must be replaced due to the rendering of services and/or responses to a motor-vehicle accident or collision by the Volunteer Fire Department.

HAZARDOUS MATERIAL SPILL. Unexpected, unintentional, or unapproved discharge or other loss of oil or other substances that contain hazardous or otherwise objectionable substances that damage or threaten to damage the public health, safety, and welfare, which, for the purposes of this chapter only, are the result of a motor-vehicle accident or collision to which the Volunteer Fire Department is a responder.

NON-RESIDENT. A person whose primary residence at the time of the service or response is outside the jurisdictional boundaries of Jefferson Township, Wayne County, Indiana.

RESIDENT. A person whose primary residence at the time of the service or response is within the jurisdictional boundaries of Jefferson Township, Wayne County, Indiana.

RESPONSE or ***RESPOND.*** The deployment or mobilization of the Volunteer Fire Department to incidents, including but not limited to fires, motor-vehicle accident or collision calls or calls for hazardous material spills.

RESPONSIBLE PARTY.

(1) The individual who caused the incident, including the real property owner, or owner or responsible party of the motor-vehicle that caused the accident or collision (as determined by the motor vehicle accident police report) or that necessitated the motor vehicle accident response by the Volunteer Fire Department and personnel;

(2) The liable insurance company or insurance provider of the real estate or vehicle driven or operated by the individual who caused the motor vehicle accident or collision (as determined by the motor vehicle accident police report) that necessitated the response by the Volunteer Fire Department and personnel;

(3) The owner and/or the liable insurance company or insurance provider of the owner of real estate or of the motor vehicle operated by the individual who caused the motor-vehicle accident or collision (as determined by the motor-vehicle accident police report) for which hazardous material spills or debris around the vehicle are cleaned up, fires are extinguished, or the site of the accident or collision is secured during a response by the Volunteer Fire Department and personnel; or

(4) The legal representative of a deceased party or the legal guardian of an incapacitated or minor party, which deceased party, incapacitated party, or minor party caused the motor-vehicle accident or collision (as determined by the motor-vehicle accident police report) that necessitated the response by the Volunteer Fire Department and personnel.

SERVICE. Any necessary action conducted by the Volunteer Fire Department during an incident or motor vehicle accident or collision response including, but not limited to, cleanup of hazardous substances, evacuation, securing premises, extrication, extinguishment, transportation, equipment operation and utilization, and any and all other services required to assure public health and safety from known hazards which resulted from the incident or motor vehicle accident or collision which the Volunteer Fire Department was called to respond to.
(Ord. 8-2013, passed 11-4-2013)

§ 43.03 RESPONSIBILITY FOR ADMINISTRATION.

The Town of Hagerstown, by and through its Clerk-Treasurer, shall administer, implement, and enforce the provisions of this chapter by and through the Volunteer Fire Department.
(Ord. 8-2013, passed 11-4-2013)

§ 43.04 COMPATIBILITY WITH OTHER CHAPTER REQUIREMENTS.

This chapter is not intended to interfere with, abrogate, or annul any other chapter, rule, regulation, statute, or other provision of the law. The requirements of this chapter should be considered minimum requirements, and where any provision of this chapter imposes restrictions different from those imposed by any other chapter, rule, regulation, or other provision of law, the more restrictive provisions or those provisions that impose higher protective standards for human health or the environment, shall be considered to take precedence.
(Ord. 8-2013, passed 11-4-2013)

§ 43.05 RESPONSE FEES.

The fees for response services for incidents, including but not limited to motor vehicle accidents or collisions by the Volunteer Fire Department shall be in accordance with home owner's and/or motor vehicle insurance industry standards which may fluctuate from time to time and shall not exceed that which is usual, customary, and reasonable for costs of the services rendered.

(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, $250 per response vehicle except command/control vehicle, which is $100 per vehicle.

(B) For each hour or fraction thereof as on-scene assistance, $150 per response unit and $50 per command/control vehicle.

(C) For expendable materials such as absorption materials, emulsifiers, or other agents used in cleanup operations, that actual replacement costs 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.
(Ord. 8-2013, passed 11-4-2013)

§ 43.06 BILLING PROCEDURES AND DISPOSITION OF FUNDS.

(A) The Volunteer Fire Department by way of the Clerk-Treasurer, may collect a service charge according to this schedule from the responsible party that receives service if the following conditions are met:

(1) The bill for payment of the service charge:

(a) Is submitted to the responsible party in writing within 30 days after the services are provided;

(b) Includes a copy of a fire incident report in the form prescribed by the state fire marshal, if the service was provided for an event that requires a fire incident report;

(c) Must contain verification that the bill has been approved by the Chief of the Volunteer Fire Department; and

(d) Must contain language indicating that correspondence from the responsible party and/or any question from the responsible party regarding the bill should be directed to the Volunteer Fire Department.

(2) Payment is remitted directly to the town.

(B) The Volunteer Fire Department shall use the revenue collected from the fire service charges under this section:

(1) For the purchase of equipment, buildings, and property for firefighting, fire protection, or other emergency services;

(2) For deposit in the township firefighting fund established under I.C. 36-8-13-4; or

(3) To pay principal and interest on a loan made by the Department of Homeland Security established by I.C. 10-19-2-1 or a division of the Volunteer Fire Department for the purchase of new or used firefighting and other emergency equipment or apparatus.

(C) The Clerk-Treasurer who processes fees on behalf of the Volunteer Fire Department shall send all bills, notices, and other related materials to both the Volunteer Fire Department and the person being billed for services.

(D) All fees allowed by Indiana law and the fire marshal's fee schedule must be itemized separately from any other charges.

(E) The Volunteer Fire Department or its agent may maintain a civil action to recover an unpaid service charge under this section and may, if it prevails, recover all costs of the action, including reasonable attorney's fees.
(Ord. 8-2013, passed 11-4-2013)

CHAPTER 44: CAPITAL ASSET POLICY

Section

44.01 General information
44.02 Definition of capital assets
44.03 Valuation of capital assets
44.04 Asset definitions by major category
44.05 Depreciation methods
44.06 Capital asset acquisitions
44.07 Asset transfers and dispositions
44.08 Periodic inventories
44.09 Responsibilities of Clerk-Treasurer's Office
44.10 Responsibilities of department managers

§ 44.01 GENERAL INFORMATION.

(A) The Fixed Asset Policy is being issued effective June 1, 2015. The new policy will be referred to as the Capital Asset Policy. This Policy is being issued to document the minimum value of capital assets to be reported on our financial reports and to include infrastructure assets. This issuance of a policy document is related to the implementation of a new reporting model, Governmental Accounting Standards Board Statement 34. Statement 34 will require the town to depreciate capital assets. The capital asset threshold will be $5,000. An asset with a value under $5,000 will be expensed in the year of purchase. The infrastructure portion of this policy is also effective June 1, 2015.

(B) Town utilities will follow this same definition of capital assets except any item with a unit cost of $5,000 or more shall be capitalized. Assets that are not capitalized (items < $5,000) are expensed in the year of acquisition. Town utilities will follow the capitalization guidelines of the Indiana State Board of Accounts.

(C) The town has established a Capital Asset Policy in order to provide a higher degree of control over its considerable investment in capital assets, and to be able to demonstrate accountability to its various constituencies: citizens, rate-payers, oversight bodies and regulators. All public information pertaining to capital assets will be made available in the Annual Financial Report.

(D) The purpose of establishing a Capital Policy is five-fold:

(1) To safeguard the investments of the citizens of the town;

(2) To fix responsibility for the custody of equipment;

(3) To provide a basis for formulating capital asset acquisition, maintenance and retirement policies;

(4) To provide data for financial reporting; and

(5) To demonstrate appropriate stewardship responsibility for public assets.

(E) This Policy will only serve to classify capital assets, including fixed and infrastructure, for accuracy in financial reporting through the Indiana State Board of Accounts. It does not include data processing, programming requirements, or computer operations procedures.
(Ord. 4-2015, passed 5-18-2015)

§ 44.02 DEFINITION OF CAPITAL ASSETS.

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

(B) Assets that are not capitalized (items < $5,000) are expensed in the year of acquisition.

(C) Exceptions are:

(1) Items costing less than the above limits which are permanently installed as a part of the cost of original construction or installation of a larger building or equipment unit will be included in the cost of the larger unit;

(2) Modular equipment added subsequent to original equipment construction of a larger building or equipment unit which may be put together to form larger units costing more than the prescribed limits will be charged to capital assets though the cost of individual items is less than such units;

(3) Cabinets, shelving, bookcases, and similar items, added subsequent to original construction, which are custom made for a specific place and not adaptable elsewhere, will be capitalized.

NOTE: Purchases made using grant funds must comply with grant requirements or the above procedures, whichever are the most restrictive.

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

	Capitalize/Depreciate
Land	All/Capitalize only
Land improvements	$5,000
Building	$5,000
Building Improvements	$5,000
Construction in Progress	All/Capitalize only
Machinery and Equipment	$5,000
Vehicle	$5,000
Utility Assets	$5,000

(E) Infrastructure.

(1) At the network level, the asset will be classified as major if the cost of the network item is at least 10% of the cost of all capital assets in fiscal year 2014. A network will be defined as a group of similar assets that serve a particular function or purpose for the town.

(2) At the subsystem level, the asset will be classified as major if the cost of the subsystem item is at least 5% of the cost of all capital assets in fiscal year 2014. A subsystem will be defined as a segment of a network of assets that serve a similar function for the town.
(Ord. 4-2015, passed 5-18-2015)

§ 44.03 VALUATION OF CAPITAL ASSETS.

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

(1) Legal and title fees, closing costs;

(2) Appraisal and negotiation fees, surveying fees;

(3) Damage payments;

(4) Land preparation costs, demolition costs;

(5) Architect, engineering and accounting fees;

(6) Insurance premiums during construction;

(7) Transportation charges; or

(8) Interest costs during construction.

(B) Donated or contributed assets should be recorded at their fair market value on the date donated. (Ord. 4-2015, passed 5-18-2015)

§ 44.04 ASSET DEFINITIONS BY MAJOR CATEGORY.

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

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

(B) *Improvements other than buildings*.

(1) Examples of town assets in this category are walks, parking areas and drives, fencing, retaining walls, pools, fountains, planters, underground sprinkler systems, and other similar items.

(2) Examples of town utilities assets in this category are water supply mains, collection sewers, wells, dams, fences, intake pipes, manholes, and fire hydrants.

(C) *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, alarm systems, sound systems, surveillance systems, passenger and freight elevators, escalators, built-in casework, walk-in coolers and freezers, fixed shelving, and other fixed equipment are included with the building, if owned. Communication antennas and/or towers are not included as buildings. These are parts of the equipment units that they serve.

(D) *Equipment*. Equipment includes all other types of physical property within the scope of the fixed asset management system not previously classified. Included within this category are office mechanical equipment, office furniture, appliances, furnishings, machinery items, maintenance equipment, communication equipment, Police, Fire, Sanitation and Park Department, laboratory equipment, vehicles, road equipment, aircraft, emergency equipment, earth moving equipment, text equipment, civil defense equipment, and data processing equipment. All supplies are excluded.

(E) *Infrastructure*.

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

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

(3) The retroactive reporting requirements for infrastructure of GASB 34 requires the town to report items put into service from 1980 forward, and gives the town the option to report items put into service prior to 1980.
(Ord. 4-2015, passed 5-18-2015)

§ 44.05 DEPRECIATION METHODS.

The town will be depreciating capital assets by using either composite/group method depreciation or the straight-line method. Salvage value will be determined on an asset-by-asset basis. Depreciation will be calculated when needed for financial reporting. Land is not depreciated according to general accepted accounting principles.

(A) *Composite/group network*.

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

appropriate depreciation rate for the composite group, divide one by the number of years the assets are depreciated. For instance, a group of assets with a 25-year life will be depreciated at 4% each year (1/25).

(2) Following is the list of groups we will use for depreciation:

(a) Composite/group depreciation:

1. Street lights - 35 years;

2. Traffic signals - 25 years;

3. Flood walls/gates - 50 years; and

4. Roads:

a. Cement - 10 years;

b. Gravel - 15 years;

c. Concrete - 30 years;

d. Asphaltic concrete -20 years; and

e. Brick or stone - 50 years.

(B) *Straight-line depreciation.*

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

(a) Vehicles - 5 years;

(b) Office equipment - 5 years;

(c) Office furniture - 20 years;

(d) Heavy equipment - 10 years;

(e) Fire trucks - 15 years;

(f) Buildings- 50 years;

(g) Building components (HVAC systems, roofing) - 20 years;

(h) Leasehold improvements - useful life of asset or lease term (whichever is shorter);

(i) Land improvements - structure (parking lots, athletic courts, swimming pools) - 20 years;

(j) Land improvements - ground work (golf course, athletic fields, landscaping, fencing) - 20 years;

(k) Outdoor equipment - (playground equipment, radio towers) - 15 years;

(l) Grounds equipment - (mowers, tractors, attachments) - 15 years;

(m) Computer hardware - 3 years; and

(n) Computer software - 5 years.

(2) Town utilities' useful lives are as follows:

(a) Water:

1. Buildings and improvements - 50 years;

2. Transmission and distribution mains - 50 years;

3. Meters/hydrants - 50 years;

4. Pumping equipment - 50 years;

5. Water treatment equipment - 50 years;

6. Reservoirs tanks - 50 years;

7. Furniture and equipment - 10 years;

8. Other equipment - 10 years;

9. Transportation equipment - 10 years;

10. Shop and lab equipment - 10 years;

11. Computer equipment - 3 years; and

12. Communications equipment - 10 years.

(b) Sewer:

1. Buildings and improvements - 50 years;

2. Sewer lines - 50 years;

3. Combined sewer overflow - 50 years;

4. Lift station - 50 years;

5. Treatment plant/equipment - 10 years;

6. Office equipment - 5 years;

7. Miscellaneous operating equipment - 5 years; and

8. Vehicles - 5 years.

(Ord. 4-2015, passed 5-18-2015)

§ 44.06 CAPITAL ASSET ACQUISITIONS.

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

(1) Regular purchases;

(2) Lease purchase - see below;

(3) Construction by town personnel;

(4) Construction by an outside contractor;

(5) Resolution/condemnation;

(6) Donation/contribution;

(7) Addition to an existing asset;

(8) Transfer from another department;

(9) Trade or barter; or

(10) Annexation.

(B) Leased equipment should be capitalized if the lease agreement meets any one of the following criteria:

(1) The lease transfers ownership of the property to the lessee by the end of the lease term;

(2) The lease contains a bargain purchase option;

(3) The lease term is equal to 75% of the estimated economic life of the leased property;

(4) The present value of the minimum lease payments at the inception of the lease, excluding executory costs, equals at least 90% of the fair value of the leased property.

(C) Leases that do not meet any of the above criteria should be recorded as an operating lease and reported in the notes of the financial statements.
(Ord. 4-2015, passed 5-18-2015)

§ 44.07 ASSET TRANSFERS AND DISPOSITIONS.

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

(B) The main points to be remembered when using this form are:

(1) Always provide sufficient detail to properly identify the asset, most importantly the asset's tag number or town ID;

(2) Be accurate and do not overlook any of the needed entries;

(3) Write legibly;

(4) Complete each column for every asset listed on the form;

(5) Enter information in correct row, depending on whether you are transferring or deleting an asset;

(6) Have department head sign at the bottom of the form; and

(7) Return the form to the Town Clerk-Treasurer's Office.

(C) If an asset is stolen, the department should notify the Town Manager as well as the Town Clerk-Treasurer's office.
(Ord. 4-2015, passed 5-18-2015)

§ 44.08 PERIODIC INVENTORIES.

A physical inventory of all capital assets (any item over $5,000) will be conducted not less than once every two years in each department on or about December 31. The Town Clerk-Treasurer's office will conduct spot checks on a random basis. Department heads will be accountable for the capital asset inventory charged to their departments by verifying a list of their capital assets.
(Ord. 4-2015, passed 5-18-2015)

§ 44.09 RESPONSIBILITIES OF CLERK-TREASURER'S OFFICE.

The Fiscal Officer will ensure that accounting for capital assets is being exercised by establishing a capital asset inventory, both initially and periodically in subsequent years. The Fiscal Officer will further ensure that the capital asset report will be updated annually to reflect additions, retirements, and transfers and to reflect the new, annual capital asset balance for financial reporting purposes.
(Ord. 4-2015, passed 5-18-2015)

§ 44.10 RESPONSIBILITIES OF DEPARTMENT MANAGERS.

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

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

(C) The steward is also responsible for arranging for the necessary preventative maintenance and any needed repairs to keep the asset in working condition. It is necessary to have a responsible person available for questions that arise during a physical inventory or when someone wants to borrow the asset. The steward ensures that the asset is used for the purpose for which it was acquired and that there is no personal or unauthorized use. In addition, the steward should report any property damage or theft.
(Ord. 4-2015, passed 5-18-2015)

TITLE V: PUBLIC WORKS

Chapter

50. GENERAL PROVISIONS

51. ELECTRIC UTILITY

52. WATER UTILITY

53. SEWAGE TREATMENT WORKS

54. WELLHEAD PROTECTION

55. BACKFLOW PREVENTION

CHAPTER 50: GENERAL PROVISIONS

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50.02 Utility service contracts
50.03 Construction; plans and specifications required
50.04 Plumbers
50.05 Discontinuance of utility service
50.06 Claims
50.07 Rules and regulations for electric, water, and sewer services

§ 50.01 SUPERINTENDENT OF UTILITIES.

(A) A Superintendent of Utilities shall be appointed by the Town Council. Under the direction of the Town Council, the Superintendent shall have special supervision of the buildings, machinery, conduits, pipes and mains, and all other property and equipment connected with the utilities of the town. He or she shall inspect all connections with service conduits, pipes and mains, the excavating and filling of ditches for the same, and shall see that all connections and hydrants are kept in good repair and condition. He or she shall report all violations of any provisions, rules, or regulations of the code or any other ordinance or amendment thereafter made.

(B) The Superintendent shall give bond to the State of Indiana as may be required by law.

(C) Unless a Superintendent of Utilities is specifically appointed by the Town Council, the Town Manager shall be the Superintendent of Utilities.
(1963 Code, Ch. 12, § 6) (Ord. 2-1927, passed 5-16-1927; Am. Ord. 1-2008, passed 1-22-2008)
Statutory reference:
Management and control of utilities, see I.C. 36-9-2-14 and 36-9-2-15

§ 50.02 UTILITY SERVICE CONTRACTS.

(A) The Town Council may in its discretion, at any time it deems it necessary and proper, enter into written contracts with any owner or owners of land, including owners of housing developments, in the vicinity of the town for the furnishing by the town, through its municipal utilities, electric current and/or water for the use of landowner or landowners, where the town is not prohibited by law from so doing.

(B) Any contract entered into shall include, among other things, all the terms and conditions under which the services shall be installed, maintained, and operated, provided:

(1) Each ultimate consumer of the service shall be charged therefor at rates charged to Hagerstown consumers generally;

(2) Connection charges shall be uniform to all consumers; and

(3) None of the services shall be furnished by the town until all charges have been paid in full in accordance with the provisions of the contract.
(1963 Code, Ch. 12, § 3) (Ord. 2-1960, passed 8-15-1960)

§ 50.03 CONSTRUCTION; PLANS AND SPECIFICATIONS REQUIRED.

(A) Any person, firm, or corporation locating conduits, pipelines or mains, electrical wiring, or other similar underground structures under the surface of any street, avenue, alley, or public ground or part thereof shall present to the Town Council, or its designated officers, a written statement specifying all streets, avenues, alleys, or public grounds or parts thereof in which the conduits or similar structures are to be located, the size and portion of the streets or other areas involved, the size of the conduit or other structure to be used, and the distance from the surface of the street or ground to the top of the conduit or other structure.

(B) The statement shall be accompanied by a map, profile, and specifications, which shall show the proposed location with reference to grade lines, the surface of the street or grounds, the dimensions and material of the conduit or other structure, and the manholes, appliances, and connections to be used therewith.

(C) The map, profile, and specifications shall be referred to the Superintendent of Streets for suggestions with reference to the proposed location of the conduits or other structure, in respect to other improvements. The proposed location shall be changed if change is found necessary and directed by the Town Council or its designated officers. The map, profile, and specifications shall be furnished by and at the expense of the person, firm, or corporation constructing the conduit or other structure, and, together with the original statement referred to above, shall be filed in the office of the Clerk-Treasurer. The proposed construction shall be done in accordance with the statement, map, profile, and specifications as approved.

(D) A change in location, material, or method of construction may be made upon the application of the interested person, firm, or corporation and the recommendation of the Superintendent of Streets; provided the change is approved by resolution of the Town Council, and the person or company making the change files with the Clerk-Treasurer an amended statement, map, profile, and amended specifications describing the conduit or other structure, as changed.
(1963 Code, Ch. 12, § 3) (Ord. 2-1960, passed 8-15-1960)

§ 50.04 PLUMBERS.

Any plumber or pipe fitter who does any business for or in connection with the Water Utility, the Electric Utility, or the Sewage Treatment Works of the town shall be required to procure a license.
(1963 Code, Ch. 12, § 4) (Ord. 2-1960, passed 8-15-1960)

§ 50.05 DISCONTINUANCE OF UTILITY SERVICE.

Any person desiring to discontinue the use of service supplied by any utility of the town upon his or her premises shall give notice in writing at the office of the utility.
(1963 Code, Ch. 12, § 8) (Ord. 2-1927, passed 5-16-1927)

§ 50.06 CLAIMS.

No claim shall be made against the town because of the breaking of any utility line, conduit, pipe, or service cock, or the breaking of machinery, or the stoppage for necessary repairs of any of the machinery or equipment of the utilities of the town.
(1963 Code, Ch. 12, § 7) (Ord. 2-1927, passed 5-16-1927)

§ 50.07 RULES AND REGULATIONS FOR ELECTRIC, WATER, AND SEWER SERVICES.

(A) In addition to the provisions of Chapter 51 (Electric Utility), Chapter 52 (Water Utility), and Chapter 53 (Sewage Treatment Works) of the Town Code, there may exist other rules and regulations for the provisions of the electric, water, and sewer services by the municipal utilities of the town. In the event that other rules and regulations exist, they shall be kept on file in the office of the Clerk-Treasurer in three separate volumes designated Volume 1: Electric Service Rules and Regulations, Volume 2: Water Service Rules and Regulations, and Volume 3: Sewer Service Rules and Regulations. Any such rules and regulations are hereby approved, adopted, and established by reference hereto and incorporated herein as though fully set forth herein, the rules and regulations to continue to remain in effect hereafter.

(B) Any such rules and regulations of the electric, water, and sewer utilities that may exist in Volumes 1, 2, and 3 as referenced in division (A) above, may be amended from time to time hereafter by the Town Council by proper motion and adoption by the Town Council as governing body of the town and town utilities. The Clerk-Treasurer of the town shall place any amendment so adopted by the Town Council in the appropriate volume or volumes of rules and regulations for the utilities on file in the office of the Clerk-Treasurer, all of which shall be open to public inspection during established office hours for business in the Town Hall.
(Ord. 12-1982, passed 12-20-1982; Am. Ord. 1-2008, passed 1-22-2008)

CHAPTER 51: ELECTRIC UTILITY

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GENERAL PROVISIONS

§ 51.001 DEFINITIONS.

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

AUTHORITY. The Hagerstown Electric Utility.

COUNCIL or ***TOWN COUNCIL.*** The elected legislative body of the town.

CUSTOMER. Any person as defined in this chapter that consumes or is provided electric power provided and/or distributed by the Hagerstown Electric Utility.

DAY. The 24-hour period beginning at 12:01 a.m.

DISTRIBUTION SYSTEM. The portion of the Electric Utility used to transport electricity from the substation to the customer's weatherhead.

EASEMENT. An acquired legal right for specific use of land owned by others.

ELECTRIC UTILITY MANAGER or ***UTILITY MANAGER.*** Shall have the same meaning as ***MANAGER***, as defined in this section.

FEDERAL. The government of the United States of America and/or regulatory agencies thereof.

HAGERSTOWN ELECTRIC UTILITY and ***ELECTRIC UTILITY.*** The authority controlling, regulating, and maintaining the electric power distribution system and all its facilities and components necessary to provide for generation, distribution, purchase, and sale of electric current to the customer.

HISTORY OF BEING PAST DUE.

(1) Having been past due on more than one occurrence during the preceding 12-month period;

(2) Having any service disconnected as a result of nonpayment during the preceding 24-month period; or

(3) Being past due on the date service is terminated. (This includes those customers who requested service be terminated at one location (account) and connected at a new location (account) as a result of moving to the new location).

INTERFERENCE. An intentional inhibition or disruption.

KVA. Kilowatt voltage (ampere).

KWH. Kilowatt hours.

KWD. Kilowatt demand.

MANAGER. The Director of Municipal Operation of the Hagerstown Electric Utility, the Town Manager, or the authorized designee(s) of the Director or Town Manager.

MAST. See ***WEATHERHEAD***.

METER. The device used to measure use of electrical current.

NON-OWNER, NON-OWNER CUSTOMER. A customer who is not the owner of the premises to which electric service is being provided, connected, or disconnected, or otherwise affected by this chapter. This includes, but is not limited to, tenants, lessees, and other occupants who are customers but do not own the property to which services are provided.

NON-OWNER OCCUPIED. A premises is considered to be ***NON-OWNER OCCUPIED*** when a person other than the owner occupies or resides at the premises. This includes, but is not limited to, premises or properties occupied by tenants, lessees, and other occupants who are not owners.

NONRESIDENTIAL CUSTOMER. A customer serviced by the terms of Schedules C, CI, or S as set forth in this chapter.

OTHER AUTHORITY. Other regulatory agencies (exercising enforcement powers).

OWNER. The person that owns the premises to which electric service is being provided, connected, or disconnected, or otherwise affected by this chapter.

OWNER OCCUPIED. A premises is considered to be ***OWNER OCCUPIED*** when the owner of the premises occupies or resides at the premises.

PERSON. An individual, firm, company, association, partnership, society, corporation, or group.

PRIMARY. The portion of the distribution system used to transport electric current from the substation to the primary side of a transformer. ***PRIMARY LINES*** serve specified geographic areas within the distribution system.

PRIVATE. When used as a prefix, shall mean that portion of the electric system for which the customer bears construction, maintenance, and repair responsibility.

PUBLIC. When used as a prefix, shall mean that portion of the electric system for which the Electric Utility exercises control and bears construction, maintenance, and repair responsibility.

SECONDARY. The portion of the distribution system used to transport electric current from the secondary side of the transformer to the service drop. ***SECONDARY LINES*** serve individual customers.

SERVICE DROP. The portion of the distribution system used to transport electric current from the secondary to the customer's weatherhead.

SERVICE LINE. The private conductors used to transport current from the weatherhead to the wiring system on the premises.

SERVICE OWNER. The person in whose name a contract/permit is issued.

STATE. The State of Indiana and/or regulatory agencies thereof.

SUPERINTENDENT. When used in this chapter, shall have the same meaning as ***MANAGER***, as defined in this section.

WEATHERHEAD. Any device approved by the National Electrical Code used to terminate a service line outside a building. The device may also be called a ***MAST***. The Electric Utilities responsibility for construction, maintenance, or repair terminates at the weatherhead.
(Ord. 7-1992, passed 12-21-1992; Am. Ord. 6-2003, passed 12-15-2003; Am. Ord. 2-2005, passed 4-4-2005; Am. Ord. 1-2008, passed 1-22-2008)

§ 51.002 PURPOSE.

The purpose of this chapter is to provide for the maximum beneficial public use of the town Electric Utility system, through regulation of construction, use, and equitable distribution of costs and the provision of procedures for complying with the requirements contained herein.
(Ord. 7-1992, passed 12-21-1992)

§ 51.003 SCOPE.

The definition of terms used in this chapter are found in § 51.001. The provisions of this chapter shall apply to all customers served by the town Electric Utility.
(Ord. 7-1992, passed 12-21-1992)

§ 51.004 INSPECTIONS.

(A) The Manager, bearing proper credentials and identification, shall be permitted to enter customer properties at any reasonable time for the purpose of inspection, observation, measurement, meter reading, or any other pertinent purpose to ensure compliance with the provisions of this chapter.

(B) The Manager, bearing proper credentials and identification, shall be permitted to enter all property at reasonable times, through which the town holds an easement for the purpose of inspection, observation, measurement, repairs, and maintenance of any of the town electric facilities located within the easement. All entry and subsequent work on the easement shall be done in full accordance with the terms of the easement pertaining to the private property involved.

(C) While performing the necessary work on private property referred to in divisions (A) and (B) above, the Manager shall observe all safety rules established and made known to the Manager by the owner or occupant of the property and applicable to the premises when communicated by the owner or occupant, but the town assumes no liability to any party for violations thereof.
(Ord. 7-1992, passed 12-21-1992)

§ 51.005 VANDALISM; INTERFERENCE.

No person shall maliciously or willfully interfere with the lawful activities and operation of the town Electric Utility, nor shall any person maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment that is part of the town Electric Utility. Any person who violates this section shall be subject to a penalty for each such violation not to exceed $2,500. Civil action deemed necessary by the town to recover loss/or damages incurred will not be abrogated by the imposition of any penalties for the violation or by criminal proceedings and/or dispositions under state or federal law, or limited by penalties contained herein.
(Ord. 7-1992, passed 12-21-1992) Penalty, see § 51.999

§ 51.006 RULES TO GOVERN ELECTRIC POWER USERS.

The rules, regulations, electric rate schedules, fees, and charges shall be considered a part of the contract with every person who is supplied with electric power by the town Electric Utility, and every person using electric power supplied by the Electric Utility shall be considered to have expressed consent to be bound by the rules and regulations and to have agreed to the payment of electric rates, fees, and charges.
(Ord. 7-1992, passed 12-21-1992)

§ 51.007 SECURITY LIGHT SERVICE.

(A) *Availability*. To any customer within the area served by the Electric Utility for outdoor lighting, as a private dusk-to-dawn service.

(B) *Character of service*. A 175-watt, 120-volt, mercury-vapor-type luminary controlled by a photoelectric cell is the current character of service to be installed, operated, and maintained by the Utility. However, the town and Utility maintains the right, but not obligation, to change the character of the service in the event that another character or type of service is preferable by the town, provided that the service must be similar in nature to the current character of service.

(C) *Charge for service*. A flat charge of $6.85 per unit per month is required.
(Ord. 3-1965, passed 12-6-1965; Am. Ord. 10-1979; passed 11-5-1979; Am. Ord. 1-1981, passed 2-2-1981; Am. Ord. 2-1982, passed 2-15-1982; Am. Ord. 1-1983, passed 5-2-1983; Am. Ord. 1-1987, passed 3-16-1987; Am. Ord. 7-1992, passed 12-21-1992; Am. Ord. 1-2008, passed 1-22-2008)

§ 51.008 FUEL COST ADJUSTMENT AND MISO ADJUSTMENT.

The adjustment in dollars per kilowatt hour for fuel cost adjustment and for the MISO (Midwest Independent Service Operator) adjustment shall be the same as that most recently billed to the Electric Utility by its purchased power supplier, and is applicable to, and shall be in addition to, Rate R in § 51.136, Rate C and Rate CI in § 51.137, and Rate S in § 51.138.
(Ord. 3-1965, passed 12-6-1965; Am. Ord. 9-1979, passed 7-16-1979; Am. Ord. 10-1979, passed 11-5-1979; Am. Ord. 1-1981, passed 2-2-1981; Am. Ord. 7-1992, passed 12-21-1992; Am. Ord. 2-2005, passed 4-4-2005)

§ 51.009 POWER COST ADJUSTMENT TRACKING FACTOR.

This adjustment is occasioned solely by changes in the cost of purchased power, as follows. Rate adjustment applicable to these rate schedules: R, C, CI, and S. A decrease of $.002 per KWH used per month.
(Ord. 3-1965, passed 12-6-1965; Am. Ord. 4-1978, passed 12-18-1978; Am. Ord. 9-1979, passed 7-16-1979; Am. Ord. 10-1979, passed 11-5-1979; Am. Ord. 7-1992, passed 12-21-1992; Am. Ord. 2-2005, passed 4-4-2005)

§ 51.010 FUTURE CHANGES.

When future changes occur in the cost of purchased power, thus causing a change in § 51.009 above, which section was calculated in accordance with the order of the Public Service Commission of Indiana approved on 12-17-1976 in cause No. 34614, as may be hereafter amended by the Commission, the factor shall automatically be changed accordingly and the Superintendent of the Electric Utility shall cause the appropriate documents for approval of the change to be filed with the Commission.
(Ord. 3-1965, passed 12-6-1965; Am. Ord. 4-1978, passed 12-18-1978; Am. Ord. 9-1979, passed 7-16-1979; Am. Ord. 10-1979, passed 11-5-1979; Am. Ord. 7-1992, passed 12-21-1992)
Statutory reference:
Management and control of utilities, see I.C. 36-9-2-14 and 36-9-2-15

§ 51.011 PURCHASED POWER COST ADJUSTMENT.

(A) This rate adjustment, applicable to Rate R in § 51.136, Rate C and Rate CI in § 51.137, and Rate S in § 51.138, provides solely for changes in the future cost of purchased power as follows. Power costs billed to customers of the Electric Utility shall be increased per kilowatt hour to the same extent of any increase billed to the Electric Utility by its purchased power supplier.

(B) When future changes occur in the cost of purchased power, which would cause a change in the purchased power cost adjustment, the adjustment shall automatically be made accordingly and the Town Manager shall have the appropriate rate schedule documents showing the change filed with the Clerk-Treasurer.
(Ord. 1-1981, passed 2-2-1981; Am. Ord. 1-1983, passed 5-2-1983; Am. Ord. 7-1992, passed 12-21-1992; Am. Ord. 2-2005, passed 4-4-2005)

DISPOSITION OF CERTAIN FUNDS

§ 51.020 CASH RESERVE FUND.

(A) A cash reserve fund is created for the town Electric Utility and carried on the record of the utility, to which fund contributions or transfers of surplus earnings of the Utility may be made.

(B) Surplus earnings are defined as those cash earnings remaining after provisions have been made to pay current obligations, including those for operating expenses, depreciation or replacement funds, or any other priority fund requirements fixed by ordinance or by law.

(C) No transfer to the cash reserve fund shall be made unless or until a depreciation or replacement fund has been established for the utility to which shall accrue at least 5% of the operating revenues each month.

(D) There shall be transferred to the cash reserve fund the surplus earnings of the utility. The transfers shall be made each calendar month upon satisfying the terms set forth in division (C) above. (Ord. 7-1992, passed 12-21-1992)

§ 51.021 TRANSFER OF CASH RESERVE FUND BALANCE TO GENERAL FUND.

(A) In each calendar year, the Council may transfer by resolution to the municipal general fund an amount to compensate the town for taxes that would be due the town on the Electric Utility property if it were privately owned. Each transfer shall be billed on the value of the utilities assets as would be

subject to taxes on December 31 of the previous year. Provided, nevertheless, the transfer shall not exceed the actual balance of the cash reserve fund as of July 31 of the current year.
(Ord. 7-1992, passed 12-21-1992)

DEPOSITS AND PERMITS

§ 51.030 DEPOSITS AND PERMITS.

(A) The following Deposit Requirement Schedule shall be applicable for all applicants for electric utility service of the town:

Deposit Requirement Schedule	
Customer Type	***Amount***
Residential home (owner occupied) if total electric	$100
Residential home (nonowner occupied) if total electric	$100
Residential apartment if total electric	$75
Residential home (owner occupied) if partial electric	$60
Residential home (nonowner occupied) if partial electric	$60
Residential apartment if partial electric	$60
Apartment houses, multiple-residential dwelling units, and mobile home courts, where each unit is not separately metered	Amount equal to the estimate cost of electric to be used for a three-month period as determined by the Town Manager, or an amount equal to $75 times the total number of units if total electric, or an amount equal to $60 times the total number of units if partial electric (apartments, mobile homes), at the option of the Town Manager
Any customer on C, CI, or S rate	15% of the active 12 months' electric charges at the service address (including taxes), rounded to the nearest $100. If the service is at a new address, the 12-months' charges will be estimated, based upon the type and size of the customer as compared to similar types and sizes of customers. Deposits are subject to periodic review, after which, the deposit may be adjusted to more accurately reflect the 15% requirement.

(1) When a previously-terminated account customer (nonowner or owner occupied) returns to establish a new account after a period of time has elapsed, and the prior account for utility service previously established a history of being past due with the Hagerstown Electric Utility, the town may

double the regular deposit amount as provided above, and any amounts due or written off as bad debts must be paid, and any collection or legal fees paid to outside agencies must be reimbursed before a new account will be established.

(2) If an active account (nonowner or owner occupied) continually becomes or remains past due (determined by the application of three or more penalty charges against the account for late payment), or service has been disconnected due to nonpayment, a deposit equal to double the schedule established above may be required for continuation of or re-establishment of service.

(3) The owner-occupied residential deposit is required as set forth in the schedule above before electric utility service will be rendered.

(a) The deposit may be waived, however, and the owner deemed creditworthy, if the owner applicant provides written confirmation from the owner's preceding utility company or companies (with Hagerstown Electric Utility also qualifying as a preceding utility company) that the owner is creditworthy, the confirmation covering a previous two-year period and verifying that the applicant:

1. Has been a customer of the previous utility(ies) within the past two years;

2. Is not past due on any bill at this time for service rendered by the previous utility(ies);

3. Within the past one year, did not have more than one bill which was delinquent to any utility; and

4. Within the past two years, did not have a service disconnected by any utility for nonpayment of a bill for services rendered by the utility.

(b) If the owner-occupied applicant has not had service with any utility company within the past two years, he or she must make a deposit as set forth in the schedule above. After two years, the deposit may be refunded subject to the conditions set forth below in the division addressing refunds.

(4) The nonowner-occupied residential deposit is required as set forth in the schedule above before electric utility service will be rendered. When a nonowner residential customer who is a current nonowner residential customer of the Hagerstown Electric Utility moves to a new account (different location/address), a new application for utility service shall be required. The previous deposit will normally be transferred to the new account, however, if the customer has developed a history of being past due, the old deposit shall stay with the old account and a new deposit shall be required for the new account. In this event, the deposit required on the new account may be double the regular deposit requirement. The old deposit will be applied to the current and final bills of the old account, and the balance, if any, will be refunded. If the old account is past due on the moving date, a new account will not be established until the old account is brought current. If the nonowner applicant fails to pay the old account in full, the service will not be re-established until the property owner has paid the balance of the

old account. If, after the final bill is prepared, the old deposit is not sufficient to cover the remaining charges of the old account and the old account becomes past due, the new account will be subject to service termination or disconnect as though the two accounts were one. When planning a move, the business office of the town should be given sufficient notice, the notice to be a minimum of three business days, so that services can be terminated on the planned date of vacating the premises. No additional deposit shall be required of a person with a current electric account having made a deposit pursuant to the deposit schedule provided if the person should change his or her name, nor shall a surviving spouse be assessed an additional deposit upon transferring an account from the deceased spouse's name to the surviving spouse's name, provided that the account of the person or surviving spouse is paid current and within the past one year, the account did not have more than one bill which became delinquent, and within the past two years, the account did not have service disconnected for nonpayment. Additionally, the town may require that the person, after his or her name is changed, or the surviving spouse, as the case may be, complete an application for utility service.

(5) Commercial, industrial, institutional, and government accounts (those on C, CI, or S rate) shall be required to pay a deposit before electric utility service will be rendered, the amount of which shall be determined by the above schedule. If an account continually becomes or remains past due (determined by the application of three or more penalty charges against the account for late payment), or service has been disconnected due to nonpayment, a deposit equal to double the amount determined by the above schedule will be required for continuation of or reestablishment of service. If an account is disconnected because of nonpayment, the deposit will be used to defray any or all of the existing balance. Upon re-establishing the required deposit balance (a surety bond may be required in order to cover the increased amount), the payment of reconnect charges and payment of any charges not covered by the deposit and/or surety bond, services will be restored. If a commercial, industrial, institutional, or government deposit is more than $200, the customer/applicant shall be allowed one of two options as follows.

(a) *To make weekly installment payments until the total deposit requirement is paid in full.* The first payment shall be at least $200 and installment payments shall not continue beyond eight weeks. Service shall be connected upon receipt of the first such payment, but may be terminated at any time, without notice, upon failure by the applicant or customer to make the agreed upon installment payments and/or utility bill payments when due; or

(b) *To provide an assigned surety bond from an approved underwriting company for the deposit requirement.* Service shall be connected upon receipt of the surety bond.

(B) (1) Cash deposits will be applied to the customer's final bill after which the balance, if any, will be refunded. Interest will not be paid on any part of the deposit. Any balance due from the customer after application of the deposit shall be due and payable on or before the date specified on the final bill.

(2) Residential owner-occupied cash deposits may be refunded after two years, if requested in writing, and, if the following conditions are met: within the 12 month period preceding the date of the request, the owner/occupant did not have more than one bill which became delinquent, and within the

24 months preceding the date of the request, the owner/occupant did not have service disconnected for non-payment. Non-residential surety bonds will be canceled and returned to the principal within a reasonable time after all final charges are paid.

(3) If the application of this chapter creates a refunded amount to be given to the customer, the Clerk-Treasurer is authorized to refund to a customer, without further act of Town Council, an amount not exceeding the amount of the full deposit of the customer.

(C) Any person requesting temporary use of electric power shall secure a permit from the Town Electric Utility. The permit shall be valid for only the use as stated in the application and shall expire at the end of the use. The fee for the permit shall be $50 for single-phase installations and further; two-phase installations shall be the cost of the installation as determined by the Town Manager, and shall be used to defray the electric utility's cost in providing the drop and setting the meter base and removing same after temporary usage has been completed. The Town Manager shall make the determination if in fact the requested usage is deemed as temporary use. Temporary users shall comply with all other provisions of this chapter as to rates and regulations of the Electric Utility.
(Ord. 7-1992, passed 12-21-1992; Am. Ord. 2-2005, passed 4-4-2005; Am. Ord. 3-2009, passed 3-17-2009)

§ 51.031 OTHER CHARGES AND FEES; RECONNECTIONS.

(A) In the case of apartment houses, multiple-residential dwelling units, and mobile home courts, where the property is owned by one person, each apartment, residential dwelling unit, and mobile home shall be considered a separate residential unit for billing purposes.

(1) Where the physical structure(s) is/are such that it would be economically prohibitive to separately meter each unit and more than one unit is metered by a single meter, then the amount of the electric bill shall be computed as follows.

(a) The minimum charge will be the current minimum charge as established in the latest applicable residential rate schedule of the town electric rate code multiplied by the number of units.

(b) The charge for usage shall be calculated on the total kilowatt hours used at the current rate set forth in the latest applicable residential rate schedule of the town electric rate code, but in no case shall the charge be less than the minimum as defined in division (A)(1)(a) above.

(2) In the case of business or commercial houses or structures occupied by more than one business where the property is owned by one person, each business division shall be considered a separate commercial unit for billing purposes. Where the physical structure(s) is/are such that it would be economically prohibitive to separately meter each unit and more than one unit is metered by a single meter, then the amount of the electric bill shall be computed as follows.

(a) The minimum charge will be the current minimum charge as established in the latest applicable commercial rate schedule of the town electric rate code multiplied by the number of units.

(b) The charge for usage shall be calculated on the total kilowatt hours used at the current rate set forth in the latest applicable commercial rate schedule of the town electric rate code, but in no case shall the charge be less than the minimum as defined in division (A)(2)(a) above.

(B) In all cases of multiple-billing units with one master meter, the electric charges shall be billed to the owner of the property served and the owner shall be responsible for the payment thereof.

(C) (1) All fees and charges payable under the provisions of this chapter are due no later than 15 days from the date of billing as set forth in any utility billing of the town ("due date" or "Due Date"). In the event that any service charges are not paid on or before the due date, the unpaid charges are delinquent and shall be subject to a late fee or penalty of 10% of the delinquent amount. In addition to incurring a late fee or penalty charge, in the event that any fee and/or charge is not paid in full within ten days of the due date, and the customer not having before the expiration of said ten days requested a hearing in writing submitted to the Town Clerk-Treasurer before the utility board concerning accrued charges, fees, and penalties, it shall result in the services to the customer being disconnected. Fees and deposits associated with any reconnection of services shall be as set forth in this chapter, and the deposit may increase as a result of a disconnection, pursuant to the deposit requirement schedule. The bill sent to the customer will indicate that if the bill remains delinquent for a period of ten days after the due date thereof, and the customer not having requested the hearing referenced herein, it shall result in the services to the customer being disconnected, and there shall be no further notice provided prior to discontinuance of service.

(2) In addition to any fees and charges, including late fees, in the event that the town takes any action to recover delinquent or unpaid fees and charges, the customer shall be responsible for any and all costs of collection incurred by the town, including, but not limited to, attorney fees and/or any fees paid to a collection agency.

(D) A service charge of $30 shall be collected for reinstating any service after a work order has been issued to disconnect for nonpayment of charges if service is reconnected within the normally scheduled working hours of the Electric Utility employees. The charge shall be $45 if reconnection is requested by service owner to be made outside of the normally scheduled working hours of the Electric Utility employees. Additionally, any past due or delinquent fees and/or charges must be paid in full prior to reconnection.

(E) Service may be temporarily disconnected on a temporary vacation status not to exceed six months. The charge shall be $25 for each disconnect and reconnect of the electric service if accomplished within the normally scheduled working hours of the Electric Utility employees. There shall be an additional $15 fee assessed for each disconnect and reconnect if requested by service owner to be accomplished outside of the normally scheduled working hours of the Electric Utility employees. The disconnection service shall only apply to the occupants of the premises in question wherein a temporary vacancy exists for the above stated purpose and the occupants in question will return to occupy the premises. Any request is to be made at least two working days prior to owner’s departure to allow for scheduling by Electric Utility personnel.

(F) Any owner or non-owner occupied premises that has been disconnected from the Electric Utility of the town for any period of time in excess of six months shall obtain a full electric service inspection of the premises by a certified or licensed electrician of the customer's choosing and at the customer's expense and shall tender evidence of that electrician's conclusion that the premises has been released for reconnection to the Electric Utility to the Town Manager, or his or her designee, prior to any reconnection request being granted and undertaken in such a situation.
(Ord. 7-1992, passed 12-21-1992; Am. Ord. 2-2005, passed 4-4-2005; Am. Ord. 1-2008, passed 1-22-2008; Am. Ord. 10-2013, passed 11-4-2013; Am. Ord. 5-2015, passed 7-20-2015)

APPLICATIONS AND REQUESTS FOR SERVICE

§ 51.040 APPLICATIONS AND REQUEST FOR SERVICE.

(A) One person may, at the town's discretion, be named on the contract or permit application as the service owner. Applications for electric service shall be in writing and be delivered in person at the business office of the town on a form provided by the town entitled "Application for Utility Service."

(1) Any requirements of a cash deposit, connection or reconnection fee, or other fees, and/or credit worthy criteria, as provided in this chapter, shall be paid and/or submitted before any utility service will be rendered, including:

(a) Request for a permit to connect to the Electric Utility;

(b) Disconnections or reconnections for nonpayment, improper tampering or use, or vacation status;

(c) Owner or non-owner initiated discontinuance of service. A written request is required and must be completed using a form provided by the town, entitled "Request for Discontinuance of Service." The form shall contain a release to be signed by any non-owner customer (if applicable) and the owner of the property. The customer is required to be present for any final readouts. All fees and charges not paid shall be due and payable on or before the due date reflected on the final bill; and

(d) Landlord Transfer Agreement.

(2) In order for utility service to be rendered to an applicant, owner, or non-owner, all prior accounts and amounts due or written off as bad debt regarding the applicant or in the applicant's name must be paid, and any collection costs or legal fees paid to outside agencies or parties as a result of the applicant's failure to pay must be reimbursed before a new account will be established for that applicant.

(3) Any request for service shall be made to the Electric Utility no less than 72 hours in advance of the time service is desired, excluding non-business days. If the requested service involves construction, equipment installation, or special considerations, the request shall be made to the Electric Utility no less than 45 days in advance of the time service is desired.

(B) Any customer requesting utility service at a different location than where that customer currently has, or previously had, service, shall be required to complete an application for utility service for that specific location on the form provided by the town, and to pay the deposit and following the procedures regarding the payment of deposit, as set forth in § 51.030, at the time that the customer submits the application in person at the business office of the town.

(C) When submitting the application for utility service, the applicant will be asked for proof of identification (driver's license or state issued ID preferred). This is necessary to aid in the collection process, if necessary, and to eliminate possible falsification of customer information. The appropriate town personnel at the town's business office will make a copy of the proof document and attach it to the application.

(D) If the applicant is not the owner of the property to which service is being requested (non-owner customer), the property owner or a properly authorized agent of the property owner shall sign the owner's certificate section of the application. The signature of the owner must be notarized or signed in the presence of a representative of the town, who shall witness the application at the business office as provided therein. The signature of the application by an applicant is an acknowledgment that the applicant understands and agrees to the responsibilities, requirements, including, but not limited to, the payment and deposit requirements set forth in this chapter, and the applicant's agreement to comply with the Town Code relevant to utility services.

(E) After reviewing the application for completeness, the town will determine the deposit required, if any, and review computer and/or other records to verify that the applicant has no previous history of being past due and for any previous account balances that may still be owed to the town. Upon payment of any required cash deposit, a receipt will be issued by the town to the applicant.

(F) Copies of the application for utility service form will be available at the business office of the town for use by potential applicants, property owners, non-owner customers, and those who are new construction homeowners.
(Ord. 7-1992, passed 12-21-1992; Am. Ord. 2-2005, passed 4-4-2005; Am. Ord. 1-2008, passed 1-22-2008)

§ 51.041 LANDLORD TRANSFER AGREEMENT.

(A) Owners of property wherein there is a non-owner customer receiving electric service, may, but shall not be required to, complete a Landlord Transfer Agreement form. The forms shall be made available by the town to property owners upon request of the property owner. The Landlord Transfer Agreement is applicable where a property owner leases, rents, or otherwise allows occupancy or use by a non-owner customer.

(B) The owner of the property may enter into an agreement with the town to provide for the continuance of electric service in the event that the terms of this chapter would otherwise result in a voluntary or involuntary termination of the service to the property. In such an event, the owner would be requesting, as part of the Landlord Transfer Agreement, that the town continue electrical service to the property instead of actually disconnecting the electrical service based on nonpayment by the non-owner customer. In exchange for the town not disconnecting the service, the owner agrees to and

would be responsible for and pay all electrical service charges for services rendered to the property from the date that the town would otherwise be authorized to disconnect the service until the date that the town contracts with a new non-owner customer, the owner, or a new owner of the property, pursuant to the application process set forth in § 51.040, to be responsible for the electrical service and charges. Any such transfer would not occur in instances where disconnection is a result of a condition that is dangerous to health, physical safety, or property. Any such Landlord Transfer Agreement must be in a form adopted by the Town Council, and the owner must agree to and be responsible for the terms set forth therein. In the event that the Town Council adopts a revised or amended Landlord Transfer Agreement, the owner may be required to enter into the revised or amended Landlord Transfer Agreement in order to continue the utility services thereunder.

(C) A Landlord Transfer Agreement would be treated as an application for services, and as such, would require any and all required paperwork and any deposit or deposits required by the town as set forth in this chapter, depending on the amount of properties listed as part of the Landlord Transfer Agreement and based on the creditworthiness of the owner as an applicant, as set forth in this chapter for any other applicant for service. Failure to provide the required paperwork and any deposits, if applicable, would result in the town not entering any Landlord Transfer Agreement.
(Ord. 1-2008, passed 1-22-2008)

STANDARD OF SERVICE

§ 51.050 INTENT OF THE ELECTRIC UTILITY.

(A) The town Electric Department shall attempt to maintain a viable distribution system for the provision of electrical power commensurate with accepted trade standards and practices.

(B) The Electric Utility reserves the right to interrupt service to any customer at any time due to failure of equipment, to effect necessary repairs to equipment, testing of service lines or equipment, or any reason that is determined by the Manager that is in the best interests of the town.

(C) The Electric Utility further reserves the right to interrupt or terminate the supply of electricity without notice, for the following reasons:

(1) For repairs;

(2) For lack of supply;

(3) For nonpayment of charges and fees when due;

(4) For interference with any of the electric utilities appliances or connections thereto; and

(5) For failure to comply with the terms of this chapter or the contract/permit. The discontinuance shall not invalidate any contract with the town Electric Utility and the town Electric Utility retains the right to enforce any contract/permit the discontinuance notwithstanding.

(D) The town and Electric Utility shall not be liable for damages incurred by the customer or other parties due to reduced voltages, power surges, or the interruption or stoppage of the electric current or for damages caused by defective wiring on or in the customers premises and further, the Electric Utility shall not be held liable for acts of nature or acts of man beyond the control of the Electric Utility.
(Ord. 7-1992, passed 12-21-1992)

REQUIREMENTS AND PROHIBITIONS

§ 51.060 DESCRIPTION OF ELECTRIC CURRENT TO BE FURNISHED.

The customer shall provide in writing upon request of the Electric Utility a list of the devices which are to be attached to the utilities electric distribution system to include the location of the premises. The Electric Utility will then advise the customer of the form, voltage, and description of the electric current

the utility will furnish. The town Electric Utility may require contractual time frames of longer duration when unusual construction or equipment expense is incurred by the Electric Utility in the provision of electric service to the customer.
(Ord. 7-1992, passed 12-21-1992)

§ 51.061 SERVICE CONNECTIONS.

(A) The Electric Utility will locate the point where the service connection will be brought to the premises. The wires at the entrance run shall extend no less than three feet beyond the upper and outer end of a weatherproof fitting commonly called the weatherhead or mast. Customers desiring an underground service connection from the overhead wires shall at their own expense install and maintain service wires in conduit from a meter board on their premises to and up the utility pole where the connection is to be made.

(B) The Electric Utility will extend its service lines a reasonable distance as determined by the Manager for the purpose of supplying electric service for a new connection. Any changes requested by the customer after installation of the service connection shall be at the customer's expense.

(C) Customers of the Electric Utility shall at their own expense equip and maintain their premises with all wiring and entrance equipment constructed and maintained in accordance with accepted standards and practices as set forth in state and local building codes whichever shall be the most stringent. The construction and maintenance shall be subject to inspection and approval by the Electric Utility Manager or authorized designee.

(D) When required by the form of service to be installed as shall be determined by the Manager, the customer shall provide, at no expense to the town or Electric Utility, a suitable place near the service entrance for the installation of transformers, meters, or other devices furnished and installed by the Electric Utility.
(Ord. 7-1992, passed 12-21-1992)

§ 51.062 METERS.

(A) Any and all services shall be metered unless otherwise specified in writing and approved by the town. The meter shall be of standard manufacture designed to measure the use of electric current in accordance with rules and standards of the Public Service Commission of the state and the regulations of the Electric Utility.

(B) Subject to the provisions and responsibilities of property owners set forth in § 51.092 of this chapter, meters shall be furnished and installed by the Electric Utility. Except for those meters provided by and at the expense of the property owner pursuant to § 51.092, meters shall remain the property of the utility. Meters shall not be tampered with under penalty of law.

(C) The placement of the meter shall be at the option of the Electric Utility.

(D) Upon the installation and registration of the meter or meters, all bills other than service charges, rents, or fees shall be calculated from usage readings registered by the meter.

(E) If more than one meter is installed with individual meters registering different classes of service being charged at different rates, each meter usage shall be considered independently when calculating usage for billing purposes.

(F) When for the convenience of the Electric Utility more than one meter is installed for the same class of service, the sum of the registration from all meters shall be the total and the total usage calculated for billing purposes.

(G) The Electric Utility shall test the accuracy of registration of a single phase meter at seven-year intervals. The Manager may, with the concurrence of the Council, conduct tests at shorter intervals if deemed necessary.

(H) The Electric Utility will test the accuracy of registration of a single phase meter upon written request of a customer to do so and upon the customer depositing a $25 fee with the Electric Utility. If the meter is found to be within the allowable limit of 2% plus or minus error, the deposit shall be retained by the Electric Utility. If the meter is found to be registering in excess of the allowable plus limit, the deposit fee shall be refunded to the depositor.

(I) The Electric Utility will test the accuracy of registration of three-phase or demand meters upon written request of a customer to do so and upon the customer depositing the actual cost of testing the meter as determined by the Manager. If the meter is found to be within the allowable limit of 2% plus or minus error, the deposit shall be retained by the Electric Utility. If the meter is found to be registering in excess of the allowable plus limit, the deposit fee shall be returned to the depositor.

(J) If upon test of any meter at the request of a customer the registering thereof is found to be greater than 2% on the fast side of the limit, the Electric Utility shall refund upon the customer's written request an amount equal to the excess charged without interest for electricity incorrectly metered for a period equal to one-half of the time elapsed from the previous test, but not for a period greater than six months.

(K) If upon test of any meter at the request of a customer it is found to be greater than 2% on the slow side of the limit, the Electric Utility may make a charge to the customer for electricity incorrectly metered for a period equal to one-half of the time elapsed since the previous test but not for a period greater than six months.

(L) If a meter is found not to have registered for any period, the Electric Utility shall estimate the charge for electricity usage by averaging the amounts registered over similar periods preceding or subsequent thereto, or over corresponding periods in previous years.

(M) No part of the customer charge or the minimum charge for usage and the receipt of service on customer billing shall be subject to refund or additional assessment by the Electric Utility in cases of meter error except as set forth above.
(Ord. 7-1992, passed 12-21-1992; Am. Ord. 1-2009, passed 2-17-2009)

SCHEDULE OF SERVICES

§ 51.075 ADOPTION OF SCHEDULES.

The following schedules are adopted for use by the Town Electric Utility:

(A) Schedule C and Schedule CI - Nonresidential and Commercial Single- and Three-Phase Service;

(B) Schedule R Residential Single-Phase Service; and

(C) Schedule S School Electric Service (and other demand metering applications).
(Ord. 7-1992, passed 12-21-1992; Am. Ord. 6-2003, passed 12-15-2003)

§ 51.076 OUTDOOR LIGHTING.

(A) For each lamp with luminaire and upsweep arm which shall not measure over six feet in length, controlled by a photoelectric relay, where service is supplied from an existing pole and secondary facilities of the Electric Utility, the rate of charges, rents, and fees shall be set by the Council per lamp. The lamp shall be 7,000 lumen mercury or sodium vapor equivalent. When new facilities must be installed by the Electric Utility, the customer shall in addition to the monthly charge pay in advance the installation costs of the overhead facilities extending from the nearest or most suitable utility pole of the Electric Utility to a point designated by the customer for the installation of the lamp.

(B) Contracts for outdoor lighting service shall be for not less than one calendar year for residential or farm customers, not less than three years for commercial or industrial customers, and not less than five years for all other customers.

(C) All facilities and equipment necessary for services including fixtures, controls, poles, transformers, secondaries, lamps, and other appurtenances shall be owned and maintained by the Electric Utility.

(D) All services and necessary maintenance shall be performed only during regularly scheduled working hours of Electric Utility employees. Nonfunctioning bulbs shall be replaced in a timely manner as determined by the Electric Department after notification by the customer. However, no discount or adjustments of charges, rents, or fees shall be returned to the customer due to temporary interruptions of service.
(Ord. 7-1992, passed 12-21-1992)

§ 51.077 MUNICIPAL STREET LIGHTING.

(A) The municipal street lighting rate shall apply to all street lighting service furnished to the town by the Electric Utility.

(B) The type of fixture to be installed shall conform to the standards established by the Electric Utility, and as determined by the Electric Utility consist of either mercury vapor or sodium vapor fixtures.

(1) The rated size in lumens of the fixtures shall be determined by the Electric Utility and shall be adequate to provide an intensity of illumination in accordance with generally accepted standards for the location and use involved, taking into consideration factors such as width of streets, traffic conditions, and spacing of adjacent lamps.

(2) The Electric Utility shall install, operate, and maintain all street lighting equipment and appurtenances to include lamp replacements.

(C) Additional lamps may be installed or reduced only upon authorization of Council to expand the municipal lighting system.

(D) All street lighting service meters shall be read monthly and the total KWH furnished shall be billed to the town in accordance with the rates established in the most recent edition of the town Electric Rate Code. The town shall pay the Electric Utility for the service in the manner specified by state law.
(Ord. 7-1992, passed 12-21-1992)

§ 51.078 SCHEDULE R.

(A) Schedule R Residential Single-Phase Electric Service shall be made available system-wide to all residential customers meeting the definition found in division (B) below as determined by the Electric Utility and located within the service area of the municipal electric distribution system of the Electric Utility. All applications for service shall be in accordance with and conform to the provisions of this chapter.

(B) Schedule R is applicable only to service supplied to premises designated and recognized as single-family, residential home or farmhouse use. This includes apartments, mobile homes, and other dwelling quarters wherein each unit is individually occupied by an owner or tenant as a residence.

(C) Where electric service is supplied for combined residential and nonresidential or commercial use, the higher of the two rates shall apply. The customer shall have the option to separate the wiring at their expense subject to inspection and approval of the Electric Department, and each class of service shall accordingly be separately metered and billed.
(Ord. 7-1992, passed 12-21-1992)

§ 51.079 SCHEDULE R TERMS AND CONDITIONS.

(A) All applications for scheduled service shall be made in the name of the property owner or tenant who shall become the customer and who shall be responsible for payment of all charges, rents, and fees. Where premises are occupied by a tenant, the Electric Utility may advise the property owner of delinquent rents, charges, and fees and the Electric Utilities intent to discontinue service, and further the Electric Utility may advise the property owner of tenant initiated discontinuance of service. In all cases, the customer retains the right to discontinue services contracted in their name. In no case will both tenant and owner be assessed dual billing for the same charge, rent, or fee payable. Nothing in this section shall be construed as being in conflict with or negating § 51.076 of this chapter.

(B) The type of service furnished under Schedule R shall be single-phase with the potential of approximately 120/240 volts, three-wire 60 Hertz. However, the Electric Utility may elect to furnish 120 volt two-wire service. Single-phase service shall not be furnished where individual single-phase motors larger than five-horse power are installed, except where written permission is granted by the Manager. Where three-phase primary distribution is in place immediately adjacent or in close proximity to the customers premises and in the Electric Utilities opinion the customers use of three-phase service would justify the additional investment, the Electric Utility may furnish three-phase service under Schedule C.

(C) Multiple-dwelling units under Schedule R are applicable where not more than single dwelling units consisting of single-family homes, apartment, mobile home, or other individual living quarters is supplied through one meter. If more than a single dwelling unit is supplied through one meter, the customers minimum charge shall be the applicable rate multiplied by the number of units served. For new services supplied subsequent to the date of this chapter, the Electric Utility may require, prior to service being provided, that all single-dwelling units, living quarters, or apartments be individually wired and metered for separate billing under Schedule R.

(D) Schedule R is applicable for house heating service where in the service installation conforms to the specifications and conditions hereinafter set forth.

(1) All electric space heating equipment shall consist of a permanent installation in compliance with applicable state and local building and mechanical codes with maximum connected KVA explicitly stated. The equipment may consist of individual room-resistance space heating units, reversed cycle refrigeration units, or central furnace units. In no case shall any such heating equipment exceed a 25-KWH demand.

(2) The entire heating installation to include; heating units, wiring, controls, duct works, and building insulation shall be subject to inspection and approval by the Electric Utility manager prior to the provision of service.

(3) Wherein a home is heated by means of circulating hot water system using a resistance operated hot water heating unit, and the heating units aggregate rated capacity exceeds ten KWH with a maximum of 25 KWH, Schedule R shall apply.

(4) (a) A budget billing plan will be made available to a customer in an owner-occupied, single family residence using electric heat as the principal source of home heating upon approval by the Electric Utility. An owner-occupant must be a customer of the Hagerstown Electric Utility for a period of at least 12 months in the same residence immediately proceeding the time for which budget billing is being requested before making an application for budget billing approval for that residence.

(b) The Hagerstown Electric Utility will bill the customer each month 1/12 of the estimated cost of service for a 12 month period under the schedule set forth in § 51.136 herein, with said 12 month period occurring just prior to the customer requesting approval for budget billing. This equalized monthly payment plan shall commence with the bill dated October 1, and will continue thereafter month-by-month for ten subsequent months. During this period of 11 months, the cost of each month's service calculated under the rate will be charged to the customer's electric account, and all payments made by the customer will be credited to his or her electric account. The bill rendered for the twelfth month will be properly adjusted for the difference between the actual billing during the first 11 months and the payments made by the customer for service during the period. If at any time during the first 11 months the customer's consumption, including variable costs of furnishing service, of electricity increases to such an extent that it is apparent that the estimate for the year's service and the resultant monthly payments differ by more than 5% from the amount of the budget billing payments, the Hagerstown Electric Utility retains the right to revise the estimate and increase the monthly billing accordingly.

(c) The budget billing amount must be paid on or before the due date each month to allow the budget billing plan customer to continue to qualify for budget billing privileges. If the budget billing amount is not paid on or before the due date in two successive or non-successive months within a budget period, the budget billing privilege for the owner-occupant budget billing plan customer will be

discontinued and the owner-occupant will not be qualified to apply for budget billing payments for at least 12 months following the end of the current budget billing plan period.

(d) Upon being disconnected, the full balance due for electric service will become immediately due and payable and reconnection fees will be added. If disconnect of electric service occurs in any month because of non-payment before the published disconnect date, the budget billing privilege for the owner-occupant budget billing plan customer will be immediately terminated. Following the disconnect, the owner-occupant will not be qualified to apply for budget billing privileges for at least 24 months following the end of the current budget billing plan period.

(5) Service provided under this schedule shall not be resold or submetered.
(Ord. 7-1992, passed 12-21-1992; Am. Ord. 13-2009, passed 12-1-2009)

§ 51.080 SCHEDULE C AND SCHEDULE CI TERMS AND CONDITIONS.

(A) Schedule C Nonresidential and Commercial Single- and Three- Phase Service is available and applicable for single- and three-phase service for all nonresidential and commercial electric service not specified as applicable to Schedule R residential services. This shall include but not be limited to: electric service furnished to retail and wholesale business concerns, small industrial manufacturing and or processing concerns, hotels, motels, tourist inns, retail stores, restaurants, vehicle service stations, professional offices, theaters, schools, churches, clubs, lodges and professional buildings, and further for all other uses that are not ordinarily classified as being residential in character.

(B) Where single-phase service is furnished, the applicable monthly customer charge shall apply for not less than four consecutive months each time that service is established in any given name. Any disconnection of single-phase service shall be subject to the reconnection fee assessed by the Electric Utility any time that service is reconnected in the same name.

(C) Where three-phase service is furnished, the applicable monthly customer charge shall apply on a chronological basis of not less than 12 consecutive months, or longer as may be specified in the electric service agreement between the Electric Utility and the customer. Any seasonal disconnection of three-phase service shall not negate or allow avoidance of the applicable monthly service charge.

(D) Services available in Schedule C shall be supplied through a single set of service wires to a single meter location. The voltage supplied shall be at the Electric Utilities option in either 120/240 volt single phase, three-wire service, or 240 volt three-phase, three-wire or four-wire service, or 120-208 volt three-phase service or such other voltage and wire combinations as the Electric Utility at its option may make available. If a customer requests a voltage or wiring combination that the Electric Utility does not provide or is deemed nonstandard by the Electric Utility, the customer shall be required to obtain written permission from the Electric Utility to construct or install the transformers and other equipment necessary to deliver the voltages. The equipment, installations, constructions, and continuous proper maintenance of same shall be at the customer's expense.

(E) All motors five-horse power and larger shall be equipped with reduced voltage starting equipment or other control devices that will reduce, curtail, and avoid creating voltage surges on the Electric Utilities system. This requirement may be waived only by written permission from the Electric Utility.

(F) The Electric Utility shall have no obligation to furnish three-phase service if the Utility deems that it is not practical or economical to do so. The Electric Utility may enter into contracts with the customer to recoup economic investments for installation of the services.

(G) All service shall be delivered through a single set of service wires to a single service location designated by the Electric Utility. A separate bill shall be rendered for each different meter location wherein more than one set of service wires exist, or where the customers service entrance switches or the Electric Utilities meters are at a different location.

(H) At any premise wherein there occurs mixed usage of schedules of service, all service may be billed under one schedule to be determined by the Electric Utility. The customer may at their own expense separate the wiring upon inspection and approval by the Electric Utility, and each class of service shall be metered and billed separately with the applicable rate schedule.

(I) Where three-phase service is furnished by the Electric Utility, the utility shall determine wire combinations.

(J) Rate C may be applied to agricultural uses outside the corporate limits of the town wherein single-phase or three-phase service is supplied only for applications that are part of the commercial agricultural operation and are usually considered to be nonresidential usages of electric power. Separation of services may be accomplished per division (H) above.

(K) Meter readings shall be actual reading and not estimations with billings computed from the actual readings.

(L) The Electric Utility shall have the option to meter the customers electric energy usage at either the secondary or primary voltage.

(M) Service provided under this schedule shall not be resold or submetered.

(N) The terms and conditions set forth in this section shall be applicable to Rate C and Rate CI customers. However, in the event that there are additional terms and conditions found in § 51.137 and § 51.138 regarding Rate CI, the terms set forth in those sections shall take precedence over any terms in this section.
(Ord. 7-1992, passed 12-21-1992; Am. Ord. 6-2003, passed 12-15-2003)

§ 51.081 SCHEDULE S TERMS AND CONDITIONS.

(A) Schedule S shall be applied to public schools supplied by the town Electric Utility distribution system.

(B) Schedule S shall be metered and usage fees assessed on the latest applicable power demand usage rate formula as set forth in latest applicable rate schedule of the town Electric Rate Code.

(C) Customers expanding present facilities or building new facilities requiring electric power under the terms and conditions of Schedule S shall notify the Electric Utility of their power requirements and prior to connection the Electric Utility shall formulate and adopt an applicable rate consistent with projected power usage demand.
(Ord. 7-1992, passed 12-21-1992)

EXTENSION OF DISTRIBUTION AND SERVICE LINES

§ 51.090 AUTHORIZATION.

The Electric Utility is granted the authority to construct, own, operate, and maintain all facilities necessary to render services in the provision of electrical energy to customers weatherheads.
(Ord. 7-1992, passed 12-21-1992)

§ 51.091 EXTENSION OF SERVICE.

(A) All new line extensions to permanent installations involving an aggregate distance greater than 250 feet by combining primary line, secondary line, and service drop line shall be subject to the conditions set forth in this section.

(B) The Electric Utility, upon receipt of proper application, may extend without additional charge, electric service lines to a customers premises, provided the estimated revenue received in a 30-month period by the Utility by the provision of the extension is equal to or greater than the costs incurred by the Electric Utility in providing the service.

(C) If anticipated revenue is less than costs that can be recouped in a 30-month period in the provision of a requested service extension, the Electric Utility may enter into a contract with the customer wherein the customer agrees to pay the monetary difference between actual cost and estimated revenue.

(D) In any event, if in the opinion of the Electric Utility a requested service extension would provide the little revenue that a fair return on investment would not be present, the Electric Utility may enter into a contract wherein the customer agrees to pay for all or an agreed upon portion of the costs of the service extension.

(E) All cost and revenue estimates will be determined by the Electric Utility. If an applicant is required to pay for any portion of a service extension, the Electric Utility shall upon written request by the customer, provide cost documentation in regard to construction and estimated revenue.

(F) All extensions of service shall require that a written agreement be executed between the Electric Utility and the customer. The Electric Utility may require proof of financial responsibility, wherein the customer may be assessed a portion of the costs in the provision of the extension.

(G) The customer, upon prior approval of the Electric Utility, may install the service line(s) from the electrical supply distribution system to the premises served, subject to the following prerequisites.

(1) Before constructing the installation, the customer must submit plans and designs for the construction to the Electric Utility.

(2) The Electric Utility shall review the plans and either approve or disapprove of same.

(3) The Electric Utility shall monitor and approve all construction prior to energizing the service lines.

(4) The customer may request after the service line(s) are constructed transfer of ownership of same to the Electric Utility. The transfer of ownership shall be accomplished only if the Town Council approves the request.

(H) The Electric Utility shall be responsible for furnishing and setting the first and last utility poles in extensions of service requested by a property owner. Each interim utility pole and overhead spans required to be furnished and set may be at the expense of the property owner, if other arrangements have not been contractually agreed upon.

(I) Nothing in this section shall be constructed or construed as limiting the powers of the Electric Utility and the Town Council to exercise their right to either approve or disapprove requests to extend electrical service or to enter into agreements with other utilities.
(Ord. 7-1992, passed 12-21-1992)

§ 51.092 STANDARD EQUIPMENT.

(A) The Electric Utility shall furnish all pole-mounted transformers not exceeding 75 KVA in rated capacity. Transformers exceeding 75 KVA in rated capacity may be at the expense of the property owner. However, nothing in this section shall be constructed or construed as limiting the powers of the Electric Utility or the Town Council to provide and install any and all electrical equipment, standard and nonstandard, it deems prudent and necessary in the provision of services.

(B) The Electric Utility may enter into contracts with property owners to share costs of purchasing and installing electrical equipment. The Electric Utility and Town Council may also enter into agreements with property owners in regard to assigning ownership and maintenance responsibility of co-purchased and installed equipment.

(C) The Electric Utility shall furnish and install all standard meters that do not exceed 200 amperes rated capacity. All meter bases, and all meters exceeding 200 amperes in rated capacity, shall be furnished and installed by and at the expense of the property owner. All meter bases and any meters supplied by the property owner must be conducive to and compliant with the electric utility improvements of the town, and must comply with any and all local, state, and federal regulations. Meter bases furnished and installed by the property owners, as well as meters furnished and installed by the property owners, shall remain the property of the property owner. The Electric Utility, at its expense, may test any meter for accuracy and require any such defective metering equipment to be replaced. If the metering equipment which is defective is metering equipment that is required to be provided by the property owner, any expenses associated with such replacement shall be the responsibility of the property owner.

(D) The Electric Utility deems all underground electrical wiring installations as nonstandard construction and as such these installations may be at the expense of the property owner.

(E) The Electric Utility deems all changes or modifications to existing equipment and installations requested by the customer, including, but not limited to, redesigning, re-engineering, relocating, removing, or reinstalling any electric distribution facilities as nonstandard construction and as such, may be at the expense of the property owner.
(Ord. 7-1992, passed 12-21-1992; Am. Ord. 1-2009, passed 2-17-2009)

DISCONNECTION OF ELECTRICAL SERVICE

§ 51.100 CUSTOMER CONSENT NOT REQUIRED.

(A) The Electric Utility may physically disconnect any service supplied by it to a customer without prior notification to the customer and without consent of the customer under the following circumstances:

(1) If continuation of service would pose a hazard to life, property, or grievous personal injury;

(2) Upon order of any court of competent jurisdiction or other duly authorized public authority;

(3) If fraudulent or unauthorized use of the Electric Utilities service is detected and the Electric Utility has reasonable grounds to believe the customer is responsible for the use;

(4) If the Electric Utilities regulating or measuring equipment has been tampered with and the Electric Utility has reasonable grounds to believe the customer is responsible for the tampering;

(5) In order to facilitate emergency repairs; and/or

(6) Due to an inadequate supply of energy to distribute.

(B) The Electric Utility shall make a reasonable effort to notify customers in regard to power interruptions and/or disconnections over which it has control a minimum of 24 hours prior to the interruption. The notifications may be in the form of, but not limited to, direct verbal communication, postal mailings, and public notice through the media. However, the Electric Utility and the civil town assume no liability for the interruption as set forth in § 51.050(C) of this chapter.
(Ord. 7-1992, passed 12-21-1992)

RESIDENTIAL WIRING CODE

§ 51.110 CONFORMANCE.

All electrical wiring, materials, devices, and electrical equipment installed shall conform to the standards of the National Board of Fire Underwriters, as set forth in the most recent edition of the National Electrical Code, and all subsequent amendments and additions thereof unless this code shall be more stringent.
(Ord. 7-1992, passed 12-21-1992)

§ 51.111 REQUIRED CLEARANCE.

All weatherheads shall be located with sufficient height to maintain the following clearances.

(A) All service wires shall have a 10-foot ground clearance over lawns, sidewalks, and the like, an 8-foot clearance over readily accessible roofs, a 3-foot clearance over all other roofs, an 18-foot ground clearance over driveways, and a 27-foot ground clearance over railroads.

(B) Service conductors shall have a 3-foot clearance from windows, doors, porches, fire escapes, and the like.

(C) Where a 10-foot ground clearance cannot be maintained on service wires, a service mast shall extend approximately 30 inches minimum and 36 inches maximum above the roof.

(D) Pipe size for the service mast shall not be less than two inches in diameter and shall have a suitable weatherhead designed to protect the service line from the elements. The mast shall be securely attached to the building with pipe straps or clamps.

(E) A minimum of 24 inches of service wire shall extend beyond the weatherhead to facilitate connection of the service drop.
(Ord. 7-1992, passed 12-21-1992) Penalty, see § 51.999

§ 51.112 METER AND METER SOCKET.

The meter socket and meter if of standard capacity shall be furnished by the Electric Utility. The meter socket shall be counted approximately five feet, six inches above finished grade. Its location shall be determined by the Electric Utility and shall be installed as part of the service entrance by the customers electrician.
(Ord. 7-1992, passed 12-21-1992) Penalty, see § 51.999

§ 51.113 GROUNDING REQUIREMENTS.

Grounding shall be to a 1/2-inch driven ground rod with a minimum length of ten feet. The ground rod shall be copper or copper clad. The meter base shall be grounded with a minimum of number 6 solid copper wire.
(Ord. 7-1992, passed 12-21-1992) Penalty, see § 51.999

§ 51.114 INSTALLATION OF SERVICE EQUIPMENT.

Service equipment may be installed on the first floor or in the basement of a building. It shall not be installed in an attic, on the second floor, or in an area normally designated as a closet. In every case, service conductors shall leave the building in the shortest run possible. Service conductors shall not run laterally in the hollow part of a wall.
(Ord. 7-1992, passed 12-21-1992) Penalty, see § 51.999

§ 51.115 BREAKER OR FUSE SERVICE PANELS; SERVICE ENTRANCE CONDUCTORS.

(A) A minimum of a 100 amperes service panel shall be installed in the construction of new homes.

(1) A minimum of a 200 ampere service panel shall be installed on homes wherein electricity is used as the main heating source.

(2) The Electric Utility recommends that the size of service on large or total electric homes be discussed with the utility in order to decide upon an adequate service sizing.

(B) Breaker service panels or fuse service panels, and service entrance conductor, size requirements are as follows.

(1) One hundred ampere service requires two-strand copper wire with a number 4 strand copper wire neutral as a minimum.

(2) Two hundred ampere service requires a number 3/0 copper wire with a number 2 strand copper wire neutral as a minimum.

(3) All panels shall provide a minimum of twelve 125-volt lighting and appliance circuits.

(C) Not more than 36 inches of service entrance conductors or cable shall be concealed between the meter socket and the service panel without a main disconnecting switch being installed at the meter socket.

(1) Service entrance conductors shall run no farther than 20 feet exposed between the meter socket and service panel unless a main disconnecting switch is installed at the meter socket.

(2) If properly sized service entrance conductors are installed in a metallic raceway (conduit), no limit shall be placed on the length of run from the meter socket to the service panel.
(Ord. 7-1992, passed 12-21-1992) Penalty, see § 51.999

§ 51.116 INSPECTION OF WIRING.

(A) The Electric Utility Manager shall conduct inspections of wiring in order to ascertain compliance. All requests for inspection shall be made 24 hours in advance of actual need.

(B) All wiring shall be neatly and completely installed, except for fixtures that the Manager may direct to the left open for inspection purposes. All wiring shall be subject to two inspections, one being a rough-in, and the other the completed installation.
(Ord. 7-1992, passed 12-21-1992) Penalty, see § 51.999

§ 51.117 FREE CONDUCTORS; JUNCTION BOXES.

A minimum of six inches of free conductor shall be left at each outlet and switch for the purposes of making joints or connections and for fixture devices. The fixtures and devices shall be left open for final inspection. All junction boxes shall be readily accessible.
(Ord. 7-1992, passed 12-21-1992) Penalty, see § 51.999

§ 51.118 RECEPTACLES AND OUTLETS.

(A) Receptacles shall be located a minimum of every six feet measured horizontally along the wall. Any 2-foot interruption in wall space shall be included in the six feet. This shall also apply to kitchens; except, as outlet every four feet, with no more than two outlets per circuit, shall be provided for usable counter space.

(B) Each two outlets shall be fused for 20-amp capacity. No overhead fixtures shall be allowed on any outlet circuit. No more than eight outlets shall be allowed on any circuit.
(Ord. 7-1992, passed 12-21-1992)

§ 51.119 WIRE SIZES.

(A) All wire shall be number 12 copper or larger. All receptacles in basements, garages, bathrooms, and kitchen counter spaces shall be a grounded type. Receptacles installed on number 3 wire, 30-amp and 50-amp branch circuits may not be of the grounded type as the National Electrical Code permits the grounded neutral conductor to serve as the equipment ground for ranges and clothes dryers served by 120/240 volt three-wire circuits. These are the only appliances wherein the neutral may be used for an equipment ground.

(B) A minimum of three-wire number 10 copper with ground is required for water heaters of 30 gallons or more capacity. In all cases, the white colored covered wire or bare wire shall be used to ground the frame of the water heater.

(1) If a breaker-type service panel is used, the water heater may be connected to a 30-amp two-pole breaker in the main (distribution) panel.

(2) In a fused-type main panel, the water heater shall be connected to a 30-amp pullout circuit protector.

(3) Any water heater or dryer located a distance greater than ten feet from the main service panel shall have a separate 30-amp disconnecting means located within five feet of the appliance. Fusing shall not exceed the capacity of the wire. The number 10 wire may run a maximum distance of 50 feet. If the run distance is greater than 50 feet, the wire shall be one size larger (size number 8).

(a) A minimum of three number 10 copper wires shall also apply to the dryer.

(b) Three number 6 copper wires shall be used for 50-amp range circuits.
(Ord. 7-1992, passed 12-21-1992) Penalty, see § 51.999

§ 51.120 UNDERGROUND SERVICE.

All wire used for underground service shall be insulated for underground applications. A conduit shall be used at both ends of the underground service. A circuit breaker shall be provided at the starting end before the service goes underground. All wire, conduits, circuit breakers, and the like shall be furnished and installed by the customers electrical contractor and at the customers expense.
(Ord. 7-1992, passed 12-21-1992) Penalty, see § 51.999

§ 51.121 FARM LOAD CENTERS.

(A) Load centers shall be of the meter pole type with a minimum of 200-amp capacity. Three/zero copper wire in conduit or 3/0 copper entrance cable shall be used. No entrance cable shall be used in conduit.

(B) If two 100-amp breakers are used, number 2 strand copper wire may be used from the meter to each individual breaker.

(C) The combination meter and breaker box shall be furnished by the Electric Utility. The breakers shall be furnished by the Electric Utility and both the combination box and breakers shall be installed by the customers electrical contractor at the customers expense. The meter box and breaker box combination shall not be mounted on Electric Utility transformer poles.
(Ord. 7-1992, passed 12-21-1992) Penalty, see § 51.999

§ 51.122 TRAILERS; MOBILE HOMES.

(A) If a service pole is required it shall be furnished and installed by the customer at the customer's expense upon approval by the Electric Utility. The meter base shall be furnished by the Electric Utility and installed by the customers electric contractor at the customers expense.

(B) A minimum 30-amp breaker box or fuse box shall be furnished by the customer at the customers expense and installed by the customers electric contractor at the customers expense and shall immediately follow the meter installation. Wire size shall not be less than number 6 copper.
(Ord. 7-1992, passed 12-21-1992) Penalty, see § 51.999

§ 51.123 AUTHORITY.

(A) The Hagerstown Electric Utility may refuse service to anyone failing to comply with the requirements of this chapter or who installs electric service which is deemed hazardous by the utility to persons or property.

(B) The latest applicable edition and subsequent amendments thereof of the National Electrical Code shall in all cases be the standard of compliance required in all applications and uses of electric energy.
(Ord. 7-1992, passed 12-21-1992)

RATES AND CHARGES

§ 51.135 RATES AND CHARGES.

The rates and charges to be made and collected by the town from the consumers of services provided by the electric light and power distribution system of the town in respect to the following shall be determined and collected in accordance with the respective schedules therefor:

(A) Residential;

(B) Commercial;

(C) Power;

(D) Rural residential;

(E) Rural commercial; and

(F) Space heating and/or air conditioning.
(1963 Code, Ch. 12, § 24) (Ord. 8-1958, passed - -; Am. Ord. 7-1992, passed 12-21-1992)

§ 51.136 RATE SCHEDULE FOR RESIDENTIAL ELECTRIC SERVICE - RATE R.

(A) *Availability*. Available for all residential purposes, including electric heat, to individual customers located on the Utility's distribution lines.

(B) *Character of service*. Alternating current, 60 cycles, single phase, at a voltage of approximately 115 volts two-wire, or 115-230 volts three-wire.

(C) *Rate R*.

(1) (a) From the May 1, 2011 billing date through the December 1, 2011 billing date, the following rates shall apply:

For the first	60 KWH or less used in the same month	$0.190 per KWH
For the next	190 KWH (61 KWH to 250 KWH) used in the same month	$0.111 per KWH
For the next	750 KWH (251 KWH to 1,000 KWH) used in the same month	$0.084 per KWH
For all over	1,000 KWH used in the same month	$0.071 per KWH

(b) *Monthly minimum service charge*. Notwithstanding the Rate R schedule above, the minimum charge for service rendered hereunder shall be $7.79 per month.

(2) (a) From the January 1, 2012 billing date through the December 1, 2012 billing date, the following rates shall apply:

For the first	60 KWH or less used in the same month	$0.196 per KWH
For the next	190 KWH (61 KWH to 250 KWH) used in the same month	$0.114 per KWH
For the next	750 KWH (251 KWH to 1,000 KWH) used in the same month	$0.087 per KWH
For all over	1,000 KWH used in the same month	$0.073 per KWH

(b) *Monthly minimum charge*. Notwithstanding the Rate R Schedule above, the minimum charge for service rendered hereunder shall be $8.04 per month.

(3) (a) From the January 1, 2013 billing date through the December 1, 2013 billing date, the following rates shall apply:

For the first	60 KWH or less used in the same month	$0.202 per KWH
For the next	190 KWH (61 KWH to 250 KWH) used in the same month	$0.117 per KWH
For the next	750 KWH (251 KWH to 1,000 KWH) used in the same month	$0.090 per KWH
For all over	1,000 KWH used in the same month	$0.075 per KWH

(b) *Monthly minimum charge*. Notwithstanding the Rate R Schedule above, the minimum charge for service rendered hereunder shall be $8.29 per month.

(4) (a) From the January 1, 2014 billing date and thereafter, the following rates shall apply:

For the first	60 KWH or less used in the same month	$0.208 per KWH
For the next	190 KWH (61 KWH to 250 KWH) used in the same month	$0.121 per KWH
For the next	750 KWH (251 KWH to 1,000 KWH) used in the same month	$0.093 per KWH
For all over	1,000 KWH used in the same month	$0.077 per KWH

(b) *Monthly minimum charge*. Notwithstanding the Rate R Schedule above, the minimum charge for service rendered hereunder shall be $8.53 per month.
(Ord. 3-1965, passed 12-6-1965; Am. Ord. 10-1979, passed 11-5-1979; Am. Ord. 1-1981, passed 2-2-1981; Am. Ord. 2-1982, passed 2-15-1982; Am. Ord. 1-1983, passed 5-2-1983; Am. Ord. 1-1987, passed 3-16-1987; Am. Ord. 7-1992, passed 12-21-1992; Am. Ord. 2-2005, passed 4-4-2005; Am. Ord. 13-2009, passed 12-1-2009; Am. Ord. 2-2011, passed 4-18-2011)

§ 51.137 RATE SCHEDULE FOR COMMERCIAL ELECTRIC SERVICE - RATE C; AND COMMERCIAL/INDUSTRIAL SERVICE - RATE CI.

(A) *Availability*. Available for commercial and industrial service to customers located on the Utility's electric distribution lines that are adequate and suitable for supplying the required service.

(B) *Character of service*. Alternating current, 60 cycles, at any standard secondary, single phase and/or three phase voltage supplied by the Utility in the locality for which the service is requested.

(C) From the May 1, 2011 billing date through the December 1, 2011 billing date, the following rates shall apply:

(1) *Rate C and Rate CI.*

(a) *Rate C.* In the event that a commercial or industrial customer does not qualify for Rate CI, pursuant to the terms set forth below for Rate CI to be applicable, the following Rate C shall apply.

For the first	80 KWH or less used per month	$0.190 per KWH
For the next	120 KWH (81 KWH to 200 KWH) used in the same month	$0.142 per KWH
For the next	2,300 KWH (201 KWH to 2,500 KWH) used in the same month	$0.110 per KWH
For the next	2,500 KWH (2,501 KWH to 5,000 KWH) used in the same month	$0.095 per KWH
For all over	5,000 KWH used in the same month	$0.084 per KWH

(b) *Rate CI.* In the event that a single-phase or three-phase commercial or industrial customer exceeds 100 KWD for a 60 minute peak in any given month, Rate CI shall be applicable. For any month in which Rate CI is applicable, the following monthly charges shall apply:

An administrative cost charge	$51.85
Metering charges:	
Primary voltage metering (2,400 volts to 12,470 volts)	$207.40
Secondary voltage metering (480 volts or lower)	$31.11
Peak demand charge	$12.03 per KWD
Energy charge	$0.039 per KWH
Variable energy charge component	**See below
KVAR charge	$0.270 per KVAR
**A variable energy charge component will be determined monthly based on rate adjustments riders charged by the town's purchased power supplier. A form for computation of the variable energy charge component shall be on file with the Town Manager, and shall be available for review by any person.	

(c) *Special terms and conditions applicable to Rate CI.*

1. At the option of the town, service hereunder may be metered at secondary voltage levels (480 volts or lower). In the event this occurs, before computing the charges, the actual measurement of energy and demand will be increased by 1% to compensate for unmetered transformer losses.

2. The metered peak demand shall be the customer's highest average 60 minutes KWD load in the billing period and shall be measured by suitable recording instruments provided by the town.

3. The billed KVAR demand shall be determined by trigonometric calculation using the customer's peak 60 minute demand interval for the billing period and the average power factor for the billing period.

4. At the discretion of the town, an electric service agreement may be required prior to the rendering of electric service.

(2) *Monthly minimum charge*. The minimum charge for service rendered hereunder shall be $7.30 per month plus $1.24 per horsepower of connected motor load.

(3) *Special terms and conditions.*

(a) All service furnished hereunder may be through one meter or through not more than one meter for single phase service and one meter for three phase service except as allowed in division (C)(3)(b) below.

(b) Energy for electric space heating through a separate meter will be furnished and billed separately at the rate of $0.551 per KWH with a $7.42 monthly minimum charge.

(c) *Excess facilities*. The town will normally install the facilities required to supply electric service to the customer at one point of delivery, through one meter or metering installation, at one delivery voltage and, where necessary, through one transformation. In the event that the customer requests facilities from the town which are in addition to or in substitution for the standard facilities normally provided by the town (hereinafter "excess facilities"), the town may provide and install such excess facilities under the following conditions.

1. The type, extent, and location of such excess facilities shall be mutually agreed to by the town and the customer.

2. Such excess facilities shall be and remain the property of the town.

3. The customer shall agree to pay the town a monthly excess facilities charge equal to 2% of the estimated installed cost of the excess facilities.

4. In the event that the requested facilities are to be substituted for the standard facilities normally provided by the town, and are not in addition thereto, the monthly excess facilities charge shall be 2% of the difference (excess) between the cost of the facilities actually installed and the cost of the standard facilities normally provided by the town.

5. In lieu of a monthly excess facilities charge, as outlined in divisions (C)(3)(c)3. and (C)(3)(c)4. above, the town and customer may mutually agree to an optional one-time, non-refundable payment which shall be calculated by multiplying the estimated cost of installing the excess facilities times 1.30, which reflects an estimate of required maintenance by the customer for such excess facilities. Any excess facilities shall be and remain the property of the town.

6. In the event that the excess facilities are abandoned prior to the term of the contract from the date service is first supplied from such excess facilities, the customer shall pay to the town the total cost of installing such excess facilities plus the cost of the removal, less the estimated salvage value.

(4) *Collection charges, reconnection charges, other charges.* As set forth in the applicable sections of this chapter.

(D) From the January 1, 2012 billing date through the December 1, 2012 billing date, the following rates shall apply:

(1) *Rate C and Rate CI.*

(a) *Rate C.* In the event that a commercial or industrial customer does not qualify for Rate CI, pursuant to the terms set forth below for Rate CI to be applicable, the following Rate C shall apply.

For the first	80 KWH or less used per month	$0.196 per KWH
For the next	120 KWH (81 KWH to 200 KWH) used in the same month	$0.146 per KWH
For the next	2,300 KWH (201 KWH to 2,500 KWH) used in the same month	$0.113 per KWH
For the next	2,500 KWH (2,501 KWH to 5,000 KWH) used in the same month	$0.098 per KWH
For all over	5,000 KWH used in the same month	$0.087 per KWH

(b) *Rate CI.* In the event that a single-phase or three-phase commercial or industrial customer exceeds 100 KWD for a 60 minute peak in any given month, Rate CI shall be applicable. For any month in which Rate CI is applicable, the following monthly charges shall apply:

An administrative cost charge	$53.45
Metering charges:	
Primary voltage metering (2,400 volts to 12,470 volts)	$213.65
Secondary voltage metering (480 volts or lower)	$32.05
Peak demand charge	$12.40 per KWD
Energy charge	$0.040 per KWH
Variable energy charge component	**See below
KVAR charge	$0.278 per KVAR
**A variable energy charge component will be determined monthly based on rate adjustments riders charged by the town's purchased power supplier. A form for computation of the variable energy charge component shall be on file with the Town Manager, and shall be available for review by any person.	

(c) *Special terms and conditions applicable to Rate CI.*

1. At the option of the town, service hereunder may be metered at secondary voltage levels (480 volts or lower). In the event this occurs, before computing the charges, the actual measurement of energy and demand will be increased by 1% to compensate for unmetered transformer losses.

2. The metered peak demand shall be the customer's highest average 60 minutes KWD load in the billing period and shall be measured by suitable recording instruments provided by the town.

3. The billed KVAR demand shall be determined by trigonometric calculation using the customer's peak 60 minute demand interval for the billing period and the average power factor for the billing period.

4. At the discretion of the town, an electric service agreement maybe required prior to the rendering of electric service.

(2) *Monthly minimum charge.* The minimum charge for service rendered hereunder shall be $7.50 per month plus $1.30 per horsepower of connected motor load.

(3) *Special terms and conditions.*

(a) All service furnished hereunder may be through one meter or through not more than one meter for single phase service and one meter for three phase service except as allowed in division (D)(3)(b) below.

(b) Energy for electric space heating through a separate meter will be furnished and billed separately at the rate of $0.568 per KWH with a $7.65 monthly minimum charge.

(c) *Excess facilities.* The town will normally install the facilities required to supply electric service to the customer at one point of delivery, through one meter or metering installation, at one delivery voltage and, where necessary, through one transformation. In the event that the customer requests facilities from the town which are in addition to or in substitution for the standard facilities normally provided by the town, the town may provide and install such excess facilities under the following conditions.

1. The type, extent, and location of such excess facilities shall be mutually agreed to by the town and the customer.

2. Such excess facilities shall be and remain the property of the town.

3. The customer shall agree to pay the town a monthly excess facilities charge equal to 2% of the estimated installed cost of the excess facilities.

4. In the event that the requested facilities are to be substituted for the standard facilities normally provided by the town, and are not in addition thereto, the monthly excess facilities charge shall be 2% of the difference (excess) between the cost of the facilities actually installed and the cost of the standard facilities normally provided by the town.

5. In lieu of a monthly excess facilities charge, as outlined in divisions (D)(3)(c)3. and (D)(3)(c)4. above, the town and customer may mutually agree to an optional one-time, non-refundable payment which shall be calculated by multiplying the estimated cost of installing the excess facilities times 1.30, which reflects an estimate of required maintenance by the customer for such excess facilities. Any excess facilities shall be and remain the property of the town.

6. In the event that the excess facilities are abandoned prior to the term of the contract from the date service is first supplied from such excess facilities, the customer shall pay to the town the total cost of installing such excess facilities plus the cost of the removal, less the estimated salvage value.

(4) *Collection charges, reconnection charges, other charges.* As set forth in the applicable sections of this chapter.

(E) From the January 1, 2013 billing date through the December 1, 2013 billing date, the following rates shall apply:

(1) *Rate C and Rate CI.*

(a) *Rate C.* In the event that a commercial or industrial customer does not qualify for Rate CI, pursuant to the terms set forth below for Rate CI to be applicable, the following Rate C shall apply.

For the first	80 KWH or less used per month	$0.202 per KWH
For the next	120 KWH (81 KWH to 200 KWH) used in the same month	$0.150 per KWH
For the next	2,300 KWH (201 KWH to 2,500 KWH) used in the same month	$0.116 per KWH
For the next	2,500 KWH (2,501 KWH to 5,000 KWH) used in the same month	$0.101 per KWH
For all over	5,000 KWH used in the same month	$0.090 per KWH

(b) *Rate CI.* In the event that a single-phase or three-phase commercial or industrial customer exceeds 100 KWD for a 60 minute peak in any given month, Rate CI shall be applicable. For any month in which Rate CI is applicable, the following monthly charges shall apply:

An administrative cost charge	$55.05
Metering charges:	
Primary voltage metering (2,400 volts to 12,470 volts)	$220.05
Secondary voltage metering (480 volts or lower)	$33.00
Peak demand charge	$12.80 per KWD
Energy charge	$0.041 per KWH
Variable energy charge component	**See below
KVAR charge	$0.286 per KVAR
**A variable energy charge component will be determined monthly based on rate adjustments riders charged by the town's purchased power supplier. A form for computation of the variable energy charge component shall be on file with the Town Manager, and shall be available for review by any person.	

(c) *Special terms and conditions applicable to Rate CI.*

1. At the option of the town, service hereunder may be metered at secondary voltage levels (480 volts or lower). In the event this occurs, before computing the charges, the actual measurement of energy and demand will be increased by 1% to compensate for unmetered transformer losses.

2. The metered peak demand shall be the customer's highest average 60 minutes KWD load in the billing period and shall be measured by suitable recording instruments provided by the town.

3. The billed KVAR demand shall be determined by trigonometric calculation using the customer's peak 60 minute demand interval for the billing period and the average power factor for the billing period.

4. At the discretion of the town, an electric service agreement may be required prior to the rendering of electric service.

(2) *Monthly minimum charge.* The minimum charge for service rendered hereunder shall be $7.70 per month plus $1.35 per horsepower of connected motor load.

(3) *Special terms and conditions.*

(a) All service furnished hereunder may be through one meter or through not more than one meter for single phase service and one meter for three phase service except as allowed in division (E)(3)(b) below.

(b) Energy for electric space heating through a separate meter will be furnished and billed separately at the rate of $0.585 per KWH with a $7.90 monthly minimum charge.

(c) *Excess facilities.* The town will normally install the facilities required to supply electric service to the customer at one point of delivery, through one meter or metering installation, at one delivery voltage and, where necessary, through one transformation. In the event that the customer requests facilities from the town which are in addition to or in substitution for the standard facilities normally provided by the town, the town may provide and install such excess facilities under the following conditions.

1. The type, extent, and location of such excess facilities shall be mutually agreed to by the town and the customer.

2. Such excess facilities shall be and remain the property of the town.

3. The customer shall agree to pay the town a monthly excess facilities charge equal to 2% of the estimated installed cost of the excess facilities.

4. In the event that the requested facilities are to be substituted for the standard facilities normally provided by the town, and are not in addition thereto, the monthly excess facilities charge shall be 2% of the difference (excess) between the cost of the facilities actually installed and the cost of the standard facilities normally provided by the town.

5. In lieu of a monthly excess facilities charge, as outlined in divisions (E)(3)(c)3. and (E)(3)(c)4. above, the town and customer may mutually agree to an optional one-time, non-refundable payment which shall be calculated by multiplying the estimated cost of installing the excess facilities times 1.30, which reflects an estimate of required maintenance by the customer for such excess facilities. Any excess facilities shall be and remain the property of the town.

6. In the event that the excess facilities are abandoned prior to the term of the contract from the date service is first supplied from such excess facilities, the customer shall pay to the town the total cost of installing such excess facilities plus the cost of the removal, less the estimated salvage value.

(4) *Collection charges, reconnection charges, other charges.* As set forth in the applicable sections of this chapter.

(F) From the January 1, 2014 billing date and thereafter, the following rates shall apply:

(1) *Rate C and Rate CI.*

(a) *Rate C.* In the event that a commercial or industrial customer does not qualify for Rate CI, pursuant to the terms set forth below for Rate CI to be applicable, the following Rate C shall apply.

For the first	80 KWH or less used per month	$0.208 per KWH
For the next	120 KWH (81 KWH to 200 KWH) used in the same month	$0.155 per KWH
For the next	2,300 KWH (201 KWH to 2,500 KWH) used in the same month	$0.119 per KWH
For the next	2,500 KWH (2,501 KWH to 5,000 KWH) used in the same month	$0.104 per KWH
For all over	5,000 KWH used in the same month	$0.093 per KWH

(b) *Rate CI.* In the event that a single-phase or three-phase commercial or industrial customer exceeds 100 KWD for a 60 minute peak in any given month, Rate CI shall be applicable. For any month in which Rate CI is applicable, the following monthly charges shall apply:

An administrative cost charge	$56.70
Metering charges:	
Primary voltage metering (2,400 volts to 12,470 volts)	$226.65
Secondary voltage metering (480 volts or lower)	$34.00
Peak demand charge	$13.20 per KWD
Energy charge	$0.042 per KWH
Variable energy charge component	**See below
KVAR charge	$0.295 per KVAR
**A variable energy charge component will be determined monthly based on rate adjustments riders charged by the town's purchased power supplier. A form for computation of the variable energy charge component shall be on file with the Town Manager, and shall be available for review by any person.	

(c) *Special terms and conditions applicable to Rate CI.*

1. At the option of the town, service hereunder may be metered at secondary voltage levels (480 volts or lower). In the event this occurs, before computing the charges, the actual measurement of energy and demand will be increased by 1% to compensate for unmetered transformer losses.

2. The metered peak demand shall be the customer's highest average 60 minutes KWD load in the billing period and shall be measured by suitable recording instruments provided by the town.

3. The billed KVAR demand shall be determined by trigonometric calculation using the customer's peak 60 minute demand interval for the billing period and the average power factor for the billing period.

4. At the discretion of the town, an electric service agreement may be required prior to the rendering of electric service.

(2) *Monthly minimum charge.* The minimum charge for service rendered hereunder shall be $7.95 per month plus $1.40 per horsepower of connected motor load.

(3) *Special terms and conditions.*

(a) All service furnished hereunder may be through one meter or through not more than one meter for single phase service and one meter for three phase service except as allowed in division (F)(3)(b) below.

(b) Energy for electric space heating through a separate meter will be furnished and billed separately at the rate of $0.603 per KWH with a $8.15 monthly minimum charge.

(c) *Excess facilities*. The town will normally install the facilities required to supply electric service to the customer at one point of delivery, through one meter or metering installation, at one delivery voltage and, where necessary, through one transformation. In the event that the customer requests facilities from the town which are in addition to or in substitution for the standard facilities normally provided by the town, the town may provide and install such excess facilities under the following conditions.

1. The type, extent, and location of such excess facilities shall be mutually agreed to by the town and the customer.

2. Such excess facilities shall be and remain the property of the town.

3. The customer shall agree to pay the town a monthly excess facilities charge equal to 2% of the estimated installed cost of the excess facilities.

4. In the event that the requested facilities are to be substituted for the standard facilities normally provided by the town, and are not in addition thereto, the monthly excess facilities charge shall be 2% of the difference (excess) between the cost of the facilities actually installed and the cost of the standard facilities normally provided by the town.

5. In lieu of a monthly excess facilities charge, as outlined in divisions (F)(3)(c)3. and (F)(3)(c)4. above, the town and customer may mutually agree to an optional one-time, non-refundable payment which shall be calculated by multiplying the estimated cost of installing the excess facilities times 1.30, which reflects an estimate of required maintenance by the customer for such excess facilities. Any excess facilities shall be and remain the property of the town.

6. In the event that the excess facilities are abandoned prior to the term of the contract from the date service is first supplied from such excess facilities, the customer shall pay to the town the total cost of installing such excess facilities plus the cost of the removal, less the estimated salvage value.

(4) *Collection charges, reconnection charges, other charges.* As set forth in the applicable sections of this chapter.
(Ord. 3-1965, passed 12-6-1965; Am. Ord. 10-1979, passed 11-5-1979; Am. Ord. l-1981, passed 2-2-1981; Am. Ord. 2-1982, passed 2-15-1982; Am. Ord. 1-1983, passed 5-2-1983; Am. Ord. 1-1987, passed 3-16-1987; Am. Ord. 7-1992, passed 12-21-1992; Am. Ord. 6-2003, passed 12-15-2003; Am. Ord. 2-2005, passed 4-4-2005; Am. Ord. 2-2011, passed 4-18-2011)

§ 51.138 RATE SCHEDULE FOR ELECTRIC PRIMARY POWER AND LIGHT SERVICE - RATE S.

(A) *Availability*. Available for any customer having a billing demand load of 25 kilowatts to 99 kilowatts, except as hereinafter provided. Applicant must be located adjacent to an electric transmission or distribution line of the Utility that is adequate and suitable for supplying the service required.

(B) *Character of service*. Alternating current having a frequency of 60 cycles and furnished in accordance with the provision set forth hereunder.

(C) *Rate*.

(1) From the May 1, 2011 billing date through the December 1, 2011 billing date, the following rates shall apply:

Maximum load charge (Monthly) $4.29 per kilowatt of billing maximum load in the month.	
Energy charge (in addition to the maximum load charge).	
Consumption per month	***Per KWH***
For each KWH used	$0.055

(2) From the January 1, 2012 billing date through the December 1, 2012 billing date, the following rates shall apply:

Maximum load charge (Monthly) $4.42 per kilowatt of billing maximum load in the month.	
Energy charge (in addition to the maximum load charge).	
Consumption per month	***Per KWH***
For each KWH used	$0.057

(3) From the January 1, 2013 billing date through the December 1, 2013 billing date, the following rates shall apply:

Maximum load charge (Monthly) $4.55 per kilowatt of billing maximum load in the month.	
Energy charge (in addition to the maximum load charge).	
Consumption per month	***Per KWH***
For each KWH used	$0.059

(4) From the January 1, 2014 billing date and thereafter, the following rates shall apply:

Maximum load charge (Monthly) $4.69 per kilowatt of billing maximum load in the month.	
Energy charge (in addition to the maximum load charge).	
Consumption per month	***Per KWH***
For each KWH used	$0.061

(D) *Adjustments*. Maximum load and energy measurements, and the charges derived therefrom, are subject to adjustment for:

(1) *Metering at a secondary voltage*. Service hereunder may be metered at a secondary voltage which is designated as a standard voltage of approximately 460 volts, or lower, in which event, before applying any other adjustments or computing the charges, the maximum load and energy measurements shall each be increased by 3% to convert to the equivalent of service metered at a primary voltage.

(2) *Power factor*. The monthly maximum load will be adjusted for monthly lagging power factor to convert to billing maximum load, in accordance with the following formula:

$$\text{Billing maximum load} = \frac{\text{Maximum load x 85}}{\text{Lagging Pf. (in \%)}}$$

(E) *Minimum charge*. The monthly maximum load charge shall in no case be less than $99.70 per month.

(Ord. 3-1965, passed 12-6-1965; Am. Ord. 10-1979, passed 11-5-1979; Am. Ord. l-1981, passed 2-2-1981; Am. Ord. 2-1982, passed 2-15-1982; Am. Ord. 1-1983, passed 5-2-1983; Am. Ord. 1-1987, passed 3-16-1987; Am. Ord. 7-1992, passed 12-21-1992; Am. Ord. 6-2003, passed 12-15-2003; Am. Ord. 2-2005, passed 4-4-2005; Am. Ord. 2-2011, passed 4-18-2011)

§ 51.139 COLLECTION OF FEES AND CHARGES.

(A) All fees and charges payable under the provisions of this chapter shall be paid to the town Electric Utility. The fees and charges as set forth herein or as established in the latest applicable rate schedule of the town Electric Rate Code shall constitute fees payable.

(B) Fees, penalties, and charges collected under this chapter shall be used for the purpose of constructing, operating, or maintaining the Electric Utility facilities of the town, the retirement of debt incurred for same pursuant to state or federal law, or other expenditures as may be allowed by law.

(C) (1) All fees and charges payable under the provisions of this chapter are due no later than 15 days from the date of billing as set forth in any utility billing of the town ("due date" or "Due Date"). In the event that any service charges are not paid on or before the due date, the unpaid charges are delinquent and shall be subject to a late fee or penalty of 10% of the delinquent amount. In addition to incurring a late fee or penalty charge, in the event that any fee and/or charge is not paid in full within ten days of the due date, and the customer not having before the expiration of said ten days requested a hearing in writing submitted to the Town Clerk-Treasurer before the utility board concerning accrued charges, fees, and penalties, it shall result in the services to the customer being disconnected. Fees and deposits associated with any reconnection of services shall be as set forth in this chapter, and the deposit may increase as a result of a disconnection, pursuant to the deposit requirement schedule. The bill sent to the customer will indicate that if the bill remains delinquent for a period of ten days after the due date thereof, and the customer not having requested the hearing referenced herein, it shall result in the services to the customer being disconnected, and there shall be no further notice provided prior to discontinuance of service.

(2) In addition to any fees and charges, including late fees, in the event that the town takes any action to recover delinquent or unpaid fees and charges, the customer shall be responsible for any and all costs of collection incurred by the town, including, but not limited to, attorney fees and/or any fees paid to a collection agency.
(Ord. 7-1992, passed 12-21-1992; Am. Ord. 1-2008, passed 1-22-2008; Am. Ord. 10-2013, passed 11-4-2013)

ADMINISTRATION AND ENFORCEMENT

§ 51.145 COMPLAINT PROCEDURE.

(A) Any customer may direct any electric service related complaint, concern, or question to the Electric Utility business office.

(B) If the issue in question cannot be resolved at the Electric Utility business office, the customer shall be afforded the opportunity to appear before the Town Council acting as the Electric Utility Board within a reasonable time to hear the complaint, question, or concern which shall be submitted in writing to the Town Council five days prior to the meeting date set for the appearance. The customer shall be advised of the time and place for the appearance in such a timely manner as to accomplish the requirements.

(C) The Town Council acting as the Electric Utility Board may consider the facts as it deems necessary for the resolution of the issue(s) at hand, and shall make known the necessity for further investigation or its decision to the customer within 15 days of the customers appearance before the Town Council. A final decision following additional investigation by the town shall be made known to the

customer in writing within 60 days of the initial appearance before the Town Council by the customer, unless by joint agreement between town and customer it is agreed that a reasonable time extension shall be allowed due to extenuating circumstances.
(Ord. 7-1992, passed 12-21-1992)

§ 51.146 ADMINISTRATION.

Except as may be otherwise provided herein, the Manager of the town Electric Utility shall administer, implement, and cause enforcement of the provisions of this chapter.
(Ord. 7-1992, passed 12-21-1992)

§ 51.147 NOTICE OF VIOLATION.

Any person found in violation of this chapter or any requirement of a permit issued hereunder, may be served with written notice stating the nature of the violation and providing a reasonable time limit for compliance if the violation does not constitute an immediate health or safety hazard. Any such notice shall be given in writing and served in person or by registered or certified mail. The notice shall be sent to the last address of the violator known to the Manager. When the address is unknown, service may be made on the owner of record as shown by Wayne County, Indiana, tax records of the property involved. If satisfactory action is not forthcoming in the time allotted in the notice, the penalty section of this chapter shall be invoked.
(Ord. 7-1992, passed 12-21-1992)

§ 51.999 PENALTY.

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

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

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

(B) A separate violation shall be deemed committed upon each day during which a violation occurs or continues.
(Ord. 7-1992, passed 12-21-1992; Am. Ord. 8-2007, passed - -)
Statutory reference:
Authority, see I.C. 36-1-3-8(a)(10)

CHAPTER 52: WATER UTILITY

Section

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§ 52.01 DEFINITIONS.

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

ACT. The Federal Safe Drinking Water Act, as amended.

ASTM. The American Society for Testing and Materials.

AUTHORITY. The Town Water Utility.

BUILDING MAIN. The portion of the distribution system consisting of private service pipe, meter settings, and all other materials needed to transport water from the public service pipe to the customer's premises.

COUNCIL or ***TOWN COUNCIL.*** The elected legislative body of the town.

CURB STOP. A valve installed on or near a property line used to stop the flow of water into a building main, and is the terminus of installation, maintenance, and repair responsibility provided by the Water Utility.

CUSTOMER. Any person as defined in this chapter that consumes or is provided water provided by and/or distributed by the Hagerstown Water Utility.

DAY. The 24-hour period beginning at 12:01 a.m.

EASEMENT. An acquired legal right for specific use of land owned by others.

EPA. The United States Environmental Protection Agency.

FEDERAL. The government of the United States of America and regulatory agencies thereof.

HAGERSTOWN WATER UTILITY. The authority controlling, regulating, and maintaining the water supply system.

HISTORY OF BEING PAST DUE.

(1) Having been past due on more than one occurrence during the preceding 12-month period;

(2) Having any service disconnected as a result of nonpayment during the preceding 24-month period; or

(3) Being past due on the date service is terminated. (This includes those customers who requested service be terminated at one location (account) and connected at a new location (account) as a result of moving to the new location).

INTERFERENCE. Intentional inhibition or disruption.

MANAGER. The Town Manager, the Director of Municipal Operations, and authorized designees.

MAY. The act referred to is permissible.

MCL. The Maximum Contaminant Level allowed of various substances in water provided for human consumption.

MCLGs. The Maximum Contaminant Level Goal in regard to water quality.

NON-OWNER, NON-OWNER CUSTOMER. A customer who is not the owner of the premises to which water service is being provided, connected, or disconnected, or otherwise affected by this chapter. This includes, but is not limited to, tenants, lessees, and other occupants who are customers but do not own the property to which services are provided.

NON-OWNER OCCUPIED. A premises is considered to be ***NON-OWNER OCCUPIED*** when a person other than the owner occupies or resides at the premises. This includes, but is not limited to, premises or properties occupied by tenants, lessees, and other occupants who are not owners.

OTHER AUTHORITY. Other bona fide regulatory agencies.

OWNER. The person that owns the premises to which water service is being provided, connected, or disconnected, or otherwise affected by this chapter.

OWNER OCCUPIED. A premises is considered to be ***OWNER OCCUPIED*** when the owner of the premises occupies or resides at the premises.

PERMIT. The agreement between the Town Water Utility and the owner, customer, or tenant in regard to the provision and consumption of water service.

PERSON. An individual, firm, company, association, partnership, society, corporation, or group.

PREMISES. All customer owned or operated buildings, premises, facilities, or other divisions which receive water services.

PRIVATE. When used as a prefix, shall mean that portion of the water system for which the customer bears installation, maintenance, and repair responsibility.

PUBLIC. When used as a prefix, shall mean that portion of the water system for which the Water Utility exercises control and bears maintenance and repair responsibility.

PUBLIC SERVICE PIPES. A service pipe in which all owners of abutting properties have access, but is controlled by the Water Utility.

SERVICE OWNER. A customer who has received a permit for service and has been assigned a service account number.

SERVICE PIPE. A pipe or conduit used to carry water.

SHALL. The act referred to is mandatory.

STANDARD METHODS. The most recent edition of *Standard Methods for Examination of Water and Wastewater*, published by the American Public Health Association, Water Pollution Control Federation, and American Water Works Association.

STATE. The State of Indiana and regulatory agencies thereof.

SUPERINTENDENT. When used in this chapter, shall have the same meaning as ***MANAGER***, as defined in this section.

TAP ON. The installation of a curb stop for the customer to access the public service pipe by extending the building main to the curb stop.

TAP ON FEE. The fee assessed the customer for the installation of a curb stop and connection to the public main.

TOWN. The municipal corporation known as Hagerstown, Indiana.

WATER. The elemental compound H_2O which has been properly treated with decontaminates and other health safeguards, in amounts as to be rendered safe for human consumption.

WATER MAIN. All portions of the public service pipe to include: pipe, valves, booster station, storage tanks, and other components required to carry water from the wells through the public distribution system.

WATER SERVICE PIPES. A service pipe which contains and carries only water that has been treated by the Water Utility, and to which no other foreign water shall be intentionally admitted.

WATER TREATMENT PLANT. Any and all devices, structures, and processes used to decontaminate water prior to the introduction of the water into the public distribution system.

WATER UTILITY MANAGER or ***UTILITY MANAGER.*** Shall have the same meaning as ***MANAGER***, as defined in this section.

WATERWORKS. Any or all facilities and processes used to originate, pump, treat, purify, store, and transport water provided for human consumption.
(Ord. 4-1991, passed 12-30-1991; Am. Ord. 1-2005, passed 2-7-2005; Am. Ord. 1-2008, passed 1-22-2008)

§ 52.02 PURPOSE.

The purpose of this chapter is to provide for the maximum possible beneficial public use of the Water Utility system, through regulation of construction, use, and equitable distribution of costs; and the provision of procedures for complying with the requirements contained herein.
(Ord. 4-1991, passed 12-30-1991)

§ 52.03 SCOPE.

The provisions of this chapter shall apply to all water customers served by the Water Utility. This chapter provides for the use of the town water facilities through regulation of construction, customer use, and equitable distribution of costs; and procedures for compliance with the requirements found herein.
(Ord. 4-1991, passed 12-30-1991)

§ 52.04 ADMINISTRATION.

Except as otherwise provided herein, the Manager of the Town Water Utility shall administer, implement, and cause enforcement of the provisions of this chapter.
(Ord. 4-1991, passed 12-30-1991)

§ 52.05 NOTICE OF VIOLATION.

Any person found in violation of this chapter, or any requirements of a permit issued hereunder, may be served with written notice stating the nature of the violation and providing a reasonable time limit for compliance. Any notice shall be given in writing and served in person or by registered or certified mail. The notice shall be sent to the last address of the violator known to the Manager. When the address is unknown, service may be made on the owner of record as shown by the county tax records of the property involved. If satisfactory action is not forthcoming in the time allotted in the notice, § 52.99 shall be invoked.
(Ord. 4-1991, passed 12-30-1991) Penalty, see § 52.99

§ 52.06 COLLECTION OF FEES AND CHARGES.

(A) All fees and charges payable under the provisions of this chapter shall be paid to the Town Water Utility. The fees and charges as set forth herein or as established in the latest applicable rate schedule of the Town Water Rate Ordinance shall constitute fees payable.

(B) All fees, penalties, and charges collected under this chapter shall be used for the sole purpose of constructing, operating, or maintaining the Town Water Utility facilities, or the retirement of debt incurred for same pursuant to state or federal law.

(C) (1) All fees and charges payable under the provisions of this chapter are due no later than 15 days from the date of billing as set forth in any utility billing of the town ("due date" or "Due Date"). In the event that any service charges are not paid on or before the due date, the unpaid charges are delinquent and shall be subject to a late fee or penalty of 10% of the delinquent amount. In addition to incurring a late fee or penalty charge, in the event that any fee and/or charge is not paid in full within ten days of the due date, and the customer not having before the expiration of said ten days requested a hearing in writing submitted to the Town Clerk-Treasurer before the utility board concerning accrued charges, fees, and penalties, it shall result in the services to the customer being disconnected. Fees and deposits associated with any reconnection of services shall be as set forth in this chapter, and the deposit may increase as a result of a disconnection, pursuant to the deposit requirement schedule. The bill sent to the customer will indicate that if the bill remains delinquent for a period of ten days after the due date thereof, and the customer not having requested the hearing referenced herein, it shall result in the services to the customer being disconnected, and there shall be no further notice provided prior to discontinuance of service.

(2) In addition to any fees and charges, including late fees, in the event that the town takes any action to recover delinquent or unpaid fees and charges, the customer shall be responsible for any and all costs of collection incurred by the town, including, but not limited to, attorney fees and/or any fees paid to a collection agency.
(Ord. 4-1991, passed 12-30-1991; Am. Ord. 1-2008, passed 1-22-2008; Am. Ord. 7-2013, passed 10-21-2013) Penalty, see § 52.99

§ 52.07 INSPECTIONS.

(A) The Manager, bearing proper credentials and identification, shall be permitted to enter properties at any reasonable time for the purposes of inspection, observation, measurement, meter reading, or sampling of the water provided, to ensure compliance with the provisions of this chapter.

(B) The Manager, bearing proper credentials and identification, shall be permitted to enter all private property at reasonable times, through which the town holds an easement for the purpose of inspection, observation, measurement, sampling, repair, and maintenance of any of the town's water facilities within the easement. All entry and any subsequent work on the easement shall be done in full accordance with the terms of the easement pertaining to the private property involved.

(C) While performing the necessary work on private property referred to in divisions (A) and (B) above, the Manager shall observe all safety rules established by the owner or occupant of the property and applicable to the premises when communicated by the owner or occupant, but the town assumes no liability to any party for violations thereof.
(Ord. 4-1991, passed 12-30-1991) Penalty, see § 52.99

§ 52.08 RATE SCHEDULE.

(A) From the January 1, 2015 billing date through the December 1, 2015 billing date, the following rates apply:

(1) *Consumption per month.*

Consumption per Month	*Rate per 1,000 Gallons*
First 3,000 gallons	$5.75
Next 12,000 gallons	$4.16
Next 20,000 gallons	$2.92
Next 25,000 gallons	$2.22
All gallons in excess of 60,000 gallons	$1.84

(2) *Minimum charges per month.*

(a) Each user shall pay a minimum charge in accordance with the following applicable size of meter installed as set forth below, for which minimum charge the user shall be entitled to 3,000 gallons of water. All gallons used in excess of 3,000 gallons shall be charged the rates set forth above in division (A)(1) above, starting with Next 12,000 gallons.

Meter Size	*Per Month*
3/4-inch meter or less	$17.25
1-inch meter or less	$43.14
2-inch meter or less	$138.00
3-inch meter or less	$258.75
4-inch meter or less	$431.25
5-inch meter or less	$517.50
6-inch meter or less	$862.50

(b) Given the minimum charges per size of meter installed as set forth above, and given that the minimum charge includes the first 3,000 gallons of water, the rate for the first 3,000 gallons of water would, in effect, vary based on meter size. The first 3,000 gallons of water would have the following rate per 1,000 gallons based on the meter size and a required charge of 3,000 gallons minimum:

3/4-inch meter	$5.75 per 1,000 gallons
1-inch meter	$14.38 per 1,000 gallons
2-inch meter	$46.00 per 1,000 gallons
3-inch meter	$86.25 per 1,000 gallons
4-inch meter	$143.75 per 1,000 gallons
5-inch meter	$172.50 per 1,000 gallons
6-inch meter	$287.50 per 1,000 gallons

(3) *Public fire protection.* The amount to be paid by the town for fire hydrant rental shall be $322.55 per hydrant, per year, payable in monthly installments of $26.88.

(4) *Private fire protection.*

(a) Private hydrant rental (per annum) - $783.30; and

(b) Sprinkler connections:

Size	***Amount per Month***
1-inch sprinklers	$6.65
2-inch sprinklers	$26.35
3-inch sprinklers or larger	$105.25

(B) From the January 1, 2016 billing date and thereafter, the following rates apply:

(1) *Consumption per month.*

Consumption per Month	***Rate per 1,000 Gallons***
First 3,000 gallons	$6.04
Next 12,000 gallons	$4.37
Next 20,000 gallons	$3.07
Next 25,000 gallons	$2.33
All gallons in excess of 60,000 gallons	$1.93

(2) *Minimum charges per month.*

(a) Each user shall pay a minimum charge in accordance with the following applicable size of meter installed as set forth below, for which minimum charge the user shall be entitled to 3,000 gallons of water. All gallons used in excess of 3,000 gallons shall be charged the rates set forth above in division (B)(1) above, starting with Next 12,000 gallons.

Meter Size	*Per Month*
3/4-inch meter or less	$18.12
1-inch meter or less	$45.30
2-inch meter or less	$144.96
3-inch meter or less	$271.80
4-inch meter or less	$453.00
5-inch meter or less	$543.60
6-inch meter or less	$906.00

(b) Given the minimum charges per size of meter installed as set forth above, and given that the minimum charge includes the first 3,000 gallons of water, the rate for the first 3,000 gallons of water would, in effect, vary based on meter size. The first 3,000 gallons of water would have the following rate per 1,000 gallons based on the meter size and a required charge of 3,000 gallons minimum:

3/4-inch meter	$6.04 per 1,000 gallons
1-inch meter	$15.10 per 1,000 gallons
2-inch meter	$48.32 per 1,000 gallons
3-inch meter	$90.60 per 1,000 gallons
4-inch meter	$151.00 per 1,000 gallons
5-inch meter	$181.20 per 1,000 gallons
6-inch meter	$302.00 per 1,000 gallons

(3) *Public fire protection.* The amount to be paid by the town for fire hydrant rental shall be $338.68 per hydrant, per year, payable in monthly installments of $28.22.

(4) *Private fire protection.*

(a) Private hydrant rental (per annum) - $822.50; and

(b) Sprinkler connections:

Size	*Amount per Month*
1-inch sprinklers	$7.00
2-inch sprinklers	$27.70
3-inch sprinklers or larger	$110.55

(C) *Tapping fees*. Each applicant, person requesting to connect with the waterworks system, and/or user shall pay with the application to request services, a charge to cover the costs of tapping the main, furnishing and laying public service pipe, corporation and curb stops, service and meter box and installing the meter. The charge for a 3/4-inch or less meter shall be $650. The charge for a tap larger than 3/4-inch meter tap shall be $850 or the cost of labor and materials required to install the same as computed by the Town Manager, whichever is greater.

(D) *Temporary users*. Water furnished to temporary users, such as contractors, and the like shall be charged on the basis of the metered rates as set forth herein or as established in the latest applicable schedule of water rates ordinance adopted by the town, as metered or verified by the Manager.

(E) *Multiple billing units*. In the case of apartment houses, multiple dwelling units, mobile home courts, or business houses occupied by more than one business, each apartment, dwelling unit, mobile home, and business division shall be considered a separate unit for billing purposes. Where the physical structure is such that it would be economically prohibitive to meter each unit separately, and more than one unit is metered by a single meter, then the amount of the water bill shall be computed as follows.

(1) The minimum charge will be the current minimum rate as established in the latest applicable rate schedule of the Town Water Rate Ordinance multiplied by the number of units not having been granted an official interruption of service by the water utility.

(2) The charge shall be calculated on the basis of the total gallons used at the current rate set forth in the latest applicable rate schedule of the Town Water Rate Ordinance, but in no case shall the charge be less than the minimum as defined in division (E)(1) above.

(3) In all cases of multiple billing units with one master meter, the water charges shall be billed to the owner(s) of the property service and the owner(s) shall be responsible for the payment thereof.

(F) *Collection charges*.

(1) All fees and charges payable under the provisions of this chapter are due no later than 15 days from the date of billing as set forth in any utility billing of the town ("due date" or "Due Date"). In the event that any service charges are not paid on or before the due date, the unpaid charges are delinquent and shall be subject to a late fee or penalty of 10% of the delinquent amount. In addition to incurring a late fee or penalty charge, in the event that any fee and/or charge is not paid in full within ten days of the due date, and the customer not having before the expiration of said ten days requested a hearing in writing submitted to the Town Clerk-Treasurer before the utility board concerning accrued

charges, fees, and penalties, it shall result in the services to the customer being disconnected. Fees and deposits associated with any reconnection of services shall be as set forth in this chapter, and the deposit may increase as a result of a disconnection, pursuant to the deposit requirement schedule. The bill sent to the customer will indicate that if the bill remains delinquent for a period of ten days after the due date thereof, and the customer not having requested the hearing referenced herein, it shall result in the services to the customer being disconnected, and there shall be no further notice provided prior to discontinuance of service.

(2) In addition to any fees and charges, including late fees, in the event that the town takes any action to recover delinquent or unpaid fees and charges, the customer shall be responsible for any and all costs of collection incurred by the town, including, but not limited to, attorney's fees and/or any fees paid to a collection agency.

(Ord. 3-1977, passed 11-21-1977; Am. Ord. 6-1981, passed 5-4-1981; Am. Ord. 12-1985, passed 11-18-1985; Am. Ord. 1-1995, passed 2-6-1995; Am. Ord. 1-1996, passed 12-18-1995; Am. Ord. 1-2002, passed 7-1-2002; Am. Ord. 1-2004, passed 3-1-2004; Am. Ord. 1-2005, passed 2-7-2005; Am. Ord. 4-2005, passed 5-2-2005; Am. Ord. 1-2008, passed 1-22-2008; Am. Ord. 6-2010, passed 6-7-2010; Am. Ord. 7-2013, passed 10-21-2013)

Statutory reference:

Management and control of utilities, see I.C. 36-9-2-14 and 36-9-2-15

§ 52.09 VANDALISM.

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment that is part of the town's waterworks. Any person who violates this section shall be subject to a penalty for each violation not to exceed $2,500. Civil action deemed necessary by the town to recover loss and damages incurred will not be abrogated by the imposition of any penalties for the violation or by criminal proceedings and dispositions under state or federal law, or limited by penalties contained herein.

(Ord. 4-1991, passed 12-30-1991) Penalty, see § 52.99

§ 52.10 RULES TO GOVERN WATER USERS.

The rules, regulations, water rate schedules, fees, and charges shall be considered a part of the contract with every person who is supplied with water by the Water Utility, and every person using water supplied by the Utility shall be considered to have expressed consent to be bound by the rules and regulations and to have agreed to the payment of the water rates, fees, and charges.

(Ord. 4-1991, passed 12-30-1991) Penalty, see § 52.99

§ 52.11 SEVERABILITY.

A finding by any court or other jurisdiction that any part or provision of this chapter is invalid shall not affect the validity of any other part or provision of this chapter that can be implemented without the invalid parts or provisions.
(Ord. 4-1991, passed 12-30-1991)

§ 52.12 CASH RESERVE FUND.

(A) A cash reserve fund is created for the Water Utility and carried on the records of the Utility, to which fund contributions or transfers of surplus earnings of the Utility may be made by resolution. Any authorized transfer of surplus earnings shall be made no later than the tenth working day of the month following authorization.

(B) Surplus earnings are defined as those cash earnings remaining after provisions have been made to take care of current obligations, including those for operating expenses, depreciation or replacement funds, sinking fund, bond and interest retirement funds, or any other priority fund requirements fixed by ordinance or by law.

(C) No transfer to the cash reserve fund shall be made unless or until a depreciation or replacement fund has been established for the Utility to which shall accrue at least 21.5% of the operating revenues each month.
(Ord. 4-1991, passed 12-30-1991)

§ 52.13 TRANSFER OF CASH RESERVE FUND BALANCE TO GENERAL FUND.

In each calendar year, the Town Council may transfer by resolution to the municipal general fund an amount to compensate the town for taxes that would be due the town on the Water Utility property if it were privately owned. Each transfer shall be billed on the value of the Utility's assets as would be subject to taxes on December 31 of the previous year. However, the transfer shall not exceed the actual balance of the cash reserve fund as of July 31 of the current year.
(Ord. 4-1991, passed 12-30-1991)

§ 52.14 APPLICATIONS AND REQUEST FOR SERVICE; DEPOSITS AND PERMITS.

(A) One person may, at the town's discretion, be named on the contract or permit application as the service owner. Applications for water service shall be in writing and be delivered in person at the business office of the town on a form provided by the town entitled "Application for Utility Service."

(1) Any requirements of a cash deposit, connection or reconnection fee, or other fees, and/or credit worthy criteria, as provided in this chapter, shall be paid and/or submitted before any utility service will be rendered, including:

(a) Request for a permit to connect to the Water Utility;

(b) Request for tap on (curb stop) installation;

(c) Disconnections or reconnections for nonpayment, improper tampering or use, or vacation status;

(d) Owner or non-owner initiated discontinuance of service. A written request is required and must be completed using a form provided by the town, entitled "Request for Discontinuance of Service." The form shall contain a release to be signed by any non-owner customer (if applicable) and the owner of the property. The customer is required to be present for any final readouts. All fees and charges not paid shall be due and payable on or before the due date reflected on the final bill; and

(e) Landlord Transfer Agreement.

(2) In order for utility service to be rendered to an applicant, owner, or non-owner, all prior accounts and amounts due or written off as bad debt regarding the applicant or in the applicant's name must be paid, and any collection costs or legal fees paid to outside agencies or parties as a result of the applicant's failure to pay must be reimbursed before a new account will be established for that applicant.

(3) Any request for service shall be made to the Water Utility no less than 72 hours in advance of the time service is desired, excluding non-business days. If the requested service involves construction, equipment installation, or special considerations, the request shall be made to the Water Utility no less than 45 days in advance of the time service is desired.

(B) Any customer requesting utility service at a different location than where that customer currently has, or previously had, service, shall be required to complete an application for utility service for that specific location on the form provided by the town, and to pay the deposit and following the procedures regarding the payment of deposit, as set forth in division (G) below, at the time that the customer submits the application in person at the business office of the town.

(C) When submitting the application for utility service, the applicant will be asked for proof of identification (driver's license or state issued ID preferred). This is necessary to aid in the collection process, if necessary, and to eliminate possible falsification of customer information. The appropriate town personnel at the town's business office will make a copy of the proof document and attach it to the application.

(D) If the applicant is not the owner of the property to which service is being requested (non-owner customer), the property owner or a properly authorized agent of the property owner shall sign the owner's certificate section of the application. The signature of the owner must be notarized or signed in the presence of a representative of the town, who shall witness the application at the business office as provided therein. The signature of the application by an applicant is an acknowledgment that the applicant understands and agrees to the responsibilities, requirements, including, but not limited to, the payment and deposit requirements, set forth in Chapter 52 of the Town Code, and the applicant's agreement to comply with the Town Code relevant to utility services.

(E) After reviewing the application for completeness, the town will determine the deposit required, if any, and review computer and/or other records to verify that the applicant has no previous history of being past due and for any previous account balances that may still be owed to the town. Upon payment of any required cash deposit, a receipt will be issued by the town to the applicant.

(F) Copies of the application for utility service form will be available at the business office of the town for use by potential applicants, property owners, non-owner customers, and those who are new construction homeowners.

(G) The following Deposit Requirement Schedule shall be applicable for all applicants for water utility service of the town:

Deposit Requirement Schedule	
Customer Type	***Amount***
Residential (Owner Occupied)	$40
Residential (Nonowner Occupied)	$40
Apartment houses, multiple dwelling units, mobile home courts, or business houses occupied by more than one business where each unit is not separately metered	Amount equal to the estimate cost of water to be used for a three-month period as determined by the Manager, or an amount equal to $40 times the total number of units
Commercial, industrial, institutional, government	15% of the active 12 months charges at the service address (including taxes), rounded to the nearest $100. If the service is at a new address, the 12 months charges will be estimated, based upon the type and size of the customer as compared to similar types and sizes of customers. Deposits are subject to periodic review, after which, the deposit may be adjusted to more accurately reflect the 15% requirement.

(1) When a previously terminated account customer (nonowner or owner occupied) returns to establish a new account after a period of time has elapsed, and the prior account for utility service previously established a history of being past due with the Hagerstown Water Utility, the town may double the regular deposit amount as provided above, and any amounts due or written off as bad debts must be paid and any collection or legal fees paid to outside agencies must be reimbursed before a new account will be established.

(2) If an active account (nonowner or owner occupied) continually becomes or remains past due (determined by the application of three or more penalty charges against the account for late payment), or service has been disconnected due to nonpayment, a deposit equal to double the schedule established above may be required for continuation of or re-establishment of service.

(3) The owner occupied residential deposit is required as set forth in the schedule above before utility service will be rendered.

(a) The deposit may be waived, however, and the owner deemed creditworthy, if the owner applicant provides written confirmation from the owner's preceding utility company or companies (with Hagerstown Water Utility also qualifying as a preceding utility company) that the owner is creditworthy, the confirmation covering a previous two-year period and verifying that the applicant:

1. Has been a customer of the previous utility(ies) within the past two years;

2. Is not past due on any bill at this time for service rendered by the previous utility(ies);

3. Within the past one year, did not have more than one bill which was delinquent to any utility; and

4. Within the past two years, did not have a service disconnected by any utility for nonpayment of a bill for services rendered by the utility.

(b) If the owner occupied applicant has not had service with any utility company within the past two years, he or she must make a deposit as set forth in the schedule above. After two years, the deposit may be refunded subject to the conditions set forth below in the division addressing refunds.

(4) The nonowner occupied residential deposit is required as set forth in the schedule above before utility service will be rendered. When a nonowner residential customer who is a current nonowner residential customer of the Hagerstown Water Utility moves to a new account (different location/address), a new Application for Utility Service shall be required. The previous deposit will normally be transferred to the new account, however, if the customer has developed a history of being past due, the old deposit shall stay with the old account and a new deposit shall be required for the new account. In this event, the deposit required on the new account may be double the regular deposit requirement. The old deposit will be applied to the current and final bills of the old account, and the balance, if any, will be refunded. If the old account is past due on the moving date, a new account will not be established until the old account is brought current. If the nonowner applicant fails to pay the old account in full the service will not be re-established until the property owner has paid the balance of the old account.

(a) If, after the final bill is prepared, the old deposit is not sufficient to cover the remaining charges of the old account and the old account becomes past due, the new account will be subject to service termination or disconnect as though the two accounts were one.

(b) When planning a move, the business office of the town should be given sufficient notice, the notice to be a minimum of three business days, so that services can be terminated on the planned date of vacating the premises.

(5) Commercial, industrial, and institutional accounts shall be required to pay a deposit before utility service will be rendered, the amount of which shall be determined by the above schedule. If an account continually becomes or remains past due (determined by the application of three or more penalty charges against the account for late payment), or service has been disconnected due to nonpayment, a deposit equal to double the amount determined by the above schedule will be required for continuation of or re-establishment of service. If an account is disconnected because of nonpayment, the deposit will

be used to defray any or all of the existing balance. Upon re-establishing the required deposit balance (a surety bond may be required in order to cover the increased amount), the payment of reconnect charges and payment of any charges not covered by the deposit and/or surety bond, services will be restored. If a commercial, industrial, institutional, or government deposit is more than $200, the customer/applicant shall be allowed one of two options as follows.

(a) *To make weekly installment payments until the total deposit requirement is paid in full.* The first payment shall be at least $200 and installment payments shall not continue beyond eight weeks. Service shall be connected upon receipt of the first such payment, but may be terminated at anytime, without notice, upon failure by the applicant or customer to make the agreed upon installment payments and/or utility bill payments when due; or

(b) *To provide an assigned surety bond from an approved underwriting company for the deposit requirement.* Service shall be connected upon receipt of the surety bond.

(H) (1) Cash deposits will be applied to the customer's final bill after which the balance, if any, will be refunded. Interest will not be paid on any part of the deposit. Any balance due from the customer after application of the deposit shall be due and payable on or before the date specified on the final bill.

(2) Residential owner-occupied cash deposits may be refunded after two years, if requested in writing, and, if the following conditions are met: within the 12 month period preceding the date of the request, the owner/occupant did not have more than one bill which became delinquent, and within the 24 months preceding the date of the request, the owner/occupant did not have service disconnected for non-payment. Non-residential surety bonds will be canceled and returned to the principal within a reasonable time after all final charges are paid.

(3) If the application of this chapter creates a refunded amount to be given to the customer, the Clerk-Treasurer is authorized to refund to a customer, without further act of Town Council, an amount not exceeding the amount of the full deposit of the customer.
(Ord. 4-1991, passed 12-30-1991; Am. Ord. 1-2005, passed 2-7-2005; Am. Ord. 1-2008, passed 1-22-2008; Am. Ord. 3-2009, passed 3-17-2009) Penalty, see § 52.99

§ 52.15 RECONNECTIONS.

(A) *Nonpayment reconnections.* A service charge of $30 shall be collected for reinstating any service after a work order has been issued to disconnect the meter for nonpayment of charges if service is reconnected within the normally scheduled working hours of the Water Utility employees. The charge shall be $45 if reconnection is requested by service owner to be made outside of the normally scheduled working hours of the Water Utility employees. Additionally, any past due or delinquent fees and/or charges must be paid in full prior to reconnection.

(B) *Vacations.* Service may be temporarily disconnected on a temporary vacation status not to exceed six months. The charge shall be $25 for each disconnect and reconnect of the water service if

accomplished within the normally scheduled working hours of the Water Utility employees. There shall be an additional $15 fee assessed for each disconnect and reconnect if requested by service owner to be accomplished outside of the normally scheduled working hours of the Water Utility employees. The disconnection service shall only apply to the occupants of the premises in question wherein a temporary vacancy exists for the above stated purpose and the occupants in question will return to occupy the premises. Any request is to be made at least two working days prior to owner's departure to allow for scheduling by Water Utility personnel.
(Ord. 4-1991, passed 12-30-1991; Am. Ord. 1-2004, passed 3-1-2004; Am. Ord. 1-2005, passed 2-7-2005) Penalty, see § 52.99

§ 52.16 INTENT OF THE WATER UTILITY.

(A) The Water Utility shall attempt to provide water for human consumption in accordance with the Safe Drinking Water Act and amendments thereof which may occur from time to time. The Act formulated by the EPA and enforced and monitored by state regulatory agents shall be the standard of water quality in regard to MCLs and MCLGs found therein.

(B) The Water Utility shall maintain an ongoing sampling, testing, and analysis program to ensure compliance of water quality standards.
(Ord. 4-1991, passed 12-30-1991)

§ 52.17 WATER METERS.

(A) Any and all services shall be metered and the size of the meter to be used shall be determined by the Town Water Utility Manager.

(B) Meters to be furnished by the Water Utility are the property of the town and shall not be tampered with under penalty of law.

(C) The placement of the meter shall be the option of the Water Department authority.

(D) Any changes in the service pipes or fixtures that may be necessary to set the meter properly to avoid freezing and to make all water used on the premises pass through the meter shall be at the expense of the property owner or consumer as applicable.

(E) Where meters are set within the interior of any premises, the customer shall keep the meter clean and maintain ease of access to the meter.

(F) In the eventuality any meter shall become out of order and malfunctions by failing to register the amount of water passing through it, the customer shall be charged at the rate of average consumption registered by the meter for the prior 12-month period before it became out of order.

(G) The Water Utility shall make a test on the accuracy of registration of a 3/4-inch or less water meter, upon written request of a customer to do so, and upon the customer depositing a $20 fee with the Water Utility. If the meter is found to be within the allowable limit of error, which shall be plus or minus 4%, the fee shall be retained by the Water Utility. If the meter is found to be registering outside the allowable error limits, the fee shall be refunded to the depositor.

(H) Customers requesting the testing of water meters one inch or greater outside the time frames established for testing by the Water Utility shall be assessed the actual cost of the test.

(I) The Water Utility may schedule tests for accuracy if deemed necessary by the Water Utility Manager and Town Council within the following time frames:

(1) Three-quarter inch or less, every seven years; and

(2) One inch or more, every five years.

(J) As the Water Utility exercises no control of premises, interior plumbing construction, or fixtures, the customer shall sign an agreement holding the town and the Water Utility harmless from any and all damages when the meter is installed or removed and when water is turned off or turned on.

(K) No person shall be permitted to install any water line or main and connect it to the water lines or mains of the town without prior approval from the Manager. Approval will not be granted without a signed statement on file at the Water Utility's office that the installation will be constructed in accordance with ASTM standards for water line construction and applicable requirements of local building and plumbing codes and agreeing to inspection by appropriate town and Utility personnel. (Ord. 4-1991, passed 12-30-1991) Penalty, see § 52.99

§ 52.18 SERVICE PIPES.

(A) Each and every single-family residence or single commercial concern under one roof shall be served by a separate metered private service pipe.

(B) In the case of multi-family dwellings under one common roof, mobile home courts, and business houses with two or more businesses under one common roof and owned by one person, the concerns may be served by a master metered private service pipe upon written approval by the Water Utility Manager. However, if more than one person of record controls the property such as may be the case with condominiums, duplexes, or other divisions of ownership under one common roof, then each separate division shall be metered separately on individual private service pipes. Where only one curb stop is used, the owner of the service shall pay the water rate for all concerns supplied. Failure to pay the water rates when due, or to comply with the rules and regulations of the waterworks system shall be cause to initiate disconnect actions and there shall be no liability on the part of the Water Utility to any persons or affected concerns.

(C) All private service pipes shall connect to a curb stop.

(D) No person shall turn water on or off at the curb stop unless given permission to do so by the Water Utility Manager.

(E) No private service pipes shall be allowed to be laid across lots belonging to another property owner, to serve the service owner, but each property shall be served by a private service pipe directly from the public service pipe curb stop to the premises.

(F) Any changes at the service owner's request necessary to be made in the location of a curb stop shall be made at the expense of the service owner. If the town requires, the work notice shall be given to the service owner, and if the work is not completed within a reasonable length of time, the town shall do the work and the expense shall be charged to the service owner, and if not paid on or before the subsequent billing date, the water service shall be terminated until the account is paid current. If the town requires the work for a public benefit, the Town Council may waive the charges to the service owner.

(G) All private service pipes shall be constructed to accepted standards and practices in compliance with ASTM standards, and in no case shall a cross connection be made to other water sources that would circumvent the treatment process of the Water Utility.

(H) In all cases where Utility water service is directly connected to any device wherein a backflow pressure could occur, an approved anti-backflow device shall be installed to prevent foreign water or substances from entering the public water service.

(I) Wherein divisions of real estate or real estate development shall occur, the plans shall be filed with the Water Utility for land developer approval prior to permits for connection being issued.
(Ord. 4-1991, passed 12-30-1991) Penalty, see § 52.99

§ 52.19 TERMINATION OF WATER SERVICE.

Water supply services may be cancelled and the services disconnected by the Town Water Utility for the following reasons:

(A) The wasting or improper use of water through the use of defective fixtures, or in any manner deemed wasteful as identified by the Manager to the extent of jeopardizing the water supply;

(B) For refusal or neglect to pay bills promptly, or any other charges accruing, in the manner and at the time herein provided;

(C) For interference or unlawful tampering with any device of the waterworks system used for controlling or regulating the supply of water;

(D) For failure to apply for a permit in case of change of ownership or tenancy;

(E) For any intentional defrauding of the Water Utility in any manner;

(F) For failure to adhere to the provisions regulating water usage as set forth herein; and/or

(G) For refusing to allow the Water Utility personnel safe ingress for the purpose of reading a water meter and/or repairing or providing service.
(Ord. 4-1991, passed 12-30-1991) Penalty, see § 52.99

§ 52.20 DISCONTINUANCE OF SERVICE.

(A) *Collection charges.*

(1) All fees and charges payable under the provisions of this chapter are due no later than 15 days from the date of billing as set forth in any utility billing of the town ("due date" or "Due Date"). In the event that any service charges are not paid on or before the due date, the unpaid charges are delinquent and shall be subject to a late fee or penalty of 10% of the delinquent amount. In addition to incurring a late fee or penalty charge, in the event that any fee and/or charge is not paid in full within ten days of the due date, and the customer not having before the expiration of said ten days requested a hearing in writing submitted to the Town Clerk-Treasurer before the utility board concerning accrued charges, fees, and penalties, it shall result in the services to the customer being disconnected. Fees and deposits associated with any reconnection of services shall be as set forth in this chapter, and the deposit may increase as a result of a disconnection, pursuant to the deposit requirement schedule. The bill sent to the customer will indicate that if the bill remains delinquent for a period of ten days after the due date thereof, and the customer not having requested the hearing referenced herein, it shall result in the services to the customer being disconnected, and there shall be no further notice provided prior to discontinuance of service.

(2) In addition to any fees and charges, including late fees, in the event that the town takes any action to recover delinquent or unpaid fees and charges, the customer shall be responsible for any and all costs of collection incurred by the town, including, but not limited to, attorney's fees and/or any fees paid to a collection agency. In the event an appeal is not timely requested, no appeal shall be considered.

(B) The manager is authorized and directed to cause this continuance of services in accordance with the provisions of this chapter.

(C) In order for a user or customer to be reconnected, the customer must pay any delinquent amount, including deferred payment charges, together with all other lawful charges, plus the reconnection fee, and comply with any and all other provisions of this chapter.
(Ord. 4-1991, passed 12-30-1991; Am. Ord. 1-2005, passed 2-7-2005; Am. Ord. 1-2008, passed 1-22-2008; Am. Ord. 7-2013, passed 10-21-2013) Penalty, see § 52.99

§ 52.21 USAGE OF WATER DURING EMERGENCIES.

(A) In the event of an emergency pertaining to the supply availability of water, whereby the usage or consumption of water may exceed the supply available to the waterworks, the Town Council is hereby empowered to issue and cause enforcement of emergency rules and regulations curtailing and limiting usage or consumption of water supplied by the waterworks to the customer.

(B) Any person who shall violate any emergency rule or regulation shall be subject to a penalty in an amount not in excess of $2,500 for each and every day the violation continues, and in the event a violation is repeated by the same violator during the same emergency, the Water Utility may authorize discontinuance of service.
(Ord. 4-1991, passed 12-30-1991) Penalty, see § 52.99

§ 52.22 TAKING WATER FROM HYDRANTS OR FIXTURES WITHOUT AUTHORIZATION.

(A) All service owners are prohibited from furnishing water or allowing it to be taken from their hydrants or fixtures by other persons, unless the other persons secure a permit from the Town Water Utility Manager.

(B) No person shall take water from any public hydrant except for fire or other governmental usage applications, without authorization from the Manager of the Water Utility. The water shall be metered or verified by the Manager and rates as established in the latest applicable rate schedule of the Town Water Rate Ordinance shall be charged.

(C) Any person who, without authorization from the Manager of the Water Utility, intentionally and unlawfully diverts water from the water main, or otherwise intentionally and unlawfully uses or causes to be used, without authorization of the Manager, any water distributed by the waterworks, shall be prosecuted for any criminal violations that may be applicable, and also for any damage or loss to the town as provided by law, and shall be liable to the town for a penalty as prescribed by and set forth in § 10.99 if Chapter 10 (Rules of Construction; General Penalty) of Title I (General Provisions) of the Town Code of Hagerstown, Indiana.

(D) The resale of water supplied by the Town Water Utility to a customer of water service by the customer to any other person is strictly prohibited.
(Ord. 4-1991, passed 12-30-1991; Am. Ord. 8-2007, passed - -) Penalty, see § 52.99

§ 52.23 GRANTING OF SERVICE TO USERS OUTSIDE THE TOWN LIMITS.

(A) No person requesting service outside the town limits shall be authorized to tap into any water line or main of the town without obtaining the express written authorization of the Town Council as such appears in the official record and minutes of the Town Council.

(B) No person shall be permitted to install any private water line or main and connect it to the water lines or mains of the town without the express written approval of the Water Utility Manager certifying that the lines and mains have been or will be constructed or installed in accordance with ASTM standards for water line construction and applicable requirements of local building and plumbing codes, and agreeing to inspection by appropriate town and Utility personnel.

(C) Upon receipt of an application for extended service by any person to any area not authorized by the town for general public service, the Town Council may enter into a written and properly executed agreement between the person requesting the service and the Town Council.
(Ord. 4-1991, passed 12-30-1991) Penalty, see § 52.99

§ 52.24 COMPLAINT PROCEDURE.

(A) Any customer may direct any water service-related complaint, concern, or question to the Water Utility business office.

(B) If the issue in question cannot be resolved at the Water Utility business office, the customer shall be afforded the opportunity to appear before the Town Council acting as a Water Utility Board within a reasonable time to hear the complaint, question or concern which shall be submitted in writing to the Town Council five days prior to the meeting date set for the appearance. The customer shall be advised of the time and place for the appearance in a timely manner as to accomplish the requirements.

(C) The Town Council acting as the Water Utility may consider the facts as it deems necessary for the resolution of the issue at hand, and shall make known the necessity for further investigation or its decision to the customer within 15 days of the customer's appearance before the Town Council. A final decision following additional investigation by the town shall be made known to the customer in writing within 60 days of the initial appearance before the Town Council by the customer, unless by joint agreement between the town and the customer it is agreed that a reasonable time extension shall be allowed due to extenuating circumstances.
(Ord. 4-1991, passed 12-30-1991) Penalty, see § 52.99

§ 52.25 LANDLORD TRANSFER AGREEMENT.

(A) Owners of property wherein there is a non-owner customer receiving water service, may, but shall not be required to, complete a Landlord Transfer Agreement form. The forms shall be made available by the town to property owners upon request of the property owner. The Landlord Transfer Agreement is applicable where a property owner leases, rents, or otherwise allows occupancy or use by a non-owner customer.

(B) The owner of the property may enter into an agreement with the town to provide for the continuance of water service in the event that the terms of this chapter would otherwise result in voluntary or involuntary termination of the service to the property. In such an event, the owner would

be requesting, as part of the Landlord Transfer Agreement, that the town continue water service to the property instead of actually disconnecting the water service based on nonpayment by the non-owner customer. In exchange for the town not disconnecting the service, the owner agrees to and would be responsible for and pay all water service charges for services rendered to the property from the date that the town would otherwise be authorized to disconnect the service until the date that the town contracts with a new non-owner customer, the owner, or a new owner of the property, pursuant to the application process set forth in § 52.14, to be responsible for the water service and charges. Any such transfer would not occur in instances where disconnection is a result of a condition that is dangerous to health, physical safety, or property. Any such Landlord Transfer Agreement must be in a form adopted by the Town Council, and the owner must agree to and be responsible for the terms set forth therein. In the event that the Town Council adopts a revised or amended Landlord Transfer Agreement, the owner may be required to enter into the revised or amended Landlord Transfer Agreement in order to continue the utility services thereunder.

(C) A Landlord Transfer Agreement would be treated as an application for services, and as such, would require any and all required paperwork and any deposit or deposits required by the town as set forth in this chapter, depending on the amount of properties listed as part of the Landlord Transfer Agreement and based on the creditworthiness of the owner as an applicant, as set forth in this chapter, for any other applicant for service. Failure to provide the required paperwork and any deposits, if applicable, would result in the town not entering any Landlord Transfer Agreement.
(Ord. 1-2008, passed 1-22-2008)

§ 52.99 PENALTY.

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

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

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

(B) A separate violation shall be deemed committed upon each day during which a violation occurs or continues.
(Ord. 4-1991, passed 12-30-1991; Am. Ord. 8-2007, passed - -)
Statutory reference:
Authority, see I.C. 36-1-3-8(a)(10)

CHAPTER 53: SEWAGE TREATMENT WORKS

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GENERAL PROVISIONS

§ 53.01 DEFINITIONS.

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

ACT. The Federal Clean Water Act, 33 U.S.C. §§ 1251 *et seq.*, as amended.

ASTM. The American Society for Testing and Materials.

AUTHORITY. The town Wastewater Treatment Utility.

AUTHORITY, OTHER. Other bona fide regulatory agencies.

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

COMMERCIAL USER (CLASS II). Any property occupied by a nonresidential establishment not within the definition of an Industrial User (Class III), and which is connected to the wastewater facilities.

COUNCIL. The elected legislative body of the town.

DAY. The 24-hour period beginning at 12:01 a.m.

EASEMENT. An acquired legal right for a specific use of land owned by others.

EPA. The United States Environmental Protection Agency.

GARBAGE. The solid animal and vegetable wastes resulting from the domestic or commercial handling, storage, dispensing, preparation, cooking, and serving of foods.

GROUNDWATER. Water within the earth.

INDUSTRIAL USER (CLASS III). Any nonresidential user identified in Division A, B, D, E, or I of the *Standard Industrial Classification Manual*. ***CLASS III*** also shall include any user that discharges wastewater containing toxic or poisonous substances as defined in §§ 307 and 502 of the Clean Water Act, being 33 U.S.C. §§ 1317 and 1362, or any substance causing interference in the wastewater facilities. ***Class III*** shall include any nonresidential user who: is subject to national categorical pretreatment standards; has a nondomestic flow of 25,000 gallons or more per average work day; contributes more than 5% of the average dry weather capacity of the wastewater facility; or is determined by the state regulatory agency or the Manager to have potential to adversely affect the wastewater facility.

INTERFERENCE. Inhibition or disruption of any sewer system, wastewater treatment process, sludge disposal system, or their operation, which substantially contributes to a violation of applicable discharge permits.

MANAGER. The Director of Municipal Operations of the town wastewater system or his or her authorized designee.

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

NPDES. The National Pollutant Discharge Elimination System permit program, whether administered by the EPA or by the state.

OWNER. The person or persons who legally own, lease, or occupy private property with wastewater facilities that discharge, or will discharge, to the town wastewater facilities.

pH. The logarithm of the reciprocal of the hydrogen concentration expressed in grams per liter of solution, as determined by *Standard Methods*.

PRETREATMENT. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater before discharge from the town wastewater facilities.

PROPERLY SHREDDED GARBAGE. Garbage that has been shredded such that all particles will be carried freely under flow conditions normally prevailing in the wastewater sewers, with no particle greater than one-half inch in any dimension.

RESIDENTIAL USER (CLASS I). All premises used only for human residency and that are connected to the wastewater facilities.

SANITARY WASTEWATER. Wastewater discharge from the sanitary conveniences of dwellings, office buildings, industrial plants, or institutions.

STANDARD METHODS. The latest edition of *Standard Methods for Examination of Water and Wastewater*, published by the American Public Health Association, Water Pollution Control Federation, and American Water Works Association.

STORM SEWER. A sewer for conveying storm, surface, or any other waters that are not intended to be transported to a treatment facility.

SURFACE WATER. Water that occurs when the rate of precipitation exceeds the rate at which water may percolate into the soil.

SUSPENDED SOLIDS. The total suspended matter that either floats on the surface of, or is in suspension in, water or wastewater, as determined by C.F.R. pt. 136.

TOXICS. Any of the pollutants designated by federal regulations pursuant to § 307(a)(1) of the Act, being 33 U.S.C. § 1317(a)(1).

WASTEWATER. A combination of liquid- and water-carried wastes from residences, commercial buildings, industries, and institutions, together with any groundwater, surface water, or storm water that may be present.

WASTEWATER FACILITY. The combination of wastewater sewers and treatment facilities.

WASTEWATER SEWER. The structures, processes, equipment, and arrangements necessary to collect and transport wastewater to the treatment facility.

WASTEWATER TREATMENT FACILITY. The structures, processes, equipment, and arrangements necessary to treat and discharge wastewaters.

WPCF. The Water Pollution Control Federation.
(Ord. 5-1973, passed 1-4-1974; Am. Ord. 9-1990, passed 7-1-1991)

§ 53.02 PURPOSE.

The purpose of this chapter is to provide for the maximum possible beneficial public use of the town wastewater facilities through regulation of sewer construction, sewer use, and wastewater discharges; to provide for equitable distribution of the costs of the town wastewater facilities; and to provide procedures for complying with the requirements contained herein.
(Ord. 9-1990, passed 7-1-1991)

§ 53.03 SCOPE.

(A) The definitions of terms used in this chapter are found in § 53.01. The provisions of this chapter shall apply to the discharge of all wastewater to facilities of the town. This chapter provides for use of the town wastewater facilities, regulation of sewer construction, control of the quantity and quality of wastewater discharged, wastewater pretreatment, equitable distribution of costs, sewer construction plans, issuance of wastewater discharge permits, minimum sewer construction standards and conditions, and penalties and other procedures in case of violation of this chapter.

(B) This chapter shall apply to the town and to persons outside the town who are, by contract or agreement with the town, users of the town's wastewater sewers or wastewater treatment facilities.
(Ord. 9-1990, passed 7-1-1991)

§ 53.04 ADMINISTRATION.

Except as otherwise provided in this chapter, the Manager of the town wastewater systems shall administer, implement, and enforce the provisions of this chapter.
(Ord. 9-1990, passed 7-1-1991)

§ 53.05 VANDALISM.

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment that is part of the town's wastewater facilities. Any person who violates this section shall be subject to a penalty for each such violation not to exceed $2,500. Civil action by the town deemed necessary to recover loss or damages incurred will not be abrogated by criminal proceedings or dispositions under state law, or limited by the foregoing penalty.
(Ord. 5-1973, passed 1-7-1974; Am. Ord. 9-1990, passed 7-1-1991) Penalty, see § 53.99

§ 53.06 SEVERABILITY.

A finding by any court or other jurisdiction that any part or provision of this chapter is invalid shall not affect the validity of any other part or provision of this chapter that can be implemented without the invalid parts or provisions.
(Ord. 9-1990, passed 7-1-1991)

§ 53.07 AMENDMENTS.

Public notice shall be given as may be required by law before adoption of any amendments of this chapter.
(Ord. 9-1990, passed 7-1-1991)

§ 53.08 OPERATING EXPENSES OF SEWER SYSTEM.

Money to defray the operating expense of the sewer system and for maintaining the sewer depreciation fund shall be acquired from the general fund of the town by appropriation to the incorporated into the municipal budget.
(1963 Code, Ch. 12, § 19) (Ord. 3-1949, passed - -)

§ 53.09 WASTEWATER CASH RESERVE FUND.

(A) A cash reserve fund is created for the town wastewater utility and carried on the record of the utility, to which fund contributions or transfers of surplus earnings of the utility may be made.

(B) Surplus earnings are defined as those cash earnings remaining after provisions have been made to pay current obligations, including those for operating expenses, depreciation or replacement funds, or any other priority fund requirements fixed by ordinance or by law.

(C) No transfer to the cash reserve fund shall be made unless or until a depreciation or replacement fund has been established for the utility to which shall accrue funds designated for system and equipment capital repairs, replacements and additions.

(D) There shall be transferred to the cash reserve fund the surplus earnings of the utility. The transfers shall be made each calendar month upon satisfying the terms set forth in division (C) above.

(E) In each calendar year, the Council may transfer by resolution to the municipal general fund an amount to compensate the town for taxes that would be due the town on the wastewater utility property if it were privately owned. Each transfer shall be billed on the value of the utilities assets as would be

subject to taxes on December 31 of the previous year. Provided, nevertheless, the transfer shall not exceed the actual balance of the cash reserve fund as of July 31 of the current year.
(Ord. 6-2013, passed 10- -2013)

USE OF WASTEWATER FACILITIES

§ 53.15 WASTE DISPOSAL.

It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the town, or in any area under the jurisdiction of the town, any human or animal excrement, garbage, or other objectionable waste.
(Ord. 5-1973, passed 1-7-1974; Am. Ord. 9-1990, passed 7-1-1991) Penalty, see § 53.99

§ 53.16 WASTEWATER DISCHARGES.

(A) Wastewater discharges to the town wastewater facilities are not authorized unless approved by the Manager in accordance with provisions of this chapter.

(B) It shall be unlawful to discharge to any natural outlet within the town or in any area under its jurisdiction, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.
(Ord. 5-1973, passed 1-7-1974; Am. Ord. 9-1990, passed 7-1-1991) Penalty, see § 53.99

§ 53.17 WASTEWATER DISPOSAL.

Except as provided in this chapter, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.
(Ord. 5-1973, passed 1-7-1974; Am. Ord. 9-1990, passed 7-1-1991) Penalty, see § 53.99

§ 53.18 CONNECTION TO SEWER REQUIRED.

The owner of any house, building or property used for human occupancy, employment, recreation, or other purposes under the jurisdiction of this chapter and abutting on any street, alley, or right-of-way in which there is or may be located a wastewater sewer connected to the town treatment facility, is required at the owner's expense to install suitable toilet facilities therein and to connect those facilities directly to the proper sewer in accordance with the provisions of this chapter, within 90 days after date of official notice to do so, provided the proper wastewater sewer is within 100 feet of the property line.

This section shall not apply to any person served by a privately constructed, owned, operated, or maintained wastewater sewer and wastewater treatment facility that discharges directly to a natural outlet in accordance with the provisions of this chapter and applicable state and federal laws.
(Ord. 5-1973, passed 1-7-1974; Am. Ord. 9-1990, passed 7-1-1991) Penalty, see § 53.99

§ 53.19 GREASE, OIL, AND SAND INTERCEPTORS.

(A) Grease, oil, and sand interceptors shall be installed at the owner's expense when, in the opinion of the Manager, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, and other harmful ingredients; except the interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Manager, and shall be located as to be readily and easily accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight, and equipped with easily removable covers which when bolted in place shall be gastight and watertight.

(B) When installed, all grease, oil, and sand interceptors shall be maintained by the owner, at his or her expense, in continuously efficient operation at all times.
(Ord. 5-1973, passed 1-7-1974; Am. Ord. 9-1990, passed 7-1-1991) Penalty, see § 53.99

§ 53.20 CONTROL MANHOLE.

(A) When required by the Manager, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling, and measurement of the wastes. The manhole, when required, shall be accessibly and safely

located, and shall be constructed in accordance with plans approved by the Manager. The manhole shall be installed by the owner at his or her expense, and shall be maintained by him or her so as to be safe and accessible at all times.

(B) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with *Standard Methods for the Examination of Waste and Sewage*, and shall be determined at the control manhole provided for in division (A) above, or upon suitable samples taken at the control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer system to the point at which the building sewer is connected.
(Ord. 5-1973, passed 1-7-1974; Am. Ord. 9-1990, passed 7-1-1991)

§ 53.21 SEWER LINE CONSTRUCTION.

All lateral sewer line construction shall be paid for in advance by the party or parties so requesting the construction and the construction shall be made under the supervision of a representative of the Manager.
(1963 Code, Ch. 12, § 17) (Ord. 1-1946, passed 2-4-1946; Am. Ord. 9-1990, passed 7-1-1991)

PRIVATE WASTEWATER DISPOSAL

§ 53.30 EXCLUSIONS.

This subchapter shall not apply to any private system that discharges to wastewater facilities of the town or that discharges directly to a natural outlet by authority of a separate NPDES permit and in compliance with applicable state and federal laws.
(Ord. 9-1990, passed 7-1-1991)

§ 53.31 PRIVATE SYSTEM REQUIRED.

All houses, buildings, or properties within the corporation limits or extended service area of the town that are required by other authority to have sanitary or industrial wastewater facilities, are subject to the jurisdiction of this chapter, and are located where a proper wastewater sewer is not available as specified by the provisions of §§ 53.17 and 53.18, shall be equipped at the owner's expense with suitable wastewater facilities connected to a private wastewater disposal system, which complies with the provisions of this subchapter.
(Ord. 5-1973, passed 1-7-1974; Am. Ord. 9-1990, passed 7-1-1991) Penalty, see § 53.99

§ 53.32 CONSTRUCTION PERMIT.

Before beginning construction of a private wastewater disposal system required under § 53.31 above, the owner shall first obtain a written construction permit signed by the Manager, in addition to any state or county permits required. The application for the permit shall be made on a form furnished by the town, which the applicant shall supplement by any plans, specifications, and other information relevant to wastewater discharges as are deemed necessary by the Manager. A permit and inspection fee of $50 shall be paid to the town at the time the application is filed.
(Ord. 9-1990, passed 7-1-1991) Penalty, see § 53.99

§ 53.33 DESIGN REQUIREMENTS.

The type, capacities, location, and layout of a private wastewater disposal system shall comply with all requirements of the state or applicable federal law. No permit shall be issued for any private wastewater disposal system employing subsurface soil disposal facilities where the area of the lot is less than current regulatory requirements. Septic tank or cesspool discharges require the use of subsurface disposal. This requirement excludes deep well disposal as defined by state and federal laws.
(Ord. 5-1973, passed 1-7-1974; Am. Ord. 9-1990, passed 7-1-1991) Penalty, see § 53.99

§ 53.34 OPERATING PERMIT.

Before beginning of operation of a private wastewater disposal system, the owner shall first obtain a written operating permit signed by the Manager. The operating permit shall not become effective until the installation is completed to the satisfaction of the Manager. The Manager shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the operating permit shall notify the Manager when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within two normal business days after receipt of notice by the Manager. Failure to obtain the permit and adhere to the inspection requirements shall initiate legal action by the authority, and shall be subject to the penalty as prescribed by and set forth in § 10.99 of Chapter 10 (Rules of Construction; General Penalty) of Title I (General Provisions) of the Town Code of Hagerstown, Indiana.
(Ord. 9-1990, passed 7-1-1991: Am. Ord. 8-2007, passed - -)

§ 53.35 CONNECTION TO TOWN SYSTEM WHEN AVAILABLE.

At such time as a wastewater sewer becomes available, as defined in § 53.18, to a property served by a private wastewater disposal system, a direct connection shall be made to the wastewater sewer within 120 days of availability of the system, and any septic tanks, cesspools, and similar wastewater disposal facilities shall be emptied as prescribed by local, state, or county regulations and filled with a suitable material at the owner's expense.
(Ord. 9-1990, passed 7-1-1991) Penalty, see § 53.99

§ 53.36 SANITARY OPERATION REQUIRED.

The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times in accordance with the conditions of the operating permit and at no expense to the town. The facilities shall be subject to inspection by the Manager at reasonable times.
(Ord. 5-1973, passed 1-7-1974; Am. Ord. 9-1990, passed 7-1-1991) Penalty, see § 53.99

§ 53.37 FURTHER REQUIREMENTS.

No statement contained in this subchapter shall be construed to interfere with any additional requirements that may be imposed by all other applicable authority.
(Ord. 5-1973, passed 1-7-1974; Am. Ord. 9-1990, passed 7-1-1991)

BUILDING SEWERS AND CONNECTIONS

§ 53.40 CONNECTION PERMIT.

(A) No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb any wastewater sewer or storm sewer without first obtaining a written permit from the Manager.

(B) There shall be three classes of permits for connections to the town's wastewater facilities: Class I - Residential; Class II - Commercial; and Class III - Industrial. In all cases, the owner shall make application on a special form furnished by the town. The permit application shall be supplemented by wastewater information required to administer this chapter. A permit inspection fee of $50 for a Class I, $150 for a Class II, and $300 for a Class III connection permit shall be paid to the town at the time the application is filed.

(C) Connections to a storm sewer shall be subject to a permit and inspection fee not to exceed $5,000. The connections shall be subject to the provisions of this chapter and the approval of the Manager and Council.
(Ord. 5-1973, passed 1-7-1974; Am. Ord. 9-1990, passed 7-1-1991) Penalty, see § 53.99

§ 53.41 CONNECTION COSTS.

(A) The costs and expenses incidental to the building sewer installation and connection to the town's wastewater facilities shall be borne by the owner, to include site restoration to original condition. The owner shall indemnify the town from any loss or damage that directly or indirectly may result from the installation of the building sewer.

(B) A charge of $250 shall be made to a property owner for connecting his or her sewer facilities by a tap to an existing town sewer; provided, nevertheless, that no charge shall be made for a sewer tap to the existing sewer in the industrial park platted by the town. All properties within 100 feet of an existing sewer having improvements thereon shall be required to be connected to the existing sewer.

(C) (1) Whenever a new sewer system is installed in an area not before served, all properties within 100 feet of the new sewer having improvements thereon shall be required to connect to the new sewer at the time of its installation. Connection charges for this service shall be determined by the Council before the new system is installed and shall apply to all properties.

(2) All properties required by this section to connect to the new sewer system designed as the East Side Sewer Extension Project No. S-3081 shall be required to pay a connection charge of $1,000 to tap on the sewer when the sewer is installed and available for the connection in the town. Any property owner of unplatted contiguous land or of land within a subdivision, or any subdivider of a platted subdivision having local sewers connecting to the Project S-3081 sewer system, shall also be required to pay a connection charge of $500 for each additional improvement on the property connected to the local sewer served by Project S-3081 sewer system, or for each individual lot or improvement within a subdivision served by a local sewer system designated as East Side Sewer Extension Project No. S-3081.
(Ord. 5-1973, passed 1-7-1974; Am. Ord. 9-1990, passed 7-1-1991) Penalty, see § 53.99

§ 53.42 SEPARATE CONNECTIONS REQUIRED.

A separate and independent building sewer shall be provided for every building, except when one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway. In those cases, the building sewer serving the front building may be extended to the rear building and the whole considered as one building sewer. The town assumes no obligation or responsibility for damage caused by or resulting from any single building sewer that serves two buildings. Both buildings will be subject to separate user fees based on current metering systems.
(Ord. 5-1973, passed 1-7-1974; Am. Ord. 2-1979, passed 2-5-1979; Am. Ord. 12-1985, passed 11-18-1985; Am. Ord. 9-1990, passed 7-1-1991) Penalty, see § 53.99

§ 53.43 EXISTING BUILDING SEWER.

Existing building sewers may be used for connection of new buildings only when they are found, after examination and test by the Manager, to meet the requirements of this chapter.
(Ord. 5-1973, passed 1-7-1974; Am. Ord. 9-1990, passed 7-1-1991) Penalty, see § 53.99

§ 53.44 BUILDING SEWER DESIGN.

The size, slope, alignment, construction materials, trench excavation and backfill methods, pipe placement, jointing, and testing methods used in the construction and installation of a building sewer shall conform to the building and plumbing code or other applicable requirements of the town. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF shall apply.
(Ord. 5-1973, passed 1-7-1974; Am. Ord. 9-1990, passed 7-1-1991) Penalty, see § 53.99

§ 53.45 BUILDING SEWER ELEVATION.

Whenever practical, the building sewer shall be brought to a building at an elevation below the basement floor. In buildings in which any building drain is too low to permit gravity flow to the town's wastewater sewer, wastewater carried by that building drain shall be lifted by an ATSM-approved means at the owner's expense and discharged to a building sewer draining to the town sewer.
(Ord. 5-1973, passed 1-7-1974; Am. Ord. 9-1990, passed 7-1-1991) Penalty, see § 53.99

§ 53.46 SURFACE RUNOFF AND GROUNDWATER DRAINS.

(A) No person shall connect roof, foundation, areaway, parking lot, roadway, or other surface runoff or groundwater drains to any sewer that is connected to a wastewater treatment facility.

(B) Roof, foundation, areaway, parking lot, roadway, or other surface runoff or groundwater drains shall discharge to natural outlets or storm sewers.
(Ord. 5-1973, passed 1-7-1974; Am. Ord. 9-1990, passed 7-1-1991) Penalty, see § 53.99

§ 53.47 CONFORMANCE TO APPLICABLE CODES.

(A) The connection of a building sewer into a wastewater sewer shall conform to the requirements of the building and plumbing code or other applicable requirements of the town not in conflict herewith, or to the procedures set forth in appropriate specifications of the ASTM or the WPCF. The connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved in writing by the Manager before installation.

(B) The connection of a surface runoff or groundwater drain to a storm sewer or natural outlet designed to transport surface runoff or groundwater drainage shall conform to the requirements of the applicable building code or other applicable requirements of the town.
(Ord. 5-1973, passed 1-7-1974; Am. Ord. 9-1990, passed 7-1-1991) Penalty, see § 53.99

§ 53.48 CONNECTION INSPECTION.

The applicant for a building sewer or other drainage connection permit shall notify the Manager when the sewer or drainage connection is ready for inspection before its connection to the town facilities. The connection and testing, as deemed necessary by the Manager, shall be made under the supervision of the Manager. Failure to adhere to the requirements of this section shall be subject to the penalty as prescribed by and set forth in § 10.99 of Chapter 10 (Rules of Construction; General Penalty) of Title I (General Provisions) of the Town Code of Hagerstown, Indiana.
(Ord. 9-1990, passed 7-1-1991; Am. Ord. 8-2007, passed - -)

§ 53.49 EXCAVATION GUARDS AND PROPERTY RESTORATION.

Excavations for building sewer installation shall be adequately guarded with barricades and lights to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the town.
(Ord. 5-1973, passed 1-7-1974; Am. Ord. 9-1990, passed 7-1-1991) Penalty, see § 53.99

§ 53.50 PROTECTION OF CAPACITY FOR EXISTING USERS.

The Manager shall not issue a permit for any class of connection to the town's wastewater sewers or wastewater treatment facilities unless there is sufficient capacity not legally committed to other users in the wastewater sewers and wastewater facilities to convey and adequately treat the quantity of wastewater that the requested connection will add to the system. The Manager may permit such a connection if there are legally binding commitments to provide the needed capacity.
(Ord. 9-1990, passed 7-1-1991)

CONDITIONS OF USE

§ 53.55 SPECIAL USES.

All uncontaminated discharges of stormwater, surface water, groundwater, roof runoff, subsurface drainage, or other waters not required to be treated in the treatment facility shall be made to storm sewers or natural outlets designed for the discharges.
(Ord. 9-1990, passed 7-1-1991) Penalty, see § 53.99

§ 53.56 RESTRICTED DISCHARGES.

(A) No person shall discharge or cause to be discharged to any of the town's wastewater facilities any substances, materials, waters, or wastes in quantities or concentrations that will:

(1) Create a fire or explosion hazard including, but not limited to, gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas; and/or

(2) Cause corrosive damage or hazard to structures, equipment, or personnel of the wastewater facilities, and in no case will discharges be allowed with a pH lower than 5.0.

(B) These requirements may be modified for facilities designed to accommodate greater ranges:

(1) Having a pH lower than 5.0 or greater than 10.0 for more than 5% of the time in a 24-hour period;

(2) Having a pH lower than 3.5 or greater than 12.0 for any period exceeding 15 minutes;

(3) Cause obstruction to the flow in sewers, or other interference with the operation of wastewater facilities due to accumulation of solid or viscous materials;

(4) Constitute a rate of discharge or substantial deviation from normal rates of discharge (slug discharge) sufficient to cause interference in the operation and performance of the wastewater facilities;

(5) Contain heat in amounts that will accelerate the biodegradation of wastes, causing excessive amounts of hydrogen sulfide to form in the wastewater sewer, or inhibit biological activity in the wastewater treatment facilities; and in no case shall the discharge of heat cause the temperature in the town wastewater sewer to exceed 58°C (150°F) or the temperature of the influent to the treatment facilities to exceed 40°C (104°F) unless the facilities can accommodate the heat;

(6) Contain more than 100 milligrams per liter of nonbiodegradable oils of mineral or petroleum origin;

(7) Contain floatable oils, fat, or grease;

(8) Contain noxious, malodorous gas, or substance in quantities that create a public nuisance or a hazard to life;

(9) Contain radioactive wastes in harmful quantities as defined by applicable state and federal guidelines;

(10) Contain any garbage that has not been properly shredded; and/or

(11) Contain any odor- or color-producing substances exceeding concentration limits that may be established by the Manager to the town's NPDES permit.

(C) If in establishing discharge restrictions, discharge limits or pretreatment standards pursuant to this section, the Manager establishes concentration limits to be met by an industrial user, the Manager in lieu of concentration limits may establish mass limits of comparable stringency for an individual industrial user at the request of the user.
(Ord. 5-1973, passed 1-7-1974; Am. Ord. 9-1990, passed 7-1-1991) Penalty, see § 53.99

§ 53.57 FEDERAL CATEGORICAL PRETREATMENT STANDARDS.

(A) No person shall discharge or cause to be discharged to any wastewater facilities, wastewaters containing substances in excess of the quantity prescribed by the applicable Federal Categorical Pretreatment Standard promulgated by EPA, except as otherwise provided in this section. Compliance with the applicable pretreatment standards shall be within three years of the date the standard is promulgated for existing sewers; however, compliance with categorical pretreatment standard for new sources shall be required upon connection to the publicly-owned treatment works.

(B) Upon application by a Class III user, the Manager shall revise any limitations on substances specified in the applicable pretreatment standards to reflect removal of the substances by the wastewater treatment facility. The revised discharge limit for specified substances shall be derived in accordance with federal law.

(C) Upon application by a Class III user, the Manager shall adjust any limitation on substances specified in the applicable pretreatment standards to consider factors relating to the users that are fundamentally different from the factors considered by EPA during the development of the pretreatment standard. Requests for and determinations of fundamentally different adjustments shall be in accordance with federal law.

(D) The Manager shall notify any Class III user affected by the provisions of this section and establish an enforceable compliance schedule for each.
(Ord. 9-1990, passed 7-1-1991) Penalty, see § 53.99

§ 53.58 SPECIAL AGREEMENTS.

Nothing in this subchapter shall be construed as preventing any special agreement or arrangement between the town and any user of the wastewater facilities, whereby wastewater of unusual strength or character is accepted into the system and specially treated subject to any applicable payments or user charges.
(Ord. 5-1973, passed 1-7-1974; Am. Ord. 9-1990, passed 7-1-1991)

§ 53.59 WATER AND ENERGY CONSERVATION.

The conservation of water and energy shall be encouraged by the Manager. In establishing discharge restrictions for industrial users, the Manager shall consider already implemented or planned conservation steps revealed by the Class III user. At the Manager's request, each industrial user will provide pertinent information showing that the quantities of substances or pollutants have not been, nor will be, increased as a result of the conservation steps. After such a showing is deemed satisfactory, the Manager shall adjust the discharge restrictions, which have been based on concentrations, to reflect the conservation steps.
(Ord. 9-1990, passed 7-1-1991)

CLASS III INDUSTRIAL DISCHARGES

§ 53.65 INFORMATION REQUIREMENTS.

(A) All Class III dischargers shall file with the town all wastewater information deemed necessary by the Manager for determination of compliance with this chapter, the town's NPDES permit conditions, and state and federal law. This information shall be provided by completion of a questionnaire designed and supplied by the Manager and by supplements thereto as necessary. Information requested in the questionnaire and designated by the discharger as confidential is subject to the conditions of confidentiality as set forth in division (C) below.

(B) A person who owns, operates, or occupies properties designated as a Class III discharger at more than one location shall submit separate information for each location as may be required by the Manager.

(C) The Manager shall implement measures to ensure the confidentiality of information provided by a Class III discharger pursuant to this chapter. In no event shall the Manager delegate this responsibility or disclose any claimed confidential information to any person except other regulatory authorities without prior written notice to the owner and without providing the owner the opportunity to project the confidential information, including the right to seek judicial relief.
(Ord. 9-1990, passed 7-1-1991)

§ 53.66 PROVISION FOR MONITORING.

(A) When required by the Manager, the owner of any property serviced by a building sewer carrying Class III wastewater discharges shall provide suitable access and necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurements of the

wastewater. The access shall be provided in accordance with plans approved by the Manager. The access shall be provided and maintained at the owner's expense to be safe and accessible at reasonable times.

(B) The Manager shall consider the factors as the volume and strength of discharge, rate of discharge, quantities of toxic materials in the discharge, wastewater treatment facility removal capabilities, and cost effectiveness in determining whether access and equipment for monitoring Class III wastewater discharges shall be required.

(C) When the Manager determines access and equipment for monitoring or measuring Class III wastewater discharges are not practicable, reliable, or cost-effective, the Manager may specify alternative methods of determining the characteristics of the wastewater discharge that will, in the Manager's judgment, provide an equitable measurement.
(Ord. 9-1990, passed 7-1-1991)

§ 53.67 DETERMINATION OF WASTEWATER CHARACTERISTICS.

(A) Measurements, tests, and analyses of the characteristics of wastewater to which reference is made in this chapter, shall be determined in accordance with 40 C.F.R. § 136 methods approved by the Manager and shall comply with state and federal law. Sampling locations, times, duration, and frequencies shall be determined on an individual basis subject to approval by the Manager. The discharger shall have the option to use, at his or her own expense, more complete approved sampling methods, locations, times, duration, and frequencies than specified by the Manager. Any additional results beyond those required are also to be reported to the control authority.

(B) Measurements, tests, and analyses of the characteristics of wastewater required by this chapter shall be performed by a qualified laboratory certified by the state. When the analyses are required of a discharger by the town, the discharger shall arrange for independent testing to be performed by a qualified laboratory certified by the state, and shall furnish copies of the results of the tests to the Manager. This independent testing shall be at the expense of the discharger.

(C) Monitoring of wastewater characteristics necessary for determining compliance with applicable pretreatment standards shall be conducted on the basis of the schedule below, unless more frequent monitoring is required by authority other than this chapter, or if the Manager determines that the characteristics of the specific discharge warrant more frequent monitoring.

Average Actual Discharge	*Monitoring Frequency*
Less than 100,000 gallons per day	Semiannually
100,000 - 999,999 gallons per day	Quarterly
More than 999,999 gallons per day	Monthly

(D) Monitoring of wastewater characteristics for any purpose other than determining compliance with pretreatment standards shall be conducted on a frequency deemed necessary by the Manager.

(E) Upon demonstration by any person that the characteristics of the wastewater discharge by that person are consistent, the Manager may reduce the monitoring frequency as may be required by authority other than this chapter. In no case shall the frequency of monitoring be less than semiannual for determining compliance with pretreatment standards.

(F) In determining the discharge characteristics, factors such as continuous, batch, or seasonal operation, as well as the information requirements of other provisions in this chapter, shall be considered by the Manager. The Manager may obtain wastewater samples as required to verify the consistency of discharge characteristics.

(G) Fees for any given measurement, test, or analysis of wastewater required by this chapter and performed by the town shall be the same for all classes of dischargers, regardless of the quantity or quality of the discharge, and shall reflect only direct cost. Costs of analyses by an independent laboratory at the option of the discharger shall be borne directly by the discharger.
(Ord. 9-1990, passed 7-1-1991)

§ 53.68 COSTS OF DAMAGE.

If the drainage or discharge from any establishment causes a deposit, obstruction, or damage to any of the wastewater facilities, the Manager shall cause the deposit or obstruction to be promptly removed or cause the damage to be promptly repaired. The cost for the work, including materials, labor, and supervision, shall be borne by the person causing the deposit, obstruction, or damage.
(Ord. 9-1990, passed 7-1-1991)

PRETREATMENT

§ 53.70 WASTEWATERS WITH SPECIAL CHARACTERISTICS.

(A) The Manager should initially rely on Federal Categorical Pretreatment Standards of § 53.57 to protect wastewater facilities or receiving waters. However, if any wastewater that contains substances or characteristics shown to have deleterious effects on the wastewater facilities, processes, equipment, or receiving waters, or that constitute a public nuisance or hazard, is discharged or proposed for discharge to the wastewater sewers, the Manager may:

(1) Require pretreatment to a condition acceptable for discharge to the wastewater sewers;

(2) Require control over the quantities and rates of discharge;

(3) Require payment to cover added cost of handling and treating the wastewaters not covered by existing fees and charges;

(4) Require development of compliance schedules to meet any applicable treatment requirements;

(5) Require the submission of reports necessary to ensure compliance with applicable pretreatment requirements;

(6) Carry out all inspections, surveillance, and monitoring necessary to determine compliance with applicable pretreatment requirements;

(7) Obtain remedies for noncompliance by any user. These remedies may include injunctive relief, the civil penalties specified in this chapter, or appropriate criminal penalties; and/or

(8) Reject the wastewater if scientific evidence indicates the discharge will create unreasonable hazards or have unreasonable deleterious effects on the wastewater facilities.

(B) When considering the above alternatives, the Manager shall ensure that conditions of the town's NPDES permit are met. The Manager also shall consider the cost-effectiveness and the economic impact of the alternatives on the discharger. If the Manager allows the pretreatment or equalization of wastewater flows, the installation of necessary facilities shall be subject to review. The Manager shall review and recommend any appropriate changes to the program within 30 days of submittal.

(C) Where pretreatment or flow-equalizing facilities are provided or required for any wastewater, they shall be maintained continuously in satisfactory and effective operation at the owner's expense.
(Ord. 5-1973, passed 1-7-1974; Am. Ord. 9-1990, passed 7-1-1991) Penalty, see § 53.99

§ 53.71 COMPLIANCE WITH PRETREATMENT REQUIREMENTS.

Persons required to pretreat wastewater in accordance with § 53.70 above shall provide a statement to be reviewed by an authorized representative of the user and certified by a qualified person. This statement shall indicate whether applicable pretreatment requirements are being met on a consistent basis, and, if not, describe the additional operation and maintenance or additional pretreatment needed for the user to meet the pretreatment requirements. If additional pretreatment or operation and maintenance will be required to meet the pretreatment requirements, the user shall submit a plan, including schedules, to the Manager. The plan, including schedules, shall be consistent with applicable conditions of the town's NPDES permit or other local, state, or federal laws.
(Ord. 9-1990, passed 7-1-1991) Penalty, see § 53.99

§ 53.72 MONITORING REQUIREMENTS.

Discharges of wastewater to the wastewater facilities from the facilities of any user shall be monitored in accordance with the provisions of §§ 53.66 and 53.67.
(Ord. 9-1990, passed 7-1-1991) Penalty, see § 53.99

§ 53.73 EFFECT OF FEDERAL LAW.

If the federal government promulgates a regulation for a given new or existing user in a specific industrial subcategory that establishes pretreatment standards or establishes that such a user is exempt from pretreatment standards, the federal regulations shall immediately supersede § 53.70(A).
(Ord. 9-1990, passed 7-1-1991)

§ 53.74 REVISION OF PRETREATMENT STANDARDS.

The Manager shall promptly apply for and obtain authorization from the EPA to revise discharge limitations for those substances listed in the federal categorical pretreatment standards for which consistent removal occurs in the wastewater treatment facilities of the town. The Manager shall not adopt or enforce discharge limitations more stringent than the requested limitations until the state or EPA acts on the application.
(Ord. 9-1990, passed 7-1-1991)

WASTEWATER SERVICE CHARGES

§ 53.80 PAYMENT.

(A) All fees and charges payable under the provisions of this chapter shall be paid to the town. Those fees and charges shall be as set forth in § 53.83.

(B) All fees and charges payable under the provisions of this chapter are due and payable as outlined in this chapter. Unpaid fees and charges shall become delinquent and shall be subject to penalty and interest charges as outlined in this chapter.

(C) All fees and charges payable under the provisions of this chapter are due and payable on the receipt of notice of charges. Unpaid charges shall become delinquent and shall be subject to penalty and interest charges as outlined in this chapter.

(D) Water which is used in the process of manufacturing, or for any other purpose, which does not discharge into the public sewer system shall be exempt from charges, providing, however, that the property owner shall install the necessary meters to indicate the amount of water which does not discharge into the public sewer system of the town, which meter shall be subject to the approval of the Council.

(E) Where a metered water supply is used for fire protection, as well as for other uses, the town may, in its discretion, make adjustments in the minimum charge and in the use charge as may be equitable. In those cases, the burden of proof as to the type of water usage shall be upon the user.

(F) (1) In the case of apartment houses, multiple dwellings, and trailer courts, each apartment, dwelling, and trailer shall be considered a separate unit for billing purposes. Where the physical structure of an apartment house, multiple dwelling, or trailer court is such that it would be impractical to meter separately each unit for water and more than one unit is metered by a single meter, then the amount of monthly sewer bill shall be computed as follows:

(a) The minimum charge will be the current service charge multiplied by the number of units; and

(b) The metered charge shall be calculated on the basis of the total gallons used at the current rate.

(2) In the case of business houses occupied by more than one business, the number of units for billing purposes shall be the number of businesses occupying the business house, provided that each are separately metered. Where the physical structure is such that it would be impractical to meter separately each unit for water and more than one unit is metered by a single meter, then the number of units for billing purposes shall be computed as follows: Where more than one business is metered by a single meter, then the number of units for billing purposes shall be determined by the number of units having water and sewage connections located within the leased, rented, or occupied interior premises of the business, or having private access to a water and sewage connection which is identified specifically for the lessee, tenants, or occupant not having been granted an official interruption of service by the water utility.

(3) Where the physical structure of a business house is such that it would be impractical to meter separately each unit for water and more than one unit is metered by a single meter, then the amount of monthly sewer bill shall be computed as follows:

(a) The minimum charge will be the current service charge multiplied by the number of units for billing purposes, based on the determination above in division (F)(2) above; and

(b) The metered charge shall be calculated on the basis of the total gallons used at the current rate.

(G) For services rendered to the town by the sewage treatment works, the town shall be subject to and pay like rates and charges as herein provided for other users.

(H) It shall be the duty of the officer or officers charged with collection of the rates and charges to enforce payment thereof, together with penalties and other charges provided by law or by this chapter. The due date for all fees and charges under this chapter shall be 15 days from the billing date thereof. All bills for sewer service not paid by the due date (which shall mean within 15 days from the billing date thereof, as stated in the bills), shall be considered delinquent, and shall incur a penalty of 10% of the delinquent amount. If any fees and charges shall not be paid for service rendered to any lot, parcel of real estate, or building served, within 30 days after written notice of the amount due has been given thereof, with a sewer bill constituting the written notice, the Town shall proceed to enforce payment against the owner as directed by the Town Council as provided by law. Additionally, but not by way of limitation, the amount of the fee, the penalty, and a reasonable attorney's fee may be recovered by the town in a civil action in the name of the town, and, notwithstanding other rights within this chapter, the town may enforce and collect payments due under this chapter by any legal methods authorized by law, which shall include but not be limited to the methods set forth within this chapter.
(Ord. 1-1968, passed 3-25-1968; Am. Ord. 11-1975, passed 12-15-1975; Am. Ord. 8-1979, passed 7-30-1979; Am. Ord. 11-1980, passed 12-1-1980; Am. Ord. 9-1990, passed 7-1-1991; Am. Ord. 3-2003, passed 8-4-2003; Am. Ord. 5-2005, passed 6-6-2005)

§ 53.81 BASIS.

Charges and fees for the use of the public wastewater facilities shall be based upon the actual use of the system or contractual obligation for use in excess of current actual use. Property value may be used to collect the amount due as permitted by federal law.
(Ord. 9-1990, passed 7-1-1991)

§ 53.82 DETERMINATION OF SYSTEM USE.

(A) The use of the town's wastewater facilities shall be based on actual measurement and analysis of each user's wastewater discharge, in accordance with provisions of §§ 53.66 and 53.67, to the extent the measurements are considered by the Manager to be feasible and cost-effective.

(B) Where measurement and analysis are not considered feasible, each user's use of the facilities shall be determined by the quantity of water used, whether purchased from a public water utility or obtained from a private source, or by an alternative means as provided by division (C) below.

(C) The Manager, when determining actual use of the town's wastewater facilities based on water use, shall consider consumptive, evaporative, or other water use that results in a significant difference between a discharger's water use and wastewater discharge. When appropriate, the consumptive water use may be metered to aid in determining actual use of the wastewater facilities. The type of meters used

to measure the water uses and their installation shall be approved by the Manager. If the discharger makes a claim that any information requested on this form is confidential, the information shall be submitted on a separate sheet of paper.
(Ord. 9-1990, passed 7-1-1991)

§ 53.83 SPECIFIC FEES AND CHARGES.

(A) *Authority to measure sewage discharge.* The town shall have the right to measure and determine the amount, strength, and character of all sewage and wastes discharged either directly or indirectly into the town's sewer system, in such a manner and by the method as it may find practicable in the light of the conditions and attending circumstances of the case, in order to determine the proper rate or charge in accordance with the rate schedule set out in this section.

(B) *Metered rates per month.*

(1) Fees, rates, and charges per month shall be collected for the use of and the service rendered by the sewage treatment works from the owners of each and every lot, parcel of real estate or building that is connected with and uses the works by or through any part of the sewage system, or that in any way uses or is served by the works, and the rates and charges shall be payable as hereinafter provided for each unit of each user served by the sewer works.

(2) The fees, rates, and charges shall be determined as follows, except as may be provided otherwise herein:

(a) Service charge per user unit, $40.90 per month;

(b) Metered rates per user unit per month, $2.59 per 1,000 gallons, up to 1,000,000 gallons; and

(c) Metered rates per user unit per month, $1.30 per 1,000 gallons, over 1,000,000 gallons.

(C) *Billing date; service charges for new customers.*

(1) The above fees, rates, and charges begin to accrue on June 1, 2010, and the first billing for rates and charges shall be made as of July 1, 2010. All fees and charges payable under the provisions of this chapter are due no later than 15 days from the date of billing as set forth in any utility billing of the town ("due date" or "Due Date"). In the event that any service charges are not paid on or before the due date, the unpaid charges are delinquent and shall be subject to a late fee or penalty of 10% of the delinquent amount. The amount of the fee, the penalty, and a reasonable attorney fee may be recovered by the town in a civil action in the name of the town. Further, all of those rights, responsibilities and powers of the town with respect to the collection of sewage works charges, penalties, and costs, as set forth in I.C. 36-9-23-32 through 36-9-23-36, are incorporated herein by reference to the same.

(2) The fees, rates, and charges herein fixed shall be extended to and cover any additional premises hereinafter connected with the sewer system without the necessity of any hearing or notice. Service charges for a period of less than one month shall be computed on the basis of the period during which service is rendered.
(Ord. 1-1968, passed 3-25-1968; Am. Ord. 11-1975, passed 12-15-1975 Am. Ord. 8-1979, passed 7-30-1979; Am. Ord. 11-1980, passed 12-1-1980; Am. Ord. 8-1990, passed 9-4-1990; Am. Ord. 9-1990, passed 7-1-1991; Am. Ord. 4-1994, passed 9-12-1994; Am. Ord. 2-1998, passed 4-6-1998; Am. Ord. 5-2010, passed 6-7-2010; Am. Ord. 9-2010, passed 9-7-2010)

§ 53.84 INDUSTRIAL PARK SEWER RATES.

(A) *Generally*. This section shall apply only to those industrial parks wherein the developer of same has entered into an agreement with the town for the provision of sanitary sewer collection and treatment service. This section shall not be retroactive to existing industrial parks now served by the town and its utilities.

(B) *Fees, rates, and charges*.

(1) Service charge: A charge of $28.90 shall be assessed each user unit each calendar month.

(2) Metered rate per each user unit shall be $1.23 per month per 1,000 gallons for usage less than 1,000,000 gallons.

(3) Metered rate per each user unit shall be $0.68 per month per 1,000 gallons for usage more than 1,000,000 gallons.

(4) Tapping fees:

(a) A tap fee of $400 shall be assessed each user unit upon connection to the public sewer main.

(b) The tap connection and service line shall be constructed at the using units expense.

(C) *Compliance*. All customers being served by the Hagerstown Sewer Department shall agree to abide by and remain in compliance with the Hagerstown Code of Ordinances as found in the following titles and chapters: Title V; Chapter 50, General Provisions; Chapter 53, Sewer Ordinance; Ordinance Number 4-1996, Industrial Park Schedule of Rates (this section).
(Ord. 4-1996, passed 10-7-1996)

ENFORCEMENT

§ 53.90 INSPECTIONS.

(A) The Manager, bearing proper credentials and identification, shall be permitted to enter properties at any reasonable time for the purposes of inspection, observation, measurement, and sampling of the wastewater discharged to ensure that discharge to the town wastewater facilities is in accordance with the provisions of this chapter.

(B) The Manager, bearing proper credentials and identification, shall be permitted to enter all private property at reasonable times, through which the town holds an easement for the purpose of inspection, observation, measurement, sampling, repair, and maintenance of any of the town's wastewater facilities within the easement. All entry and any subsequent work on the easement shall be done in full accordance with the terms of the easement pertaining to the private property involved.

(C) While performing the necessary work on private properties referred to in divisions (A) and (B) above, the Manager shall observe all safety rules established by the owner or occupant of the property and applicable to the premises.
(Ord. 5-1973, passed 1-7-1974; Am. Ord. 9-1990, passed 7-1-1991) Penalty, see § 53.99

§ 53.91 RIGHT OF ENTRY.

(A) Duly-authorized representatives of the authority may inspect the property or facilities of any user (including facilities under construction) to ascertain compliance with these regulations. Owners or occupants of premises where storm water or wastewater is either generated or discharged shall allow ready access to properly-identified authority representatives at all reasonable times during normal business hours and at other times when the authority reasonably suspects that a violation of these regulations may be occurring. Authority members shall be admitted to the parts of the premises as necessary to inspect, observe, measure, sample, and test:

(1) Internal plumbing;

(2) Pretreatment facilities;

(3) Internal discharge points or connections;

(4) Exterior connections;

(5) Building sewer or building storm drains;

(6) Oil traps and grease traps;

(7) Any other facilities required by the authority to be constructed, installed, or used;

(8) Measurement, sampling, and testing facilities and procedures that have been required by the authority; and

(9) Any other facilities that the manager reasonably believes may be contributing to a violation of these regulations.

(B) The authority, alone or in conjunction with other authorities, may conduct routine, periodic inspections of certain types of facilities. Restaurants, other food handling establishments, gas stations, and other entities that deal with petroleum products are the most likely subjects of inspections. Other industrial users also may be so inspected as the authority deems appropriate.

(C) With proper identification and at reasonable times during normal business hours and at other times when the authority reasonably suspects a violation of these regulations, duly-authorized representatives of the authority shall be permitted to enter all private property through which authority holds an easement for the purpose of inspection, observation, measurement, sampling, testing, maintenance, repair, and reconstruction of any portion of the authority's wastewater or storm drainage systems within the easement. All entry and subsequent work, if any, shall be done in full accordance with the terms of the easement.

(D) When an owner or user, after receiving reasonable notice from the authority, refuses to permit properly-identified authority personnel to enter or have access to premises or facilities in accordance with this section, the authority may give written notice of its intent to terminate water service to the user. The notice shall be given in accordance with authority regulations governing termination of service for reasons other than nonpayment, and subsequent termination proceedings shall conform to the regulations. These consequences are in addition to any other enforcement measures available under county, state or federal law.
(Ord. 9-1990, passed 7-1-1991) Penalty, see § 53.99

§ 53.92 SECURITY CLEARANCE.

When a user has security measures in force that require clearance before entry to the premises, the user shall make necessary arrangements to permit authority personnel to enter without undue delay to carry out their specific responsibilities.
(Ord. 9-1990, passed 7-1-1991) Penalty, see § 53.99

§ 53.93 GOVERNMENTAL FUNCTION.

The authority shall perform a governmental function for the benefit of the general public. The authority shall not be liable for any loss or damage as a result of the performance of the governmental function.
(Ord. 9-1990, passed 7-1-1991)

§ 53.94 MONETARY LIABILITY.

(A) *Penalties*. Any person who violates any provision of this chapter shall forfeit and pay to the authority the penalty established by general laws for each such violation. Each day of a prohibited discharge shall constitute a separate violation, if the discharge is continuous. If a prohibited discharge is intermittent, each occurrence shall be considered a separate violation.

(B) *Reimbursement for costs to authority*. Failure to comply with any portion of this chapter, or with any permit or order issued thereunder, shall be sufficient cause for the authority to levy on and collect from each violator an additional cost for expense, loss, or damage occasioned by the violation.
(Ord. 5-1973, passed 1-7-1974; Am. Ord. 9-1990, passed 7-1-1991)

§ 53.95 ENFORCEMENT ALTERNATIVES.

When the authority determines that a violation of this chapter or any permit, or any damage to the authority's collection system, is threatened or has occurred, one or more of the following actions may be taken:

(A) The authority may issue an order to cease and desist the violation and may direct the violator as follows:

(1) To comply either forthwith or in accordance with a time schedule set forth by the authority; or

(2) To take appropriate remedial preventive action in the event of a threatened violation.

(B) The authority may require the user in question to submit a detailed time schedule setting forth the specific proposed actions to prevent or correct a violation. The authority may issue an implementation schedule to the user, containing or modifying the specific actions and time schedule or requiring other actions within the time as the authority deems appropriate;

(C) The authority may issue an order directing the user to pay to the authority penalties and costs in accordance with § 53.94; and

(D) The authority may take direct enforcement action by filing suit in any court of competent jurisdiction pursuant to general laws or any other applicable statute or regulation.
(Ord. 9-1990, passed 7-1-1991)

§ 53.96 ADMINISTRATIVE PROCEDURE.

(A) *Informal conference*. Whenever the authority issues an industrial user discharge permit; denies, revokes, or modifies any form of permit or application; requires an owner or user to build or install any partial facility or device; issues a cease and desist order, a compliance order, or an implementation schedule; or assesses penalties or other charges for noncompliance with these regulations, any permits, or other lawful requirement, the authority shall promptly inform the owner or user to whom the action is addressed. This notice shall be sent by first-class mail, and shall inform the addressee of his or her right to submit, within 14 days after the date of the notice, a written request for reconsideration of the authority's action. A request for reconsideration shall be addressed to the Manager at the Hagerstown Town Hall, 49 East College Street, Hagerstown, Indiana, and shall set forth in detail the facts supporting it. Upon receiving such a timely request for reconsideration, the Manager or his or her designee shall schedule an information conference with the entity making the request. Written notice of the conference date, time, and place shall be mailed to that entity at least ten days before the date of the conference, which shall be held no later than 21 days after the receipt of the request. The Manager or his or her designee shall rule in writing on the request for reconsideration within 14 days after the completion of the conference.

(B) *Right to hearing*. A copy of the ruling on the request for reconsideration shall be mailed to the entity that submitted the request. The ruling shall be accompanied by a notice that the entity has the right to request a hearing before the authority or its designated representative. If the ruling concerns an industrial user discharge permit that would be or has been issued jointly by the authority, then the notice shall inform the user or owner to whom the ruling is addressed that he or she has the right to request a joint hearing before the authority or its designated representative. The notice shall inform the addressee that a hearing on the authority action must be requested within 30 days after the date of the notice by contacting the Manager at the authority's main offices. When a joint hearing is requested, a written request shall be addressed and sent in duplicate to the main office of the Manager and the entity who submitted the request.

(C) *Notice of hearing*. Within 15 days of receiving a timely written request for a hearing, the authority shall schedule a hearing, and shall mail to the entity that requested the hearing written notice of the date, time, place, and subject matter of the hearing. The notice also shall state that the entity requesting a hearing has the right to be represented by legal counsel and to present evidence, in both documents and testimony, at the hearing.

(D) *Conduct of hearing*. The hearing scheduled under division (C) above shall be held not sooner than 15 days nor later than 30 days after the notification date of the hearing. Unless it is a joint hearing, the hearing shall be conducted in accordance with rules as set forth or amended by the authority. The

rules of evidence observed by courts need not be adhered to. The proceedings shall be tape recorded, and the recording shall be kept in the authority's custody. Any person who desires a transcript of the hearing may obtain one from the authority, after paying the transcription charge reasonably incurred by the authority.

(E) *Hearing and record decision*. The documents and other evidence offered at the hearing shall constitute the hearing record. The hearing decision shall be based solely on the hearing record and shall be made within 30 days after the conclusion of the hearing. The decision shall be embodied in a written summary of the matters considered and the reasons for the determination made on each matter. The written decision shall be signed by the authority or its designated representative and mailed to the entity that requested the hearing.

(F) *Joint authority*. When a hearing is held jointly by the authority and other authorities, the hearing and decision may be governed by the applicable state and federal law, in lieu of divisions (D) and (E) above.
(Ord. 9-1990, passed 7-1-1991)

§ 53.97 PUBLICATION OF SIGNIFICANT VIOLATIONS.

(A) A list of significant violators of this chapter during the previous 12 months shall be published annually by the authority in the largest daily newspaper. The publication also may summarize any enforcement action taken against each entity listed during the same 12-month period.

(B) For the purposes of this provision, significant violations shall be those that either:

(1) Remain uncorrected for 45 days after notification of noncompliance;

(2) Are part of a pattern of noncompliance over a 12-month period; or

(3) Involve failure to accurately report noncompliance.
(Ord. 9-1990, passed 7-1-1991)

§ 53.98 NOTICE OF VIOLATION.

Any person found in violation of this chapter or any requirement of a permit issued hereunder, may be served with a written notice stating the nature of the violation and providing a reasonable time limit for compliance. Any such notice given shall be in writing and served in person or by registered or certified mail. The notice shall be sent to the last address of the violator known to the Manager. When the address is unknown, services may be made on the owner of record of the property involved. If satisfactory action is not taken in the time allotted by the notice, § 53.99 shall be implemented.
(Ord. 5-1973, passed 1-7-1974; Am. Ord. 9-1990, passed 7-1-1991)

§ 53.99 PENALTY.

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

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

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

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

(Ord. 5-1973, passed 1-7-1974; Am. Ord. 9-1990, passed 7-1-1991; Am. Ord. 8-2007, passed - -)

Statutory reference:

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

CHAPTER 54: WELLHEAD PROTECTION

Section

54.01 Short title
54.02 Purpose
54.03 Definitions
54.04 Regulated substances
54.05 Restrictions within the sanitary setback area
54.06 Exemptions
54.07 Conflict and severability

54.99 Penalty

§ 54.01 SHORT TITLE.

This chapter shall be known and cited as the Wellhead Protection Ordinance of Hagerstown. (Ord. 1-2001, passed 6-4-2001)

§ 54.02 PURPOSE.

The purpose of this chapter is the protection of health, life, resources, and property through the regulation of hazardous substance transport and storage and other related aspects of land use and development in the vicinity of any well that supplies potable water to the Hagerstown community. (Ord. 1-2001, passed 6-4-2001)

§ 54.03 DEFINITIONS.

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

COMMUNITY WATER SYSTEM. A public water system operated by the town to serve its residential, commercial, and industrial customers.

GROUNDWATER. Water that lays in a saturated zone or stratum beneath the surface of land or water, whether or not it is flowing through known channels.

HAZARDOUS SUBSTANCES. Those materials specified in § 54.04.

MANAGEMENT ZONES. A zone or zones that have been established to provide protection to the area surrounding a well or well field from potential contaminant sources. Management options may include limits on certain activities, more stringent design and operating standards, and strict monitoring of potential pollution sources. Multiple protection zones may be established for different management strategies based on proximity to the wellheads in question.

PETROLEUM PRODUCT. Fuels, gasoline, diesel fuel, kerosene, or other derivatives of hydro-carbons distilled from crude oil.

POTABLE WATER. Water that meets state and federal standards of purity, that is ingested by human beings or used for domestic purposes.

PRIMARY CONTAINMENT. The first level of product containment which is the container which comes into contact with the material being contained.

SECONDARY CONTAINMENT. The level of containment external to and separate from the primary containment. ***SECONDARY CONTAINMENT*** must be of adequate design to contain all leaks, spills, and overflows without experiencing substance loss. Containment systems shall be sheltered in order to negate the intrusion of precipitation.

STORAGE SYSTEM. Any one or combination of tanks, sumps, wet floors, waste treatment facility, pipes, vaults, or other portable or fixed container used, or designed to be used, for the storage of hazardous substances.

WATER SYSTEM. Buildings, structures, appurtenances, pipes, pumps, mains, storage tanks, and valves that store and distribute potable water to end users.

WELL. Any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed, wherein the intended use of the excavation is to conduct groundwater from an aquifer to the surface by pumping or natural flow for consumption or use and/or to monitor the characteristics of groundwater within an aquifer system.
(Ord. 1-2001, passed 6-4-2001)

§ 54.04 REGULATED SUBSTANCES.

The following substances shall be regulated:

(A) Petroleum products as defined in § 54.03;

(B) Substances listed in the federal hazardous waste list; and

(C) Substances other than those listed in the federal hazardous waste list that are determined by state or other regulatory agencies to pose a significant threat to the community water supply.
(Ord. 1-2001, passed 6-4-2001)

§ 54.05 RESTRICTIONS WITHIN THE SANITARY SETBACK AREA.

(A) No person, entity, or concern shall discharge, or cause or permit the discharge of, a hazardous substance including herbicides and pesticides to the soils, groundwater, or surface water within the sanitary setback area which radiates for a distance of 200 feet around each wellhead. Any person, entity, or concern knowing or having evidence of a discharge shall report the information to the Director of Municipal Operations.

(B) New sanitary landfills are prohibited within the sanitary setback area.

(C) The use, handling, production, or storage of hazardous substances is prohibited within the sanitary setback area, with the exception of those set forth in § 54.06.

(D) Feedlots or other concentrated animal facilities are prohibited within the sanitary setback area.

(E) Wastewater treatment plants are prohibited within the sanitary setback area.

(F) Septic tanks private or otherwise are prohibited in the sanitary setback area.
(Ord. 1-2001, passed 6-4-2001) Penalty, see § 54.99

§ 54.06 EXEMPTIONS.

The following activities or uses are exempt from the provisions of this chapter:

(A) The transportation of any hazardous substance through the sanitary setback area, provided the transporting vehicle is in transit;

(B) Substances used in the treatment of water quality;

(C) The use of hazardous substances as fuel in a vehicle fuel tank or as a lubricant;

(D) Fire, police, emergency medical services, emergency management facilities, or public utility transmission facilities;

(E) Retail sales establishments that store and handle hazardous substances for resale in their original unopened containers;

(F) Consumer products located within a home or public facility which are for personal, household, or institutional use;

(G) The storage and use of hazardous substances as fuel or lubricant to provide auxiliary power for emergency use to the well field, provided an enclosed secondary containment system is utilized;

(H) Herbicides and pesticides used in the wellhead protection area outside the sanitary setback zone, provided all state and federal regulations are being complied with in the use of the herbicides and pesticides; and

(I) Consumer products stored and used exclusively for janitorial or minor maintenance purposes.
(Ord. 1-2001, passed 6-4-2001)

§ 54.07 CONFLICT AND SEVERABILITY.

In case of a conflict between this chapter, or any part thereof, and an existing ordinance, in whole or in part, the most restrictive provisions shall apply. Further, if any word, clause, phrase, portion, or provision is held invalid by any duly authorized court in the State of Indiana or the United States of America, the decision shall not affect the remainder or any other provision of this chapter.
(Ord. 1-2001, passed 6-4-2001)

§ 54.99 PENALTY.

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

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

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

(B) A separate violation shall be deemed committed upon each day during which a violation occurs or continues.
(Ord. 1-2001, passed 6-4-2001; Am. Ord. 8-2007, passed - -)

CHAPTER 55: BACKFLOW PREVENTION

Section

55.01 Definition
55.02 Cross connections prohibited
55.03 Inspections
55.04 Entry
55.05 Precautionary measures
55.06 Discontinuance of service
55.07 Backflow preventer
55.08 Installation location
55.09 Relation to other laws
55.10 Installation procedure

§ 55.01 DEFINITION.

A ***CROSS CONNECTION*** shall be defined as any physical connection or arrangement between two otherwise separate systems, one of which contains potable water from the town water system, and the other, water from a private source, water of unknown or questionable safety, or steam, gases, or chemicals, whereby there may be a flow from one system to the other, the direction of flow depending on the pressure differential between the two systems.
(Ord. 3-2014, passed 9-2-2014)

§ 55.02 CROSS CONNECTIONS PROHIBITED.

No person, firm, or corporation shall establish or permit to be established or maintain or permit to be maintained any cross connection. No interconnection shall be established whereby potable water from a private, auxiliary, or emergency water supply other than the regular public water supply of the town, may enter the supply or distribution system of said municipality, unless such private, auxiliary, or emergency water supply and the method of connection and use of such supply shall have been approved by the town and by the Indiana Department of Environmental Management in accordance with 327 IAC 8-10.
(Ord. 3-2014, passed 9-2-2014)

§ 55.03 INSPECTIONS.

It shall be the duty of the town to cause inspections to be made of all properties served by the public water system where cross connections with the public water system is deemed possible. The frequency of inspections and re-inspections based on potential health hazards involved shall be established by the town.
(Ord. 3-2014, passed 9-2-2014)

§ 55.04 ENTRY.

Upon presentation of credentials, the representative of the town shall have the right to request entry at any reasonable time to examine the property served by a connection to the public water system of town for cross connections. On request, the owner, lessee, or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of access or refusal of requested pertinent information shall be deemed evidence of the presence of cross connections.
(Ord. 3-2014, passed 9-2-2014)

§ 55.05 PRECAUTIONARY MEASURES.

The town is hereby authorized and directed to discontinue water service to any property wherein any connection in violation of this chapter exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water system. Water service shall be discontinued only after reasonable notice is served on the owner, lessee, or occupants of the property or premises where a violation is found or suspected to exist. Water service to such property shall not be restored until the cross connection(s) has been eliminated in compliance with the provisions of this chapter.
(Ord. 3-2014, passed 9-2-2014)

§ 55.06 DISCONTINUANCE OF SERVICE.

If it is deemed by the town that a cross connection or an emergency endangers public health, safety, or welfare and requires immediate action, and a written finding to that effect is filed with the Town Clerk, and delivered to the consumer's premises, service may be immediately discontinued. The consumer shall have an opportunity for hearing within ten days of such emergency discontinuance.
(Ord. 3-2014, passed 9-2-2014)

§ 55.07 BACKFLOW PREVENTER.

All consumers using toxic or hazardous liquids, all hospitals, mortuaries, wastewater treatment plants, laboratories, and all other hazardous users install and maintain a reduced pressure principal backflow preventer in the main water line serving each building on the premises. The backflow preventer must be installed in an easily accessible location not subject to flooding or freezing.
(Ord. 3-2014, passed 9-2-2014)

§ 55.08 INSTALLATION LOCATION.

The reduced pressure principle backflow preventers shall not be installed below ground level.
(Ord. 3-2014, passed 9-2-2014)

§ 55.09 RELATION TO OTHER LAWS.

This chapter does not supersede the Indiana Plumbing Code, the IDEM Rule 327 IAC 8-10 or related town waterworks ordinances, but is supplementary to the same.
(Ord. 3-2014, passed 9-2-2014)

§ 55.10 INSTALLATION PROCEDURE.

If, in the judgment of the town, an approved backflow prevention device is necessary for the safety of the public water system, the town will give notice to the water consumer to install such an approved device immediately. The water consumer shall, at his own expenses, install such an approved device at a location and in a manner approved by the town, and shall have inspections and tests made of such approved devices as required by the town, and in accordance with the IDEM Rule 327 IAC 8-10.
(Ord. 3-2014, passed 9-2-2014)

TITLE VII: TRAFFIC CODE

Chapter

70. GENERAL PROVISIONS

71. TRAFFIC RULES

72. STOPPING, STANDING, AND PARKING

73. PEDESTRIANS

74. BICYCLES

75. PARKING SCHEDULES

76. GOLF CARTS

CHAPTER 70: GENERAL PROVISIONS

Section

Title; Definitions

70.01 Short title
70.02 Definitions

Enforcement and Obedience to Traffic Regulations

70.05 Authority of Police and Fire Department officials
70.06 Required obedience to traffic code
70.07 Obedience to police officials
70.08 Pushcarts; riding animals
70.09 Public employees
70.10 Exemptions to authorized emergency vehicles
70.11 Vehicle identification fee

Traffic-Control Devices

70.15 Obedience to traffic-control devices required
70.16 Signs or marks
70.17 Play streets
70.18 Traffic-control signal legend

Violation Procedure

70.20 Warning notices
70.21 Notice; service by police officer
70.22 Notice; first-class mail
70.23 Duty to appear or mail penalty after notice
70.24 Failure to appear or pay penalty
70.25 Money collected
70.26 Duties of Ordinance Violations Bureau Clerk

70.99 Penalty

TITLE; DEFINITIONS

§ 70.01 SHORT TITLE.

Title VII may be known and cited as the Traffic Code of Hagerstown.
(1963 Code, Ch. 11, § 64)

§ 70.02 DEFINITIONS.

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

AUTHORIZED EMERGENCY VEHICLE.

(1) The following vehicles:

(a) Fire Department vehicles;

(b) Police Department vehicles;

(c) Ambulances; and

(d) Emergency vehicles operated by or for hospitals or health and hospital corporations under I.C. 16-22-8.

(2) Vehicles designated as emergency vehicles by the Indiana Department of Transportation under I.C. 9-21-20-1.

(3) Motor vehicles that, subject to I.C. 9-21-20-2, are approved by the Indiana Emergency Medical Services Commission that are:

(a) Ambulances that are owned by persons, firms, limited liability companies, or corporations other than hospitals; or

(b) Not ambulances and that provide emergency medical services, including extrication and rescue services (as defined in I.C. 16-18-2-110).

(4) Vehicles of the Department of Correction that, subject to I.C. 9-21-20-3, are:

(a) Designated by the Department of Correction as emergency vehicles; and

(b) Responding to an emergency.

(I.C. 9-13-2-6)

BICYCLE. Any foot-propelled vehicle, irrespective of the number of wheels in contact with the ground.
(I.C. 9-13-2-14)

CENTRAL BUSINESS DISTRICT. Main Street from Elm Street to Washington Street and all intersecting streets for one block north and south of Main Street between Elm and Washington Streets.

CROSSWALK. The portion of a roadway ordinarily included within the prolongation or connection of the lateral lines of a sidewalk at intersections, and also any portion of a roadway distinctly indicated for pedestrian crossings by lines or other markings on the surface.

DRIVER. Every person in actual physical control of a vehicle.

INTERSECTION. The area embraced within the prolongation or connection of the lateral curb lines or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area in which vehicles traveling upon different highways joining at any other angle may come in conflict.

MOTOR VEHICLE. Every vehicle, except a motorized bicycle, which is self-propelled, and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.
(I.C. 9-13-2-105)

OFFICIAL TRAFFIC SIGNALS. Any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop or proceed.

OFFICIAL TRAFFIC-CONTROL DEVICES. All signs, signals, markings, and devices not inconsistent with this traffic code, placed or erected by authority of a public body or officials having jurisdiction, for the purpose of regulating or guiding traffic.

PARK. The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of, and while actually engaged in, loading or unloading.

PEDESTRIAN. Any person afoot.

POLICE OFFICER. Every officer of the Police Department or any officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

PRIVATE ROAD or ***DRIVEWAY.*** Every way or place in private ownership, used for vehicular traffic by the owner and those having express or implied permission from the owner, but not by other persons.

RIGHT-OF-WAY. The privilege of the immediate use of the roadway.

ROADWAY. The portion of a street improved, designated, or ordinarily used for vehicular traffic.

SIDEWALK. The portion of a street between the curb lines or the lateral lines of a roadway and the adjacent property lines intended for the use of pedestrians.

STANDING. Any momentary stopping of a vehicle, whether occupied or not occupied, attended or not attended, not to exceed ten minutes in duration.

STOP. Complete cessation of movement.

STOP or ***STOPPING.*** Any stopping of a vehicle except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or traffic officer or traffic-control sign or signal.

STREET or ***HIGHWAY.*** The entire width between property lines of every way or place of whatever nature when any part is open to the use of the public as a matter of right for purposes of vehicular traffic, and shall include roads, avenues, alleys, and parkways within the town.

TRAFFIC. Pedestrians, ridden or herded animals, vehicles, and other conveyances, either singly or together, while using any street for purposes of travel.

VEHICLE. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.
(1963 Code, Ch. 11, §§ 1–10) (Ord. 1-1942, passed 1-5-1942; Am. Ord. 4-1974, passed 8-19-1974; Am. Ord. 2-1985, passed 3-18-1985)
Statutory reference:
Motor vehicles - words and phrases defined, see I.C. 9-13-2-1 et seq.

ENFORCEMENT AND OBEDIENCE TO TRAFFIC REGULATIONS

§ 70.05 AUTHORITY OF POLICE AND FIRE DEPARTMENT OFFICIALS.

Officers are hereby authorized to direct all traffic in conformance with traffic laws, provided that, in the event of a fire or emergency or to expedite traffic or to safeguard pedestrians, officers of the Police or Fire Departments may direct traffic as conditions require, notwithstanding the provisions of the traffic laws.
(1963 Code, Ch. 11, § 55) (Ord. 1-1942, passed 1-5-1942 Am. Ord. 1-1985, passed 2-4-1985) Penalty, see § 70.99
Statutory reference:
Regulation of traffic by police officers, see I.C. 9-21-1-3

§ 70.06 REQUIRED OBEDIENCE TO TRAFFIC CODE.

It is unlawful for any person to do any act forbidden, or to fail to perform any act required, in this traffic code.
(1963 Code, Ch. 11, § 11) (Ord. 1-1942, passed 1-5-1942) Penalty, see § 70.99

§ 70.07 OBEDIENCE TO POLICE OFFICIALS.

No person shall willfully fail or refuse to comply with any lawful order or direction of a police officer.
(1963 Code, Ch. 11, § 12) (Ord. 1-1942, passed 1-5-1942) Penalty, see § 70.99

§ 70.08 PUSHCARTS; RIDING ANIMALS.

Every person propelling any pushcart or riding a bicycle or an animal upon a roadway, and every person driving any animal-drawn vehicle, shall be subject to the provisions of this traffic code applicable to the driver of any vehicle, except those provisions which, by their very nature, can have no application.
(1963 Code, Ch. 11, § 15) (Ord. 1-1942, passed 1-5-1942) Penalty, see § 70.99

§ 70.09 PUBLIC EMPLOYEES.

The provisions of this traffic code shall apply to the driver of any vehicle owned by or used in the service of the United States government, this state, county, or town, and it shall be unlawful for any driver to violate any of the provisions of this traffic code, except as otherwise permitted in this traffic code or by state statute, or laws of the United States.
(1963 Code, Ch. 11, § 13) (Ord. 1-1942, passed 1-5-1942) Penalty, see § 70.99

§ 70.10 EXEMPTIONS TO AUTHORIZED EMERGENCY VEHICLES.

(A) The provisions of this traffic code regulating the operation, parking, and standing of vehicles shall apply to authorized emergency vehicles, except as follows.

(B) A driver, when operating the vehicle in an emergency, except when otherwise directed by a police officer, may:

(1) Park or stand notwithstanding the provisions of this traffic code;

(2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(3) Exceed the maximum speed limits so long as he or she does not endanger life or property; or

(4) Disregard regulations governing direction of movement or turning in specified directions so long as he or she does not endanger life or property.

(C) The foregoing exemptions shall not, however, protect the driver of the vehicle from the consequences of his or her reckless disregard of the safety of others.
(1963 Code, Ch. 11, § 14) (Ord. 1-1942, passed 1-5-1942)
Statutory reference:
Regulation of standing or parking of vehicles, see I.C. 9-21-16-1 et seq.

§ 70.11 VEHICLE IDENTIFICATION FEE.

The Police Department is authorized to assess a $5 fee for checking vehicle identification numbers as allowed by I.C. 9-29-4 *et seq*. The proceeds of the inspection fee shall be deposited into the town's Law Enforcement Continuing Education Fund from which proper appropriations may be made for law enforcement purposes.
(Ord. 12-2013, passed 11- -2013)

TRAFFIC-CONTROL DEVICES

§ 70.15 OBEDIENCE TO TRAFFIC-CONTROL DEVICES REQUIRED.

The driver of any vehicle shall obey the instructions of any official traffic-control device placed in accordance with the traffic ordinances of this town, unless otherwise directed by a police officer and subject to the exemption granted the driver of any authorized emergency vehicle in this traffic code.
(1963 Code, Ch. 11, § 16) (Ord. 1-1942, passed 1-5-1942) Penalty, see § 70.99

Statutory reference:
Regulation of traffic by traffic-control signals, see I.C. 9-21-3-1 et seq.

§ 70.16 SIGNS OR MARKS.

Whenever authorized signs are erected indicating that no right or left or U-turn is permitted, no driver of a vehicle shall disobey the directions of the sign, and when authorized marks, buttons, or other indications are placed within an intersection indicating the course to be traveled by vehicles turning there, no driver of a vehicle shall disobey the direction of these indications.
(1963 Code, Ch. 11, § 17) (Ord. 1-1942, passed 1-5-1942) Penalty, see § 70.99

§ 70.17 PLAY STREETS.

Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon this street or portion thereof except drivers of vehicles having business in, or whose residences are within, the closed area, and then the driver shall exercise the greatest care in driving on this street or portion thereof.
(1963 Code, Ch. 11, § 18) (Ord. 1-1942, passed 1-5-1942) Penalty, see § 70.99

§ 70.18 TRAFFIC-CONTROL SIGNAL LEGEND.

(A) *Generally*. Whenever traffic is controlled by traffic signals exhibiting the words "go," "caution," or "stop" or exhibiting different colored lights successively one at a time, the following colors shall be used, and these terms and lights shall indicate as follows.

(B) *Colors*.

(1) *Green alone or "Go."*

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign prohibits the turn. However, vehicular traffic shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection at the time the signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) *Yellow alone or "Caution," when shown following the green or "Go" signal.*

(a) Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at the intersection, provided that if the stop cannot be made in safety, a vehicle may be driven cautiously through the intersection.

(b) Pedestrians facing this signal are advised that there is insufficient time to cross a roadway and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.

(3) *Red alone or "Stop."*

(a) Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at an intersection or at other such points as may be indicated by a clearly visible line, and shall remain standing until green or "go" is shown alone.

(b) No pedestrian facing this signal shall enter the roadway unless he or she can do so safely and without interfering with vehicular traffic.
(1963 Code, Ch. 11, § 19) (Ord. 1-1942, passed 1-5-1942) Penalty, see § 70.99

VIOLATION PROCEDURE

§ 70.20 WARNING NOTICES.

The police officers of this town may issue warning notices to the owners or operators of motor vehicles. The notices shall be in writing on forms provided therefor, and shall provide the recipients with notice and information as to violations committed. These notices shall be made in duplicate and the Town Marshal shall keep a record of all notices.
(Ord. 5-1985, passed 3-18-1985)

§ 70.21 NOTICE; SERVICE BY POLICE OFFICER.

(A) When it shall appear to any police officer of the town, while acting as an officer, that any provision of Chapter 72 has been violated by the owner or operator of any vehicle or motor vehicle, the officer shall immediately notify the owner or operator in writing of the violation.

(B) The notice shall be made in duplicate upon a standard form provided for this purpose by the town, and shall show the specific violation charged against the owner or operator, the date the violation was committed, the state license number of the vehicle, and, if possible, the name and address of the owner or operator. All notices shall be signed by the police officer by whom it is issued.

(C) One copy of the notice shall be presented to the owner or the operator of the vehicle if the owner or operator is present at the time the violation has come to the attention of the officer; but if the owner or operator is not present at the time, the officer shall post a copy of the notice in a conspicuous place upon the vehicle, and this notice shall be deemed sufficient and effective notice to the owner or operator of the violation or violations noted thereon. The other copy of the notice shall be filed with the Clerk of the Town Court.
(Ord. 5-1985, passed 3-18-1985)

§ 70.22 NOTICE; FIRST-CLASS MAIL.

In the event a police officer is unable to make personal service of notice upon the owner or operator, this fact shall appear on the complaint summons filed with the Clerk of the Town Court who shall then mail a copy of notice to the last known or usual address of the owner or operator by first-class United States mail, and this constructive notice shall constitute sufficient and effective notice to the owner or operator of the violation or violations.
(Ord. 5-1985, passed 3-18-1985)

§ 70.23 DUTY TO APPEAR OR MAIL PENALTY AFTER NOTICE.

(A) The owner or operator of a vehicle who has been notified shall, within 48 hours after receipt of this notice, present himself or herself, together with the notice, at the office of the Town Court of the town; or the owner or operator may, within this period of time, mail to the Ordinance Violations Bureau Clerk the specified penalty for each violation.

(B) If personal appearance in response to the notice is made before the Ordinance Violations Bureau Clerk, the owner or operator may admit or deny the violation or violations charged, and if admitted shall pay the Ordinance Violations Bureau Clerk the specified penalty for each violation when provided in the schedule of fines and costs established by the Judge of the Town Court, and if denied shall appear in the Court at the time and place set for the appearance in the notice or as amended by the Judge of the Court or Court Clerk.
(Ord. 5-1985, passed 3-18-1985)

§ 70.24 FAILURE TO APPEAR OR PAY PENALTY.

(A) Upon the failure of any owner or operator to appear at the office of the Ordinance Violations Bureau Clerk, after having been notified as above provided, within five days after having been so notified, or upon the failure of any owner or operator to pay the specified penalty by mail, the person shall be advised by first-class United States mail from the office of the Ordinance Violations Bureau Clerk that he or she will be subject to prosecution for failure to report or to pay the penalty. The Judge may forthwith issue a summons or execute a complaint and warrant against the person in the Town Court, alleging in the complaint that the person has not complied with the provisions of Chapter 72 and in what respect the chapter has been violated. The summons or complaint shall forthwith be mailed as provided, or the Town Marshal shall serve the summons or warrant as instructed by the Court.

(B) Persons admitting violations and those found by the Court to be violators shall be fined in an amount not exceeding the specified penalty and court costs, and shall pay the same forthwith.
(Ord. 5-1985, passed 3-18-1985)

§ 70.25 MONEY COLLECTED.

All fines and penalties collected by the Town Court for violations of town ordinances and costs or charges by Indiana law that are payable to the town shall be remitted to the Clerk-Treasurer of the town.
(Ord. 5-1985, passed 3-18-1985)

§ 70.26 DUTIES OF ORDINANCE VIOLATIONS BUREAU CLERK.

(A) Upon the payment of any fee or penalties, the Ordinance Violations Bureau Clerk shall issue a receipt to the person paying the fee.

(B) It shall be the duty of the Ordinance Violations Bureau Clerk to keep a correct record showing the amounts paid, the date of payment, the name of the owner or operator, and the violation for which the fee was paid, and records required to be maintained by state law in regard to the same and the operation of the Town Court.

(C) The Clerk-Treasurer shall receipt to the court and account for all the fees assessed and collected by his or her office and shall pay them into the General Fund of the town or as otherwise specified by state law.
(Ord. 5-1985, passed 3-18-1985)

§ 70.99 PENALTY.

Unless another penalty is expressly provided by law, every person convicted of a violation of any provision of this traffic code shall be punished by a fine of not more than $2,500.
(I.C. 36-1-3-8)

CHAPTER 71: TRAFFIC RULES

Section

Speed Regulations

71.01 Speed limits
71.02 Traveling lower than speed limits
71.03 Proof of negligence

Turning Movements

71.10 U-turns

Right-of-Way

71.15 Emerging from alley, driveway, or building

Miscellaneous Driving Rules

71.25 Driving within sidewalk
71.26 Roller skating or riding toy vehicles
71.27 Limitations on backing
71.28 Drivers in a procession
71.29 Through streets
71.30 Blocking intersections or crosswalks
71.31 Notice of violation

71.99 Penalty

SPEED REGULATIONS

§ 71.01 SPEED LIMITS.

When no special hazard exists, the following speeds shall be lawful, but any speed in excess of these limits shall be prima facie evidence that the speed is not reasonable or prudent and is unlawful:

(A) Twenty miles per hour on South Washington Street between Factory Street and the railroad;

(B) Twenty-five miles per hour in any business district within the town, and on the remainder of South Washington Street and on all of South Perry Street; and

(C) Twenty-five miles per hour on the following streets: Lexington Lane, East Graceland Heights, West Graceland Heights, West Lane, and Wildwood Drive.
(1963 Code, Ch. 11, § 38) (Ord. 1-1942, passed 1-5-1942; Am. Ord. 1-1985, passed 2-4-1985; Am. Ord. 5-1992, passed 10-5-1992) Penalty, see § 71.99
Statutory reference:
Alteration of prima facie speed limits, see I.C. 9-21-5-3 and I.C. 9-21-5-6

§ 71.02 TRAVELING LOWER THAN SPEED LIMITS.

The fact that the speed of a vehicle is lower than the foregoing limits shall not relieve the driver from the duty to decrease speed when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions, and speed shall be decreased as may be necessary to avoid colliding with other persons, vehicles, or other conveyances on or entering the highway in compliance with legal requirements and the duty of all persons to use due care.
(1963 Code, Ch. 11, § 38) (Ord. 1-1942, passed 1-5-1942) Penalty, see § 71.99

§ 71.03 PROOF OF NEGLIGENCE.

Sections 71.01 and 71.02 shall not be construed to relieve a plaintiff in any civil action from the burden of proving negligence upon the part of the defendant as the proximate cause of an accident.
(1963 Code, Ch. 11, § 38) (Ord. 1-1942, passed 1-5-1942)

TURNING MOVEMENTS

§ 71.10 U-TURNS.

The driver of any vehicle shall not turn the vehicle so as to proceed in the opposite direction on any street in a business district, and shall not so turn upon any other street unless the movement can be made in safety and without interfering with other traffic.
(1963 Code, Ch. 11, § 31) (Ord. 1-1942, passed 1-5-1942) Penalty, see § 71.99
Statutory reference:
Local regulation of turns, see I.C. 9-21-1-3

RIGHT-OF-WAY

§ 71.15 EMERGING FROM ALLEY, DRIVEWAY, OR BUILDING.

The driver of a vehicle emerging from an alley, driveway, or building shall stop the vehicle immediately prior to driving onto a sidewalk or into the sidewalk area extending across any alleyway and, upon entering the roadway, shall yield the right-of-way to all vehicles approaching on the roadway.
(1963 Code, Ch. 11, § 33) (Ord. 1-1942, passed 1-5-1942) Penalty, see § 71.99

MISCELLANEOUS DRIVING RULES

§ 71.25 DRIVING WITHIN SIDEWALK.

The driver of a vehicle shall not drive within any sidewalk area except at a permanent or temporary driveway.
(1963 Code, Ch. 11, § 34) (Ord. 1-1942, passed 1-5-1942) Penalty, see § 71.99

§ 71.26 ROLLER SKATING OR RIDING TOY VEHICLES.

(A) No person upon roller skates, skate boards, or riding in or by means of any coaster, play vehicle, or similar device, shall go upon any sidewalk within the central business district, or upon any roadway except while crossing a street on a crosswalk and except upon streets specified as play streets.

(B) A child under the age of ten years while in the company of an adult would not be considered in violation of this section.

(C) Central business district: Main Street from Elm Street to Washington Street and all intersecting streets for one block north and south of Main Street between Elm and Washington Streets.
(1963 Code, Ch. 11, § 37) (Ord. 1-1942, passed 1-5-1942; Am. Ord. 4-1992, passed 8-3-1992) Penalty, see § 71.99

§ 71.27 LIMITATIONS ON BACKING.

The driver of a vehicle shall not back it into an intersection or over a crosswalk nor back a vehicle unless the movement can be made in safety.
(1963 Code, Ch. 11, § 32) (Ord. 1-1942, passed 1-5-1942) Penalty, see § 71.99

§ 71.28 DRIVERS IN A PROCESSION.

Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as is practical and follow the vehicle ahead as close as is practical and safe.
(1963 Code, Ch. 11, § 30) (Ord. 1-1942, passed 1-5-1942) Penalty, see § 71.99

§ 71.29 THROUGH STREETS.

(A) The following streets are through streets: Perry Street and Washington Street.

(B) When stop signs are erected upon a highway intersecting a through street at the entrance thereto or at the entrance to any intersection, every driver of a vehicle shall stop at the sign or at a clearly marked stop line before entering the intersection, except when directed to proceed by a police officer or traffic-control signal.
(1963 Code, Ch. 11, § 27) (Ord. 1-1942, passed 1-5-1942) Penalty, see § 71.99
Statutory reference:
Stopping at through highways, see I.C. 9-21-8-32

§ 71.30 BLOCKING INTERSECTIONS OR CROSSWALKS.

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he or she is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed.
(1963 Code, Ch. 11, § 28) (Ord. 1-1942, passed 1-5-1942) Penalty, see § 71.99
Statutory reference:
Regulating vehicles at intersections, see I.C. 9-21-1-3

§ 71.31 NOTICE OF VIOLATION.

The Town Marshal may issue a notice of violation of this chapter to any person who does any act forbidden by this section and a copy of the notice shall be issued to the parent or guardian of the person if under 18 years of age.
(Ord. 4-1992, passed 8-3-1992)

§ 71.99 PENALTY.

Every person found in violation of any provision of § 71.26 shall be fined in an amount of not less than $25 for each and every violation thereof as determined by a court of competent jurisdiction. The first violation by any person of § 71.26 within a calendar year may be admitted and a civil penalty of $25 paid as provided in Chapter 38 of this code of ordinances which hereby is amended to include such in § 38.04 of that chapter.
(Ord. 4-1992, passed 8-3-1992)

CHAPTER 72: STOPPING, STANDING, AND PARKING

Section

General Regulations

72.01 Signs at hazardous or congested places
72.02 Signs adjacent to school property or other designated places
72.03 Stopping, standing, or parking on streets or alleys
72.04 Parallel standing or parking
72.05 Standing or parking to display, wash, or repair vehicles
72.06 Areas where stopping, standing, or parking prohibited

72.99 Penalty

GENERAL REGULATIONS

§ 72.01 SIGNS AT HAZARDOUS OR CONGESTED PLACES.

When signs are erected upon approach to hazardous or congested places, no vehicle owner or operator shall stop, stand, or park a vehicle in the designated place.
(1963 Code, Ch. 11, § 20) (Ord. 1-1942, passed 1-5-1942; Am. Ord. 6-1985, passed 4-1-1985) Penalty, see § 72.99
Statutory reference:
Local regulation of stopping, standing, or parking of vehicles, see I.C. 9-21-1-3

§ 72.02 SIGNS ADJACENT TO SCHOOL PROPERTY OR OTHER DESIGNATED PLACES.

When signs are erected indicating no parking upon that side of the street adjacent to any school property, doctor's office, or like area, no vehicle owner or operator shall park a vehicle or stand in the designated place.
(1963 Code, Ch. 11, § 21) (Ord. 1-1942, passed 1-5-1942; Am. Ord. 6-1985, passed 4-1-1985)

§ 72.03 STOPPING, STANDING, OR PARKING ON STREETS OR ALLEYS.

No vehicle owner or operator shall stop, stand, or park any vehicle upon a street or alley, in a manner or under conditions as to leave available less than ten feet of the width of the roadway for free movement of vehicular traffic, except that a driver may stop temporarily during the actual loading or unloading of passengers or when necessary in obedience to traffic regulations, or traffic signs or signals, or a police officer.
(1963 Code, Ch. 11, § 22) (Ord. 1-1942, passed 1-5-1942; Am. Ord. 6-1985, passed 4-1-1985) Penalty, see § 72.99

§ 72.04 PARALLEL STANDING OR PARKING.

(A) Upon those streets which have been marked or signed for angle parking, vehicles shall be parked at an angle to the curb indicated by these marks or signs.

(B) In places where and at hours when stopping for the loading of merchandise or materials is permitted, vehicles used for the transportation of merchandise or materials may back into the curb to take or discharge loads.
(1963 Code, Ch. 11, § 24) (Ord. 1-1942, passed 1-5-1942; Am. Ord. 6-1985, passed 4-1-1985) Penalty, see § 72.99

§ 72.05 STANDING OR PARKING TO DISPLAY, WASH, OR REPAIR VEHICLES.

No vehicle owner or operator shall stand or park a vehicle upon any roadway for the principal purpose of displaying it for sale or for washing, greasing, or repairing the vehicle for hire, except repairs necessitated by an emergency.
(1963 Code, Ch. 11, § 25) (Ord. 1-1942, passed 1-5-1942; Am. Ord. 6-1985, passed 4-1-1985) Penalty, see § 72.99

§ 72.06 AREAS WHERE STOPPING, STANDING, OR PARKING PROHIBITED.

(A) These parking practices shall be prohibited:

(1) Overtime parking;

(2) Left-side parking, except where authorized; and

(3) Parking within fire lanes.

(B) No vehicle owner or operator shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control device, in any of the following places:

(1) Within 30 feet of a crosswalk at any intersection constituting a passenger bus stop on regularly operated bus routes within the town;

(2) At any place where official signs prohibit stopping;

(3) Within 15 feet of a U.S. Postal Service mail box;

(4) Parking in a restricted zone prohibited by yellow curbing; and/or

(5) Within a designated handicap parking area, without displaying a state-issued handicap placard.

(C) No person shall move a vehicle not owned by him or her into any of these prohibited areas.
(1963 Code, Ch. 11, § 26) (Ord. 1-1942, passed 1-5-1942; Am. Ord. 6-1985, passed 4-1-1985) Penalty, see § 72.99

Statutory reference:

Stop signs, see I.C. 9-21-4-11

§ 72.99 PENALTY.

(A) Any person who violates any provision of this chapter shall, upon conviction, be subject to the following penalty schedule:

(1) Parking in a handicap parking restricted zone - $50;

(2) Parking within a fire lane - $50;

(3) Parking, standing, or stopping in violation of this chapter of the Traffic Code other than enumerated above - $25.

(B) Parking, stopping, or standing in violation of this traffic code other than enumerated above - $32.
(Ord. 6-1985, passed 4-1-1985; Am. Ord. 1-2014, passed 4- -2014)

CHAPTER 73: PEDESTRIANS

Section

73.01 Subject to traffic-control signs

§ 73.01 SUBJECT TO TRAFFIC-CONTROL SIGNS.

Pedestrians shall be subject to traffic-control signals declared in § 70.18, but at all other places pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this chapter. (1963 Code, Ch. 11, § 52) (Ord. 1-1942, passed 1-5-1942) Penalty, see § 70.99

Statutory reference:

Pedestrians subject to traffic-control devices, see I.C. 9-21-17-1

CHAPTER 74: BICYCLES

Section

74.01 Effect of regulations
74.02 Inspection of bicycles
74.03 Rental agencies
74.04 Bicycle dealers
74.05 Obedience to traffic-control devices
74.06 Speed
74.07 Emerging from alley or driveway
74.08 Parking
74.09 Riding on sidewalks
74.10 Notice of violation

74.99 Penalty

§ 74.01 EFFECT OF REGULATIONS.

(A) It is an infraction for any person to do any act forbidden or fail to perform any act required in this chapter.

(B) The parent of any child and the guardian of any ward shall not authorize or knowingly permit any child or ward to violate any of these provisions.

(C) These regulations shall apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated in this chapter.
(Ord. 4-1974, passed 8-19-1974; Am. Ord. 3-1985, passed 3-18-1985) Penalty, see § 74.99

§ 74.02 INSPECTION OF BICYCLES.

The Marshal, or an officer assigned the responsibility, may inspect any bicycle.
(Ord. 4-1974, passed 8-19-1974) Penalty, see § 74.99

§ 74.03 RENTAL AGENCIES.

A rental agency shall not rent or offer any bicycle for rent unless the bicycle is equipped with the lamps and other equipment required in this chapter.
(Ord. 4-1974, passed 8-19-1974) Penalty, see § 74.99

§ 74.04 BICYCLE DEALERS.

Every person engaged in the business of buying or selling new or secondhand bicycles shall make a report to the Marshal of every bicycle purchased or sold, giving the name and address of the person from whom purchased or to whom sold, a description of the bicycle by name or make, and the frame number, if any.
(Ord. 4-1974, passed 8-19-1974) Penalty, see § 74.99

§ 74.05 OBEDIENCE TO TRAFFIC-CONTROL DEVICES.

Whenever authorized signs are erected indicating that no right or left or U-turn is permitted, no person operating a bicycle shall disobey the direction of the sign, except where the person dismounts from the bicycle to make any turn, in which event the person shall then obey the regulations applicable to pedestrians.
(Ord. 4-1974, passed 8-19-1974; Am. Ord. 1-1985, passed 2-4-1985) Penalty, see § 74.99

§ 74.06 SPEED.

No person shall operate a bicycle at a speed greater than is prudent under the conditions then existing.
(Ord. 4-1974, passed 8-19-1974) Penalty, see § 74.99

§ 74.07 EMERGING FROM ALLEY OR DRIVEWAY.

The operator of a bicycle emerging from an alley, driveway, or building shall upon approaching a sidewalk or sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on the sidewalk or sidewalk area, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway.
(Ord. 4-1974, passed 8-19-1974) Penalty, see § 74.99

§ 74.08 PARKING.

No person shall park a bicycle upon a street other than upon the roadway against the curb, or upon the sidewalk in a rack to support the bicycle, or against a building or at a curb, in a manner causing the least obstruction to pedestrian traffic.
(Ord. 4-1974, passed 8-19-1974) Penalty, see § 74.99

§ 74.09 RIDING ON SIDEWALKS.

(A) No person shall ride a bicycle upon a sidewalk within the Central Business District.

(B) The Town Council is authorized to erect signs on any sidewalk in any district, and when the signs are in place, no person shall disobey them.

(C) Whenever any person is riding a bicycle upon a sidewalk, that person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing a pedestrian.
(Ord. 4-1974, passed 8-19-1974) Penalty, see § 74.99

§ 74.10 NOTICE OF VIOLATION.

The Marshal may issue a notice of violation of this chapter to any person who does any act forbidden or fails to perform any act required by this chapter and a copy of the notice shall be issued to the parent or guardian of the person if under 18 years of age, providing for a time and place for inspection thereafter by the Town Marshal of any bicycle owned, operated, or in possession or control of the person or the parent or guardian of the person.
(Ord. 4-1974, passed 8-19-1974) Penalty, see § 74.99

§ 74.99 PENALTY.

Every person convicted of a violation of any provision of this chapter shall be punished by a fine of not more than $25, or by impounding of the person's bicycle for a period not to exceed ten days or by any combination thereof.
(Ord. 4-1974, passed 8-19-1974)

CHAPTER 75: PARKING SCHEDULES

Schedule

I. No-parking zones
II. Limited parking zones
III. Elimination of angle parking

SCHEDULE I. NO-PARKING ZONES.

Description
West side of North Plum Street between Main Street and College Street.
West side of South Plum Street between Main Street and Walnut Street.

(Ord. 7-1985, passed 4-1-1985)

SCHEDULE II. LIMITED PARKING ZONES.

Description
Washington Street from Clay Street south to the Pennsylvania Railroad Crossing, except the west side of Washington Street from Factory Street south to the Pennsylvania Railroad crossing, which exempted area shall be closed to all parking.
West side of Perry Street when signs are erected giving notice thereof, parking shall be limited to Sundays and each legal holiday as follows: January l (New Year's Day); Memorial Day; Fourth of July; Labor Day; Veterans' Day; Thanksgiving Day; and Christmas Day.
First block of South Perry Street, east side, at least 30 feet north of the alley.
First block of South Perry Street on west side, at least 15 feet north of the alley.

(Ord. 7-1985, passed 4-1-1985)

SCHEDULE III. ELIMINATION OF ANGLE PARKING.

Description
Angle parking is prohibited upon any and all public streets and thoroughfares within the corporate limits of the Town of Hagerstown, Indiana.

(Ord. 7-1985, passed 4-1-1985)

CHAPTER 76: GOLF CARTS

Section

76.01 Definitions
76.02 Operation of golf carts
76.03 Operator
76.04 Proof of financial responsibility
76.05 Time of operation
76.06 Place of operation
76.07 Occupants
76.08 Traffic rules
76.09 Slow moving vehicle sign
76.10 Wrecked or damaged golf carts

76.99 Penalty

§ 76.01 DEFINITIONS.

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

DRIVER'S LICENSE. Any type of license or privilege to operate a motor vehicle issued under the laws of Indiana or another state.

FINANCIAL RESPONSIBILITY. Liability insurance coverage on a golf cart in an amount not less than required by state law for a motor vehicle operated on public highways in the state.

GOLF CART. A four wheeled motor vehicle originally and specifically designed and intended to transport one or more individuals and golf clubs for the purpose of playing the game of golf on a golf course, as that term is defined in I.C. 9-13-2-69.7, as amended from time to time.
(Ord. 1-2012, passed 3-5-2012)

§ 76.02 OPERATION OF GOLF CARTS.

The operation of a golf cart within the town is strictly prohibited unless the golf cart is operated and equipped in full compliance with this chapter.
(Ord. 1-2012, passed 3-5-2012)

§ 76.03 OPERATOR.

A golf cart shall only be operated by an individual who holds a valid driver's license.
(Ord. 1-2012, passed 3-5-2012)

§ 76.04 PROOF OF FINANCIAL RESPONSIBILITY.

The financial ability of the operator or owner notwithstanding the operator of a golf cart must be able to show proof of financial responsibility for the golf cart when operating a golf cart. Written proof of financial responsibility must be carried by the operator at all times.
(Ord. 1-2012, passed 3-5-2012)

§ 76.05 TIME OF OPERATION.

Golf carts shall only be operated during daylight hours unless the golf cart is equipped with two operating headlights, one on each side of the front of the golf cart, and two operating tail lights with brake lights, one on each side of the rear of the golf cart, all of which lights are visible from a distance of 500 feet.
(Ord. 1-2012, passed 3-5-2012)

§ 76.06 PLACE OF OPERATION.

Golf carts may be operated on town streets and across any and all state highways within the town. Golf carts shall not be operated on sidewalks.
(Ord. 1-2012, passed 3-5-2012)

§ 76.07 OCCUPANTS.

The number of occupants in a golf cart shall be limited to the number of persons for whom the factory seating is installed and provided on the golf cart. The operator and all occupants shall be seated in the golf cart and no part of the body of the operator or any occupant shall extend outside the perimeter of the golf cart while the golf cart is being operated.
(Ord. 1-2012, passed 3-5-2012)

§ 76.08 TRAFFIC RULES.

The operator of the golf cart shall comply with all traffic rules and regulations adopted by the state and the town, which govern the operation of motor vehicles.
(Ord. 1-2012, passed 3-5-2012)

§ 76.09 SLOW MOVING VEHICLE SIGN.

All golf carts must display on the back of the golf cart a slow moving vehicle emblem as described in I.C. 9-21-9-3, or a red or amber flashing lamp as described in I.C. 9-21-9-4, as those sections may be amended from time to time.
(Ord. 1-2012, passed 3-5-2012)

§ 76.10 WRECKED OR DAMAGED GOLF CARTS.

A person removing a wrecked or damaged golf cart from a street or highway must remove any glass or other foreign material dropped upon the street or highway from the golf cart, as describes in I.C. 9-26-6-1, as that section may be amended from time to time.
(Ord. 1-2012, passed 3-5-2012)

§ 76.99 PENALTY.

A person who violates this chapter commits a Class C Infraction, as provided by I.C. 9-21-1-3.3, as that section is amended from time to time. An owner, lessee or operator may be cited to appear in a court of competent jurisdiction by issuance of an Indiana uniform traffic ticket. Upon a finding by such court that an owner, lessee or operator of a golf cart has violated any provision of the chapter, the person shall be subject to the following fines, which fines shall be deposited in the general fund of the town, in addition to court costs:

(A) For a first time violation: $50;

(B) For a second time violation: $100;

(C) For a third time violation and for any subsequent violation thereafter: $500.
(Ord. 1-2012, passed 3-5-2012)

TITLE IX: GENERAL REGULATIONS

Chapter

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CHAPTER 90: ANIMALS

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90.01 Livestock running at large
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Control of Dogs

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GENERAL PROVISIONS

§ 90.01 LIVESTOCK RUNNING AT LARGE.

(A) No cattle, horses, mules, swine, goats, sheep, or other livestock shall be permitted to run at large within the corporate limits of the town.

(B) No person owning or having the control of any animal or animals shall permit them to run at large within the corporate limits of the town.
(1963 Code, Ch. 3, § 13) (Ord. 17-1878, passed 4-15-1878; Am. Ord. 40-1878, passed 4-15-1878; Am. Ord. 48-1882, passed 5-8-1882) Penalty, see § 90.99
Statutory reference:
Power of town boards to control animals, see I.C. 36-8-2-6

§ 90.02 KEEPING OF LIVESTOCK.

(A) It shall be unlawful for any person to keep, cause, or permit to be kept, or to confine one or more horses, mules, swine, goats, sheep, or other livestock within the corporate limits of the town.

(B) However, nothing in this section shall be construed as regulating or prohibiting the keeping or confinement of dogs or cats; nor the temporary keeping or confinement of domestic animals by a slaughterhouse, lawfully operated, and meeting the requirements specified by state law and as established by rules and regulations of the Indiana State Board of Health.

(C) Each and every day the violation continues shall constitute a separate offense.
(1963 Code, Ch. 3, § 14) (Ord. 1-1944, passed 1-3-1944; Am. Ord. 5-2013, passed 8-19-2013) Penalty, see § 90.99

§ 90.03 SLAUGHTERING OF DOMESTIC ANIMALS.

It shall be unlawful for a person to slaughter any domestic animal in the open or to slaughter domestic animals in any building which does not meet the requirements specified by state laws or by rules and regulations established by the Indiana State Board of Health.
(1963 Code, Ch. 3, § 15) (Ord. 1-1944, passed 1-3-1944; Am. Ord. 5-2013, passed 8-19-2013) Penalty, see § 90.99

CONTROL OF DOGS

§ 90.10 LICENSE AND TAG.

(A) There is a license tax to be collected on or before March 15 each year of $1 on each male or spayed female dog and $2 on each female dog owned and kept within the corporate limits of the town.

(B) The license tax shall be paid by the owner of the dog directly to the Clerk-Treasurer on or before March 15 each year and the Clerk-Treasurer shall issue proper receipts of the town for the payment, and he or she shall also issue at that time an appropriate tag to be placed upon the dog and worn by it at all times when upon streets, alleys, or public places in the town.

(C) The Clerk-Treasurer is charged with the procuring of suitable tags.
(1963 Code, Ch. 3, §§ 1, 2) (Ord. 4-1949, passed 10-3-1949) Penalty, see § 90.99

§ 90.11 VACCINATION CERTIFICATE.

No license tax shall be accepted, nor a receipt or tag be issued, until the owner of the dog shall exhibit to the Clerk-Treasurer a certificate executed by a duly licensed veterinarian showing that the dog has been vaccinated against rabies within one year prior to the date of application for a license.
(1963 Code, Ch. 3, § 2) (Ord. 4-1949, passed 10-3-1949)) Penalty, see § 90.99

§ 90.12 RECORDS.

The Clerk-Treasurer shall keep a record of the licenses whereby owner and dog may be identified.
(1963 Code, Ch. 3, § 2) (Ord. 4-1949, passed 10-3-1949) Penalty, see § 90.99

§ 90.13 RUNNING AT LARGE.

(A) It shall be unlawful for the owner of any dog to permit the dog to roam the streets, alleys, or other public places of the town unless in the personal custody of the owner or some individual deputized by the owner to be in charge.

(B) If a dog be found in any alleys, streets, or other public places in the town, not in custody or in charge of the owner or someone deputized by the owner, it shall be impounded.
(1963 Code, Ch. 3, § 3) (Ord. 4-1949, passed 10-3-1944) Penalty, see § 90.99

§ 90.14 IMPOUNDING AUTHORIZED.

The town may establish a dog pound or use the facilities of any private or public pound within Wayne County for the purpose of confining, keeping, and caring for all dogs picked up or impounded under the provisions of this chapter.
(1963 Code, Ch. 3, § 4) (Ord. 4-1949, passed 10-3-1949; Am. Ord. 1-1958, passed 4-7-1958; Am. Ord. 2-1969, passed 3-17-1969) Penalty, see § 90.99

§ 90.15 CONFINEMENT OF UNLICENSED, VICIOUS, OR STRAY DOGS.

It shall be the duty of the Dog Warden, the Marshal, or Deputy Marshals to seize and hold for impounding any unlicensed, vicious, or stray dog found in any public place in the town or upon any premises other than those occupied or owned by the owner of the dog, and the Dog Warden, the Marshal, or Deputy Marshals shall make arrests for violating the provisions of this chapter.
(1963 Code, Ch. 3, § 5) (Ord. 4-1949, passed 10-3-1949; Am. Ord. 2-1969, passed 3-17-1969) Penalty, see § 90.99

§ 90.16 REDEMPTION OF IMPOUNDED DOGS.

The owner or persons entitled to the custody of any impounded dog may redeem the dog at any time before it has been disposed of as provided for in § 90.17, by:

(A) Paying to the Clerk-Treasurer the license fee for the current year and furnishing evidence that the dog has been vaccinated against rabies as provided for in § 90.21 if an unlicensed dog, and by paying to the Clerk-Treasurer an impounding fee of $4 and a maintenance fee of not more than $.50 a day for each day during which the dog may have been impounded in a town dog pound or by paying the normal maintenance charge of any private or public pound to which the dog may have been sent; or

(B) If a licensed dog, by the payment of the impounding and maintenance fees.
(Ord. 4-1949, passed 10-3-1949; Am. Ord. 2-1969, passed 3-17-1969)
(1963 Code, Ch. 3, § 7) Penalty, see § 90.99

§ 90.17 DESTRUCTION OR REMOVAL OF UNREDEEMED DOGS.

If the dog is not redeemed within five days, it may be destroyed or otherwise disposed of.
(1963 Code, Ch. 3, § 7) (Ord. 4-1949, passed 10-3-1949; Am. Ord. 2-1969, passed 3-17-1969) Penalty, see § 90.99

§ 90.18 RESISTING OR OBSTRUCTING ENFORCEMENT.

It shall be unlawful for any person or persons to resist or obstruct the Dog Warden, the Marshal, or Deputy Marshals in the exercise of their respective duties.
(1963 Code, Ch. 3, § 8) (Ord. 4-1949, passed 10-3-1949; Am. Ord. 2-1969, passed 3-17-1969) Penalty, see § 90.99

§ 90.19 REMOVAL OR DESTRUCTION OF VICIOUS DOGS.

All vicious dogs shall, at the discretion of the Town Council, be destroyed or removed from the limits of the town, and all dogs which have bitten any person shall be deemed to be vicious and also subject to removal and destruction.
(1963 Code, Ch. 3, § 9) (Ord. 4-1949, passed 10-3-1949) Penalty, see § 90.99

§ 90.20 REMOVAL OR CHANGE OF LICENSE TAGS.

It shall be unlawful for any person to remove a license tag or plate from any dog belonging to another, or to place on any dog another tag or plate other than the tag or plate issued by the Clerk-Treasurer for the particular dog licensed.
(1963 Code, Ch. 3, § 10) (Ord. 4-1949, passed 10-3-1949) Penalty, see § 90.99

§ 90.21 QUARANTINE OF BITING DOGS.

(A) Any and all dogs which are known to have been exposed to or bitten by a rabid dog shall be impounded for observation for a period of not less than ten days.

(B) All fees and charges for the care and keeping of the dog or dogs shall be paid before they are released, and if not paid within five days after the owner has been notified to redeem them, the dog or dogs may be destroyed or removed from the limits of the town at the discretion of the Town Council.
(1963 Code, Ch. 3, § 11) (Ord. 4-1949, passed 10-3-1949; Am. Ord. 2-1969, passed 3-17-1969) Penalty, see § 90.99

§ 90.22 DOGS THAT HABITUALLY BARK, YELP, OR HOWL.

(A) No owner, keeper, or harborer of a dog shall permit or allow the dog to annoy or disturb one or more of the inhabitants of two or more separate residences of this town by the frequent or habitual howling, yelping, barking, or making of any other such noises by the dog within the corporate limits.

(B) Any dog that violates division (A) of this section is declared to be a nuisance.
Penalty, see § 90.99

§ 90.99 PENALTY.

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

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

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

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

(Ord. 4-1949, passed 10-3-1949; Am. Ord. 8-2007, passed - -)

Statutory reference:

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

CHAPTER 91: CEMETERIES

Section

91.01 Definitions
91.02 General authority over cemetery
91.03 Fees and charges
91.04 Maintenance
91.05 Visitation
91.06 Construction
91.07 Administrative record-keeping
91.08 Modifications of rules and regulations

91.99 Penalty

§ 91.01 DEFINITIONS.

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

AUTHORITY. The Hagerstown Town Council and those officers designated by the Town Council to act on their behalf.

CEMETERY. The grounds used to inter human remains commonly known as West Lawn Cemetery located in Hagerstown, Indiana.

CEMETERY OFFICE. The main office maintained by the Town of Hagerstown, commonly referred to as Town Hall.

FOUNDATION. The base constructed for the purpose of supporting a memorial, monument, or marker placed upon the base.

INTERMENT. The permanent disposition of the remains of a deceased person by burial, entombment, or cremation and inurnment.

LAND DIVISIONS. Shall be comprised of the following:

(1) ***DEED.*** A written instrument issued to reflect ownership of a space or multiple spaces within a lot of the cemetery.

(2) ***SPACE.*** A numerically-designated parcel of land within a lot wherein normally one human remains is or may be interred, commonly called a grave.

(3) ***LOT.*** A numerically-designated parcel of land within a section, with a lot being comprised of eight spaces in the old section of the cemetery and four spaces in the new sections of the cemetery.

(4) ***SECTION.*** A numerically-designated parcel of land containing lots and spaces.

LOT MARKER. A marking device placed in the ground to identify and locate the corners of a lot or plot.

MARGIN. Areas of the foundation not covered by a memorial, monument, or marker.

MARKER. A memorial flush with surface of the ground.

MEMORIAL. A monument, marker, tablet, headstone, mausoleum, or tomb for family or individual use and common funerary items such as urns and niches.

MONUMENT. A stone of granite, marble, alloyed metal, or other durable material that extends above the surface of the ground.
(Ord. 12-2005, passed 3-6-2006; Am. Ord. 11-2010, passed 10-6-2010; Am. Ord. 7-2012, passed 10-1-2012)

§ 91.02 GENERAL AUTHORITY OVER CEMETERY.

(A) The Town Council shall be the designated authority over the cemetery. The Town Council designates the Clerk-Treasurer and the Town Manager to act on behalf of the Town Council as the authority in the administration of rules, regulations, and other matters provided for in this chapter in the operation, enforcement, and collection of charges.

(B) The Town Council shall have the authority to adopt additional rules and regulations and/or to amend or repeal any section of this chapter, and to provide for the management, control, direction, care, and maintenance of the property, funds, and affairs of the cemetery, provided that the rules and regulations are not in conflict with Indiana law.
(Ord. 12-2005, passed 3-6-2006)

§ 91.03 FEES AND CHARGES.

(A) *Administrative fees*. The following fees and charges shall apply:

(1) There shall be a $50 standard records and administrative fee for all grave openings, including standard grave openings, infant grave openings and cremain grave openings.

(2) The Clerk-Treasurer, or in his or her absence the Town Manager, shall have discretion, as is generally set forth in § 91.02(A) above, in assessing 0% to 100% of the normal fee when a person is indigent or has some other inability to make full payment of the $50 standard records and administrative fee, with said discretion to be predicated upon reasonable documentation of a person's inability to satisfy the standard records and administrative fee.

(3) There shall be a standard deed transfer fee of $35 for any requested transfer of a deed for a single space between owners and a standard deed transfer fee of $50 for any requested transfer of two or more deeds for spaces within the same lot between owners.

(B) *Space purchase*. The cost of a single burial space shall be $375.
(Ord. 12-2005, passed 3-6-2006; Am. Ord. 11-2010, passed 10-6-2010; Am. Ord. 7-2012, passed 10-1-2012)

§ 91.04 MAINTENANCE.

(A) *Responsibility*.

(1) The authority at its discretion shall be responsible for maintaining buildings and grounds in a workmanlike manner in regard to planting, mowing, weeding, upkeep of buildings, fences, roadways, signage and removal of debris to include flowers, floral designs, weeds, trees, shrubs, plants, or other herbage.

(2) Maintenance of private memorials, markers, monuments, and plantings in regard to cleaning, repairing, resetting, and care of the private plantings shall not be a responsibility of the authority. The maintenance shall be the responsibility of private interest persons, and if not maintained may be removed by the authority at its discretion.

(B) *Plants and other decoration.*

(1) Individual beds of shrubbery, flowers, or plants shall not be placed upon the grounds, and no spraying shall be allowed.

(2) The installation of curbing, fencing, hedging border, walls, wood boxes, cans, glass containers of any kind, candles, stone edging, or enclosures of any kind around a burial lot or grave space is prohibited.

(3) All cut flowers or other floral or decorative designs shall be set as close as practicable to the north or south end of the headstone and anchored securely.

(4) The authority reserves the right to remove materials placed upon the headstone or the grave site that in its opinion do not conform to good order, poses a hazard to others, or creates maintenance difficulties.

(5) The authority shall not be responsible for monuments, markers, memorials, plants, plantings or other herbage, and decorations damaged by the elements, thieves, vandals, or other causes beyond its control.

(6) Arrangements for holidays (Easter, Christmas, Memorial Day, Father's Day, Mother's Day, Veterans' Day) may be installed two weeks prior to the holiday and may remain two weeks after the holiday.
(Ord. 12-2005, passed 3-6-2006) Penalty, see § 91.99

§ 91.05 VISITATION.

(A) *Vehicular traffic.*

(1) The cemetery shall be closed to all vehicular traffic from sunset to sunrise unless written permission is granted by the authority.

(2) Vehicles shall remain upon the paved roadways at all times, with the exception of construction and/or other vehicles and equipment relative to the interment.

(3) Vehicles shall not travel at a greater speed than is reasonable and prudent and shall be kept under complete control at all times. In any event, vehicles shall not exceed ten mph.

(4) Funeral processions shall have the right-of-way over individual vehicular traffic and individual traffic shall yield to the funeral processions.

(5) Vehicle horns shall not be sounded in the cemetery nor shall other excessive vehicle noise be permitted.

(6) Parked motor vehicles shall not be left unattended with their engines running.

(B) *Pedestrian traffic.*

(1) The cemetery shall be closed to all pedestrian traffic from sunset to sunrise unless written permission is granted by the authority.

(2) Animals, unless a part of an organized funeral ceremony, utilized as a primary means of personal transportation, or assisting a person due to a disability, are prohibited from being brought upon the cemetery grounds.

(3) Persons entering the cemetery shall remain upon its paved roadways and shall be permitted to walk upon or across lots only to access a specific grave site.

(4) Persons within the cemetery grounds shall adhere to and reflect reasonable proprieties expected in a cemetery environment as follows:

(a) No loud or boisterous talking or behavior;

(b) No consuming of food or other refreshments;

(c) No solicitation for sales of any commodity;

(d) No placing of notices or advertisements; and

(e) No littering.

(Ord. 12-2005, passed 3-6-2006; Am. Ord. 7-2011, passed 9-19-2011) Penalty, see § 91.99

§ 91.06 CONSTRUCTION.

(A) *Grave location.* Upon notification by the owner or mortician of a proposed interment, the authority utilizing the office of the Clerk-Treasurer shall perform the following:

(1) Ascertain that there are no outstanding fees due on the plot in question from prior interments or headstone foundations. No subsequent burials shall be authorized if unpaid charges remain;

(2) Ascertain the proper location and availability or the grave site by section, plot, and lot;

(3) Transact the sale of the grave site if applicable, providing the purchaser with a deed to the property upon payment;

(4) Cause the grave site in question to be identified within the cemetery grounds and clearly mark same for grave opening;

(5) Arrange for the grave to be opened in a timely manner; and

(6) Coordinate the timing, site location, and other pertinent issue with the attending mortician.

(B) *Headstone foundations*. Upon notification by the owner or mortician of a requested placement of a headstone and/or the need for a foundation, the authority utilizing the office of the Clerk-Treasurer shall perform the following:

(1) Ascertain that there are no outstanding fees due on the plot in question from prior interments or headstone foundations. No subsequent burials shall be authorized if unpaid charges remain;

(2) Require the owner to fill out any informational type form that the town may require to proceed with the construction of a headstone foundation, and to pay the deposit required as provided in § 91.03;

(3) Provide the actual cost of construction to the owner subsequent to the foundation construction, and collect additional payment from or provide a refund to owner pursuant to § 91.03(A)(4); and

(4) Construction of a foundation shall be within the following specifications.

(a) All support foundations shall be placed parallel with the established west lot line and centered north and south within the 4 feet by 11 feet lot space at the west end of each lot. Each foundation shall be in a uniform line with existing monuments and be flush with surrounding grade elevations.

(b) All permanent foundations shall be of sufficient size and depth to support the proposed headstone. A minimum depth of 36 inches reflecting a 5-inch flare in each direction on the bottom with an eight-inch minimum foundation margin around the stone shall be maintained. Greater depths and wider margins may be necessary for large headstones or markers. The authority shall make the final decision in all construction matters regarding sizing and depth of foundations.

(c) Temporary headstones reflecting a four-inch depth may be constructed if a second person will be interred utilizing the same stone. The construction of the temporary headstone shall be conducted by the town, with a deposit and costs to be paid pursuant to § 91.03. However, upon the second interment, a standard foundation will be required as specified by division (B)(4)(b) above, with the owner being responsible for the cost of removing the temporary headstone and constructing a permanent foundation, set costs to be as set forth in § 91.03.

(d) Concrete used to form the foundation shall meet or exceed 3,000 pound test.

(e) Although construction of the finished foundations shall be at the town's direction, finished foundations shall be inspected by the authority prior to the setting of a headstone for compliance with this section. The authority may order the foundation removed if found not to be in compliance with the foregoing specifications. Forms and other tools or equipment shall be removed from the site within 36 hours of constructing the foundation.

(C) *Construction setbacks.* All mausoleums, crypts, tombs, or other above ground interment facilities requiring multiple lots shall occupy a maximum of 50% of the available area and be centered upon the lot area.

(D) *Military or other plaques.*

(1) Plaques of whatever type shall be attached to the headstone if the headstone is currently used as a monument on the grave site.

(2) If no monument is on the grave site, the plaque may be attached to a beveled plaque stone which shall elevate the plaque to a minimum of five inches above the surrounding ground elevation. The foundation for the stone shall reflect the specification of depth and flare as stated above. However, a minimum foundation margin of four inches around the plaque stone shall be maintained.

(3) In any case where there already exists a military plaque or other marker as a footstone, another may be placed as a footstone so long as the person requesting placement of that second marker signs a waiver/release document relating to potential damage to the plaque/marker. In no other case shall such a plaque/marker be permitted for use as a footstone.

(E) *Use of an outer burial container required.* With the exception of cremains, an outer burial container of sufficient design to prevent unreasonable settling of the earth over the container shall be required.

(F) *Construction.*

(1) A space shall not be used for any other purpose than a place of burial of human remains, and only one person may be buried in any one space, subject to that which is set forth in divisions (F)(2) through (4) below.

(2) With the approval of the space owner, up to two cremated human remains may also be placed within any such space if other, non-cremated human remains are buried therein; however, if the space has no other non-cremated human remains buried therein, such space may be used for the burial of a total of four cremated human remains. There shall not be permitted the burial of non-cremated remains and more than two cremated remains in any one space.

(3) Any cremated remains buried within a space shall be placed in a non-biodegradable box, urn, or other such container or, if no such container is chosen, the biodegradable container utilized shall be encased in cement, and thereafter, any type of container utilized, whether biodegradable or not, shall

be buried at a depth of not less than three feet, with said burial to be verified by the Town Manager or his or her designee.

(4) The cremated remains may be placed under an un-set headstone if so desired.

(5) The cost of the burial of cremated remains shall be the same as set forth in § 91.03. (Ord. 12-2005, passed 3-6-2006; Am. Ord. 2-2014, passed 6-2-2014; Am. Ord. 6-2015, passed 7-20-2015) Penalty, see § 91.99

§ 91.07 ADMINISTRATIVE RECORD-KEEPING.

(A) *Plot/lot purchases.*

(1) The Clerk-Treasurer shall conduct, record, and maintain in the town and cemetery records of all sales of lots and persons interred within the cemetery.

(2) The Clerk-Treasurer shall make interment location records public by posting the records in a conspicuous place within the cemetery grounds in a reasonably timely manner.

(3) The Clerk-Treasurer shall issue a deed over the signature of the Town Council President to persons purchasing a burial lot or lots as a certificate of ownership. The authority shall be under no obligation to record the deed except in its own internal records.

(B) *Requirements of morticians.*

(1) Provide the authority with timely notification of proposed interments;

(2) Identify or have the family identify the proposed site of internment;

(3) Provide the authority with a death certificate attesting to the identity of the person to be interred; and

(4) At the time of any interments, the mortician is responsible for furnishing all necessary information on the deceased to the authority in order that proper recording of the burials may be made. (Ord. 12-2005, passed 3-6-2006)

§ 91.08 MODIFICATIONS OF RULES AND REGULATIONS.

The authority recognizes that special circumstances and cases may arise in which the literal enforcement of a rule may impose unnecessary hardship. The authority therefore reserves the right to make exceptions, suspensions, or modifications of any of these rules and regulations, without notice, when, in the judgment of the authority, the action appears necessary. Any such temporary exception,

suspension, or modification shall in no way be construed as affecting the general application of the rules and regulations.
(Ord. 12-2005, passed 3-6-2006)

§ 91.99 PENALTY.

(A) *Generally*. There is hereby established the following penalties for violations by any person of any of the rules and regulations set forth in this chapter. Each repetition of the same act of violation on the same or any subsequent day shall be an additional and separate violation for purposes of enforcement, for which separate and additional penalties shall be imposed as provided herein.

(B) *Maintenance violations*.

(1) First violation - $25 plus reimbursement for authorities expenses plus court costs; and

(2) Second or subsequent violation - $50 plus reimbursement for authorities expenses plus court costs.

(C) *Visitation violations*.

(1) First violation - $25 plus reimbursement for authorities expenses plus court costs; and

(2) Second or subsequent violation - $50 plus reimbursement for authorities expenses plus court costs.

(D) *Construction violations*.

(1) First violation - $50 plus reimbursement for authorities expenses plus court costs; and

(2) Second or subsequent violation - $100 plus reimbursement for authorities expenses plus court costs.

(E) *Mortician requirements*.

(1) First violation - $100 plus reimbursement for authorities expenses plus court costs; and

(2) Second or subsequent violation - $200 plus reimbursement for authorities expenses plus court costs.
(Ord. 12-2005, passed 3-6-2006)

CHAPTER 92: GARBAGE, RUBBISH, ASHES, AND FILTH

Section

General Provisions

92.01 Definitions
92.02 Property to be kept free from rubbish or refuse
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Burning of Trash, Refuse, and Other Material

92.10 Garbage placed outdoors for collection
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Transportation and Disposal of Waste Materials

92.20 Requirements for vehicles
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92.99 Penalty

GENERAL PROVISIONS

§ 92.01 DEFINITIONS.

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

GARBAGE. Food waste and refuse of a similar nature.

WASTE MATERIALS. All putrescible and nonputrescible wastes, including, but not limited to, garbage, rubbish, ashes, household wastes, industrial and construction wastes, and all material disposable at waste disposal and transfer stations and locations in the town.

§ 92.02 PROPERTY TO BE KEPT FREE FROM RUBBISH OR REFUSE.

(A) It shall be unlawful for any person owning or occupying, or having the use and control of, any lot or building in the town to throw or deposit, or permit to remain upon, in, or about the lot or building any kind of refuse or rubbish, manure, or other unwholesome thing or material.

(B) Any person owning any lot or building or having the use and control thereof, within the limits of the corporation, shall be required to keep the lot or building, and everything pertaining thereto, in a clean and sanitary condition.

(C) No person shall store, place, or dispose on his or her lot or building or the lot or building of another, or permit to accumulate on his or her lot or building, any solid waste in such a manner whereby it will become a rodent or insect harborage or breeding place, or create a health menace, and unsanitary condition, or nuisance.

(D) On 24-hours' notice given by the Marshal or other official designated by the Town Council, any person owning or occupying, or having the use and control of, any lot or building on which refuse or rubbish, manure, solid waste, or other unwholesome material has accumulated shall be required to remove it immediately.
(1963 Code, Ch. 7, § 2) (Ord. 1-1878, passed 4-15-1878; Am. Ord. 2-1977, passed 10-3-1977) Penalty, see § 92.99
Statutory reference:
Regulation of the disposal of wastes, see I.C. 36-9-6-19

§ 92.03 THROWING REFUSE OR RUBBISH ON STREETS, ALLEYS, OR SIDEWALKS.

It shall be unlawful for any person to deposit or permit to remain any refuse or rubbish, manure, or other unwholesome thing or material in or upon any of the streets, alleys, sidewalks, or other public property within the town.
(1963 Code, Ch. 7, § 2) (Ord. 27-1878, passed 4-15-1878) Penalty, see § 92.99

§ 92.04 DISPOSAL OF DEAD CARCASSES.

(A) All dead carcasses found within the town shall be removed by the owner or by the persons responsible for the existence of the carcasses.

(1) It shall be the duty of the Marshal, or other official designated by the Town Council, to notify the owner or other responsible person and to order the removal of the carcass.

(2) If the owner or other person responsible shall refuse to comply with the order, then the carcass shall be removed at the owner's expense.

(B) If the owner of any carcass found in the town is not known, then it shall be the duty of the Marshal or other official designated by the Town Council to remove and dispose of it.
(1963 Code, Ch. 7, § 3) (Ord. 1-1978, passed - -) Penalty, see § 92.99

§ 92.05 UNSANITARY PRIVIES.

It shall be unlawful for any person to place or deposit any human excrement on any premises in an unsanitary manner, or to erect, construct, maintain, or permit to remain upon any premises privies, vaults, cesspools, pits, or like places, which are unsanitary or which are foul or malodorous, and these conditions constitute a public nuisance.
(1963 Code, Ch. 7, § 4) (Ord. 4-1936, passed 10-19-1936) Penalty, see § 92.99

BURNING OF TRASH, REFUSE, AND OTHER MATERIAL

§ 92.10 GARBAGE PLACED OUTDOORS FOR COLLECTION.

Garbage placed outdoors for collection or disposal shall be kept in proper garbage containers of metal or other suitable material covered with protective lids.
(Ord. 4-1968, passed 12-16-1968; Am. Ord. 4-1976, passed 10-4-1976) Penalty, see § 92.99

§ 92.11 OPEN BURNING PROHIBITED.

(A) It shall be unlawful for any person to burn any flammable matter within the corporate boundaries of the Town of Hagerstown except that which meets the standards and regulations of the Indiana Air Pollution Control Board and the further authorization of the Town Council of the Town of Hagerstown.

(B) Any person desiring to obtain the authorization from the Town Council of Hagerstown must apply to the Town Council prior to any burn permitted by the State Air Pollution Board and at least two weeks before the expected burn date, providing full details and description of the place, time, material, and expected duration of the burn, and including a copy of the State Air Pollution Control permission to so burn. The Town Council will hear the applicant at its next regular meeting after the application and review and determine in its discretion if the burn, not being in violation of state standards, is also in the best interests or is deemed to be detrimental to the health, safety, and welfare of the citizens of the Town of Hagerstown.

(C) There shall be no charge for the application to the Town Council for a permit to open burn when a permit has been issued by the State Air Pollution Control Board and applicant furnishes all required information.

(D) This section does not establish regulations for any form of indoor heating or cooking regulated by other laws and ordinances, nor for outdoor cooking grills for the consumption of food on the premises, fires used for Twelfth Night Ceremonies, pep rallies, scouting activities, and recreational campfires, provided, nevertheless, upon notice by the Town Council or the Fire Chief declaring an emergency, any authorized or unregulated outdoor open burning of any kind shall cease until the restriction is released.

(E) Any open burning within the corporate boundaries of the town, whether by permit and authorization, or by an exemption in division (D) above, shall be properly attended at all times in order to guard against the spread of fire, and is subject to immediate extinction by order of the Hagerstown Fire Chief or his or her delegate should the burning be deemed by the official to create an immediate hazard to the public safety and property.

(F) Any person authorized by the State Commissioner or his or her delegate to conduct open burning declared by the State Air Pollution Control Board to be an emergency necessary and permissible because of a natural disaster, notify the Town Director of Municipal Operations and the Hagerstown Fire Chief, who shall have authority to act in the emergency on behalf of the town.
(Ord. 4-1997, passed 10-6-1997)

§ 92.12 REGULATION OF COOKING FIRES OR GRILLS.

No section of this chapter shall be construed to prohibit the use of open or outdoor cooking fires or cooking grills, provided that the cooking fires or cooking grills shall be for the preparation of food for consumption on the premises, and that the cooking fires or cooking grills shall be properly attended at all times in order to guard against the spread of fire.
(Ord. 6-1992, passed 11-16-1992) Penalty, see § 92.99

TRANSPORTATION AND DISPOSAL OF WASTE MATERIALS

§ 92.20 REQUIREMENTS FOR VEHICLES.

(A) No vehicle or motor vehicle shall be used to transport waste materials in the town unless the waste materials are entirely enclosed within vehicles having enclosed bodies on all sides with watertight beds.

(B) Vehicles meeting these requirements, except that an opening remains at the top side of vehicle, may not transport waste materials without being covered securely with a solid waterproof cover over the top opening to screen the waste material from view and to hold and secure the waste material in the vehicle.

(C) Waste materials in paper, cloth, or plastic bags, or uncovered barrels or cans, or similar containers, must also be so covered.
(Ord. 5-1978, passed 10-16-1978) Penalty, see § 92.99

§ 92.21 EXCEPTION FOR PRIVATE AUTOMOBILES.

Section 92.20 shall not prevent any person from transporting waste material in a private automobile from his or her own household to or through the town; however, waste materials must be transported entirely within the confines of the enclosed vehicle and meet the requirements of § 92.20 if the load is loose or leaks.
(Ord. 5-1978, passed 10-16-1978) Penalty, see § 92.99

§ 92.22 WASTE DISPOSAL OR TRANSFER STATIONS.

Vehicles and motor vehicles transporting waste material to a waste disposal or transfer station or location in violation of § 92.20 shall not be permitted to remain on or unload at any waste disposal or transfer station or location in the town, and the owner, or person holding under the owner, agent, employee, or other person responsible for the premises of any town waste disposal or transfer station or location, shall not permit a vehicle in violation of § 92.20 to remain or unload.
(Ord. 5-1978, passed 10-16-1978) Penalty, see § 92.99

§ 92.99 PENALTY.

(A) Any person who violates § 92.02 shall, on conviction, be fined in a sum not exceeding $500, and each and every day the violation continues shall be taken to be a separate offense.
(Ord. 1-1878, passed 4-15-1878; Am. Ord. 2-1977, passed 10-3-1977)

(B) Any person who violates §§ 92.03 or 92.05 shall, on conviction, be fined in a sum not exceeding $25 and each and every day the violation continues shall be taken to be a separate offense.
(Ord. 27-1878, passed 4-15-1878; Am. Ord. 4-1936, passed 10-19-1936)

(C) Any person who violates § 92.04 shall, on conviction, be fined in a sum not exceeding $50.
(Ord. 1-1878, passed 4-15-1878)

(D) Every person convicted of a violation of any provision of §§ 92.11 and 92.12 shall be fined a sum of not less than $25 nor more than $2,500 for each and every offense.
(Ord. 4-1968, passed 12-16-1968; Am. Ord. 4-1976, passed 10-4-1976; Am. Ord. 6-1992, passed 11-16-1992; Am. Ord. 4-1997, passed 10-6-1997)

(E) Any violation of §§ 92.20 through 92.22 by any person shall be an infraction of law for which the penalty shall be $100 for each and every violation.
(Ord. 5-1978, passed 10-16-1978)

CHAPTER 93: PARKS AND PLAYGROUNDS

Section

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GENERAL PROVISIONS

§ 93.01 RULES AND REGULATIONS ADOPTED BY REFERENCE.

(A) Rules and regulations for the operation and control of the Hagerstown Park by the Municipal Park Board of the town and now on file in the office of the Clerk-Treasurer in three separate volumes of the rules and regulations of the town are hereby approved, adopted, and established by reference hereto and are incorporated herein as though fully set forth herein, the rules and regulations to continue to remain in effect hereinafter.

(B) The rules and regulations of the park may be amended from time to time hereinafter by adoption and recommendation of the respective controlling boards or commissions and the Hagerstown Town Council, and the Town Clerk-Treasurer shall then place each and every amendment so adopted in the appropriate volume or volumes of rules and regulations on file in the office of the Clerk-Treasurer, all of which rules and regulations shall be open to public inspection during the established hours for business in the Town Hall.
(Ord. 5-1989, passed 11-21-1989)

§ 93.02 ESTABLISHMENT OF PARK.

(A) There is established a public park to be located on 16.83 acres of land with the improvements thereon, approximately one-half mile west of the west corporation line of the town in Jefferson Township, Wayne County, Indiana, or on any part that may be designated by the Town Council or by any authority created by the Town Council for the management of public parks of the town.

(B) This real estate is subject to conditions with respect to the reservation of rights and easements by the Sohio Pipe Line Company.
(1963 Code, Ch. 9, § 1) (Ord. 1-1963, passed 4-1-1963)

§ 93.03 CUSTODY AND MANAGEMENT.

The custody and management of the park shall be in the Town Council unless the Town Council by ordinance creates a separate authority for the management of public parks.
(1963 Code, Ch. 9, § 3) (Ord. 1-1963, passed 4-1-1963)

§ 93.04 RIGHTS AND POWERS OF THE TOWN COUNCIL.

(A) This chapter shall not be construed to deprive the town of any right or authority conferred upon it by any state statutes relating to parks and recreation, in addition to those herein contained.

(B) Powers conferred by this chapter shall not be exercised by a Board of Parks and Recreation which is not organized under the provisions of this chapter.
(Ord. 1-1964, passed 6-1-1964)

DEPARTMENT OF PARKS AND RECREATION AND BOARD OF PARKS AND RECREATION

§ 93.05 CREATION.

There is created a Department of Parks and Recreation, to be composed of a Board of Parks and Recreation. This Board is invested with the power to perform all acts necessary to acquire and develop sites and facilities and to conduct those programs which are generally understood to be park and recreation functions.
(Ord. 1-1964, passed 6-1-1964)

§ 93.06 POWERS AND DUTIES OF BOARD.

(A) *Generally*. In addition to all other powers necessary to achieve its general objectives, the Park Board shall have, for park and recreation purposes, the following powers and duties.

(B) *Specifically*.

(1) Exercise general supervision of and make regulations for the Department and establish rules governing the use of the park and recreation facilities by the public;

(2) Provide police protection for its property and activities either by requesting assistance from state, town, or county police authorities, or by having specified employees deputized as police officers. The deputized employees, however, shall not be eligible for police pension benefits or other emoluments of police officers;

(3) Make contracts and leases for facilities and services, but shall have no authority to contract with a person, corporation, or private agency for the operation of a park recreation program;

(4) Acquire and dispose of real and personal property;

(5) Exercise the power of eminent domain;

(6) Appoint the administrative officers of the Department as are necessary, fix their duties and compensation, and delegate authority to perform ministerial acts in all cases except where final action of the Town Council is necessary;

(7) Establish standards and qualifications for the appointment of all personnel, fix their compensation, and approve their appointments without regard to political considerations;

(8) Engage in self-supporting activities as prescribed below;

(9) Contract for special and temporary services and for professional assistance;

(10) Make recommendations and an annual report to the Town Council concerning the operation of the Park Board and the status of park and recreation programs within its jurisdiction;

(11) Prepare, publish, and distribute reports and other materials relating to authorized activities;

(12) Sue and be sued collectively by its legal name Hagerstown Park and Recreation Board; service of process being had upon the President of the Park Board; but no costs shall be taxed against the Board or its members in any action;

(13) Invoke any legal, equitable, or special remedy for the enforcement of the provisions of this chapter and any state statutes pertaining to parks and recreation, a park or recreation ordinance, or the Board's own action taken thereunder;

(14) Prepare and submit an annual budget in the same manner as other departments of the town government; and

(15) Engage a Superintendent and such other personnel as the Board may from time to time determine.
(Ord. 1-1964, passed 6-1-1964)
Statutory reference:
Powers and duties, I.C. 36-10-3-10 and 36-10-3-11

§ 93.07 COMPOSITION OF BOARD.

(A) The Park Board consists of four members to be appointed by the President of the Town Council. The members shall be appointed on the basis of their interest in and knowledge of parks and recreation, but no more than two members may be affiliated with the same political party. In addition, the creating ordinance may provide for one or two ex officio members, those being:

(1) A member:

(a) Of the Board of School Trustees selected by that Board; or

(b) Designated by the Board of School Trustees if the Board is in a town.

(2) A member of the Library Board selected by that Board; or

(3) Both divisions (A)(1) and (A)(2) above.

(B) Initial appointments to the Park Board are as follows:

(1) One member for a term of one year;

(2) One member for a term of two years;

(3) One member for a term of three years; and

(4) One member for a term of four years.

(C) As a term expires, each new appointment is for a four-year term. All terms expire on the first Monday in January, but a member continues in office until his or her successor is appointed.
(I.C. 36-10-3-4 and 36-10-3-5) (Ord. 1-1964, passed 6-1-1964)

§ 93.08 VACANCIES ON THE BOARD.

If a vacancy on the Park Board occurs, the President of the Town Council shall appoint a member for the remainder of the unexpired term.
(I.C. 36-10-3-5(f)) (Ord. 1-1964, passed 6-1-1964)

§ 93.09 MEETINGS OF THE BOARD.

(A) All meetings of the Board are open to the public. The Board shall fix the time and place of its regular meetings, but it shall meet at least quarterly.

(B) Special meetings of the Board may be called by the President or by any two members by written request to the Secretary. The Secretary shall send to each member, at least two days before a special meeting, a written notice fixing the time, place, and purpose of the meeting. Written notice of a special meeting is not required if the time of the special meeting is fixed at a regular meeting or if all members are present at the special meeting.

(C) A majority of the members constitutes a quorum. Action of the Board is not official unless it is authorized by at least three members present and acting.
(I.C. 36-10-3-8) (Ord. 1-1964, passed 6-1-1964)

§ 93.10 COMPENSATION OF BOARD MEMBERS.

(A) The members of the Board shall receive no salary.

(B) When the Board decides it is desirable for members or employees to attend a state, regional, or national conference dealing with park and recreation problems, it may authorize the payment of the actual expenses involved in attending these meetings, if the amount has been made available in the Board's appropriations.
(I.C. 36-10-3-9) (Ord. 1-1964, passed 6-1-1964)

§ 93.11 ANNUAL ORGANIZATION OF BOARD.

At its first regular meeting each year, the Board shall elect a President and a Vice-President. The Vice-President may act as President during the absence or disability of the President. The Board may select a Secretary either from within or outside its membership.
(I.C. 36-10-3-8(c)) (Ord. 1-1964, passed 6-1-1964)

§ 93.12 MEETING PLACE OF BOARD.

The Town Council shall provide suitable quarters for the holding of meetings and conducting the work of the Park Board.
(Ord. 1-1964, passed 6-1-1964)

§ 93.13 GIFTS AND BEQUESTS.

(A) The Board may accept gifts, donations, and subsidies for park and recreational purposes. However, a gift or transfer of property to the Board may not be made without its approval.

(B) A gift or grant of money shall be deposited in a special nonreverting fund to be available for expenditure by the Board for purposes specified by the grantor. The disbursing officer of the unit may draw warrants against the fund only upon vouchers signed by the President and Secretary of the Board. (I.C. 36-10-3-18) (Ord. 1-1964, passed 6-1-1964)

§ 93.14 DEPARTMENT FUNDS.

The Town Council shall determine and provide the revenues necessary for the operation of the Department of Parks and Recreation, or for capital expenditures, not covered by the issuance of bonds by:

(A) A specific levy to be used exclusively for these purposes;

(B) A special appropriation; or

(C) Both of these methods.
(I.C. 36-10-3-19(b)) (Ord. 1-1964, passed 6-1-1964)

§ 93.15 USE OF FUNDS.

The Department is authorized to expend, under regular town procedures as provided by law, all sums appropriated to it for purposes and activities authorized by this chapter.
(Ord. 1-1964, passed 6-1-1964)

§ 93.16 NONREVERTING CAPITAL FUNDS.

(A) The Town Council may establish by ordinance, upon request of the Park Board:

(1) A special nonreverting fund for park purposes from which expenditures may be made as provided by ordinance, either by appropriation by the Park Board or by the Town Council; and/or

(2) A special nonreverting capital fund for the purpose of acquiring land or making specific capital improvements from which expenditures may be made by appropriation by the Town Council.

(B) The Town Council shall designate the fund or funds into which the County Treasurer shall deposit fees from golf courses, swimming pools, skating rinks, or other major facilities requiring major expenditures for management and maintenance. Money received from fees other than from major facilities or received from the sale of surplus property shall be deposited by the County Treasurer either in the special nonreverting operating fund or in the nonreverting capital fund, as directed by the Town Council. However, if neither fund has been established, money received from fees or from the sale or surplus property shall be deposited in the General Fund. Money from either special fund may be disbursed only on approved claims allowed and signed by the President and Secretary of the Town Council.

(C) Money placed in the special nonreverting capital fund may not be withdrawn except for the purposes for which the fund was created, unless the Town Council repeals the ordinance establishing the fund. The Town Council may not repeal the ordinance under suspension of the rules.

(D) Money procured from fees or received from the sale of surplus property under I.C. 36-10-3-12 shall be deposited at least once each month with the Clerk-Treasurer.
(I.C. 36-10-3-22) (Ord. 1-1964, passed 6-1-1964)

§ 93.17 DISCRIMINATION.

This chapter shall not be interpreted as authority for discriminatory treatment of nonresidents of a town or county in the use of park and recreational facilities.
(Ord. 1-1964, passed 6-1-1964)

§ 93.18 PARK FREE OF CHARGE; REASONABLE FEES FOR FACILITIES AND ACTIVITIES.

The parks and playgrounds of the town shall be available to the public free of charge; however, there is hereby established a schedule of rates and fees for the use of certain park facilities, including shelters, other structures, and the Hagerstown Dutro Municipal Pool, all as set forth in the schedule

which is incorporated in Ordinance 8-2010 and is attached thereto and marked as Exhibit "A". The attached schedule may be amended, from time to time as warranted; however, any amendment to the schedule must be available for public inspection at the Office of the Town Clerk-Treasurer and/or at Town Hall, 49 East College Street, Hagerstown, Indiana.
(I.C. 36-10-3-22) (Ord. 1-1964, passed 6-1-1964; Am. Ord. 8-2010, passed 6-21-2010)

SUPERINTENDENT OF PARKS AND RECREATION

§ 93.20 APPOINTMENT, COMPENSATION, AND QUALIFICATIONS.

(A) The Board of Parks and Recreation shall appoint a Superintendent of Parks and Recreation and fix his or her annual salary compensation commensurate with his or her qualifications; upon approval of the Park Board, the Superintendent may be additionally compensated for performing duties as a caretaker as may be determined by the Park Board within the annual budget of the Park Board.

(B) The tenure and compensation of the Park Superintendent shall be subject to termination by the Park Board at any time.

(C) The Board shall give no consideration to political affiliation in the selection of the Superintendent.
(I.C. 36-10-3-13) (Ord. 1-1964, passed 6-1-1964; Am. Ord. 14-1979, passed 12-17-1979)

§ 93.21 DUTIES.

(A) *Generally*. Under the direction of the Park Board, the Superintendent shall perform the following duties.

(B) *Specifically*.

(1) Propose annually a plan for the operation of the Department;

(2) Administer the plan as approved by the Board;

(3) Supervise the general administration of the Department;

(4) Keep the records of the Department and be responsible for the custody and preservation of all papers and documents of the Department;

(5) Recommend persons for appointment as assistants if the Board determines there is a need;

(6) Appoint the employees of the Department, subject to the approval of the Board, according to the standards and qualifications on a basis similar to that prescribed for the Superintendent;

(7) Prepare and present to the Board an annual report; and

(8) Perform other duties that the Board directs.
(I.C. 36-10-3-14) (Ord. 1-1964, passed 6-1-1964)

§ 93.22 ASSISTANTS TO THE SUPERINTENDENT.

(A) If the Board determines that the size of the Department's operation requires assistants for the Superintendent, the Board may appoint, upon the recommendation of the Superintendent, one or more assistants. The Board shall determine their qualifications on a basis similar to that prescribed for the Superintendent.

(B) Assistants are directly responsible to the Superintendent and shall perform the duties specified by the Superintendent.
(I.C. 36-10-3-15) (Ord. 1-1964, passed 6-1-1964)

ADVISORY COUNCIL

§ 93.25 ADVISORY COUNCIL TO THE PARK BOARD.

(A) The Board may create an Advisory Council and special committees composed of citizens interested in parks and recreation.

(B) In selecting an Advisory Council or special committees, the Board shall give consideration to the groups in the community particularly interested in parks and recreation. In a resolution creating an Advisory Council or a special committee, the Board shall specify the terms of its members and the purposes for which it is created.
(I.C. 36-10-3-17) (Ord. 1-1964, passed 6-1-1964)

§ 93.26 DUTIES.

The Advisory Council or a special committee shall:

(A) Study the subjects and problems specified by the Board and recommend to the Board additional problems in need of study;

(B) Advise the Board concerning these subjects, particularly as they relate to different areas and groups in the community;

(C) Upon the invitation of the Board, sit with and participate in the deliberation of the Board, but without the right to vote; and

(D) The Advisory Council or a special committee shall report only to the Board, and make inquiries and reports only in those areas specified by the Board's resolution creating the Council or committee.
(I.C. 36-10-3-17) (Ord. 1-1964, passed 6-1-1964)

BONDS

§ 93.30 ISSUANCE; LIMITATION ON AMOUNT; DENOMINATIONS AND INTEREST.

(A) In order to raise money to pay for land to be acquired for any of the purposes named in this chapter, to pay for an improvement authorized by this chapter, or both, and in anticipation of the special benefit tax to be levied as provided in this chapter, the Board shall cause to be issued, in the name of the unit, the bonds of the district. The bonds may not exceed in amount the total cost of all land to be acquired and all improvements described in the resolution, including all expenses necessarily incurred in connection with the proceedings, together with a sum sufficient to pay the costs of supervision and inspection during the period of construction of a work. The expenses to be covered in the bond issue include all expenses of every kind actually incurred preliminary to acquiring the land and the construction of the work, such as the cost of the necessary record, engineering expenses, publication of notices, preparation of bonds, and other necessary expenses. If more than one resolution or proceeding of the Town Council under I.C. 36-10-3-23 is confirmed whereby different parcels of land are to be acquired, or more than one contract for work is let by the Town Council at approximately the same time, the cost involved under all of the resolutions and proceedings may be included in one issue of bonds.

(B) The bonds may be issued in any denomination not less than $1,000 each, in not less than five nor more than 40 annual series. The bonds are payable one series each year, beginning at a date after the receipt of taxes from a levy made for that purpose. The bonds are negotiable. The bonds may bear interest at any rate, payable semiannually. After adopting a resolution ordering bonds, the Board shall certify a copy of the resolution to the Clerk-Treasurer. The Clerk-Treasurer shall prepare the bonds and the President of the Board shall execute them, attested by the Clerk-Treasurer.

(C) The bonds and final interest on them are exempt from taxation as prescribed by I.C. 6-8-5-1. Bonds issued under this section are subject to the provisions of I.C. 5-1 and I.C. 6-1.1-20 relating to:

(1) The filing of a petition requesting the issuance of bonds;

(2) The right of:

(a) Taxpayers and voters to remonstrate against the issuance of bonds in the case of a proposed bond issue described by I.C. 6-1.1-20-3.1(a); or

(b) Voters to vote on the issuance of bonds in the case of proposed bond issue described by I.C. 6-1.1-20-3.5(a).

(3) The appropriation of the proceeds of the bonds and approval by the office of the Clerk-Treasurer; and

(4) The sale of bonds at public sale for not less than their par value.

(D) The Town Council may not have bonds of the district issued under this section that are payable by special taxation when the total issued for that purpose, including the bonds already issued or to be issued, exceeds 2% of the total assessed valuation of the property in the district. All bonds or obligations issued in violation of this division are void. The bonds are not obligations or indebtedness of the unit, but constitute an indebtedness of the district as a special taxing district. The bonds and interest are payable only out of a special tax levied upon all the property of the district as prescribed by this chapter. The bonds must recite the terms upon their face, together with the purposes for which they are issued.
(I.C. 36-10-3-24)

§ 93.31 NOTICE AND HEARING ON BOND ISSUES.

(A) Before bonds may be issued under I.C. 36-10-3-23, the Town Council shall give notice of a public hearing to disclose the purposes for which the bond issue is proposed, the amount of the proposed issue, and all other pertinent data.

(B) The Town Council shall have published, in accordance with I.C. 5-3-1, a notice of the time, place, and purpose of the hearing.

(C) After the public hearing and before additional proceedings on the bond issues, the Town Council must obtain an ordinance approving the bond issue from the Town Council.
(I.C. 36-10-3-25)

§ 93.32 DEPOSIT AND USE OF BOND PROCEEDS.

All proceeds from the sale of bonds issued under I.C. 36-10-3-24 shall be kept in a separate fund. The fund shall be used to pay for land and other property acquired and for the construction of a work under the resolution, including all costs and expenses incurred in connection with the project. The fund may not be used for any other purpose. The fund shall be deposited as provided in this chapter. A surplus remaining from the proceeds of the bonds after all costs and expenses are paid shall be paid into and becomes a part of the Park District Bond Fund.
(I.C. 36-10-3-26)

§ 93.33 LEVY FOR PAYMENT OF BONDS; PARK DISTRICT BOND FUND.

(A) In order to raise money to pay all bonds issued under I.C. 36-10-3-24, the Town Council shall levy annually a special tax upon all of the real and personal property located in the district sufficient to pay the principal of the bonds as they mature, including accrued interest. The Town Council shall have the tax to be levied each year certified to the auditor of the county in which the district is located at the time for certification of tax levies. The tax shall be collected and enforced by the County Treasurer in the same manner as other taxes are collected and enforced.

(B) As the tax is collected, it shall be accumulated and kept in a separate fund to be known as the Park District Bond Fund. The tax shall be applied to the payment of the district bonds and interest as they mature and may not be used for another purpose.
(I.C. 36-10-3-27)

§ 93.34 EFFECT OF DISCONTINUANCE OF BOARD OR DISTRICT ON BOND OBLIGATIONS.

If a board or district is discontinued under I.C. 36-10-3-3, the primary obligation on its bonds is not affected, and the unit assumes liability for the payment of the bonds according to their terms.
(I.C. 36-10-3-28)

CONTRACTS

§ 93.40 CONTRACTS WITH TOWN OR SCHOOL BOARDS.

The Board of Parks and Recreation may contract with another board, a unit, or a school corporation for the use of park and recreation facilities or services, and a township or school corporation may contract with the Board for the use of park and recreation facilities or services
(I.C. 36-10-3-11(3)) (Ord. 1-1964, passed 6-1-1964)

§ 93.41 CONTRACTS WITH OTHER PARTIES.

(A) The Park Board may contract with another board, a governmental unit, department, or agency, or with a person for property, facilities, or services; but shall have no authority to contract with a person, corporation, or private agency for the operation of a park or recreation program.

(B) The Town Council may sell, lease, or enter into a royalty contract for the natural or mineral resources of land which it owns.

(C) Money received from these sources shall be deposited in the nonreverting capital fund of the Board of Parks and Recreation.
(I.C. 36-10-3-11) (Ord. 1-1964, passed 6-1-1964)

MUNICIPAL POOL

§ 93.55 NAME.

The town's municipal pool, as established pursuant to Ord. 2-2000, shall hereinafter be named the Hagerstown Dutro Municipal Pool.
(Ord. 9-2006, passed 9-5-2006)

§ 93.99 PENALTY.

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

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

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

(B) A separate violation shall be deemed committed upon each day during which a violation occurs or continues.
(Ord. 1-1964, passed 6-1-1964; Am. Ord. 8-2007, passed - -)
Statutory reference:
Authority, see I.C. 36-1-3-8(a)(10)

CHAPTER 94: STREETS, SIDEWALKS, AND ALLEYS

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GENERAL PROVISIONS

§ 94.01 OBSTRUCTION OF STREETS.

(A) It shall be unlawful for any person to obstruct any street or alley of the town by building a fence or fences or by placing a gate or gates across it or to obstruct any street or alley of the town in any manner whatever without the express written consent of the Town Council.

(B) Any person guilty of violating this section shall, on conviction, be fined in any sum not exceeding $10 for each and every day the obstruction remains.
(1963 Code, Ch. 10, § l) (Ord. 12-1878, passed 4-15-1878)
Statutory reference:
Obstruction of streets, see I.C. 36-9-2-7

§ 94.02 PAVING ALLEYS.

(A) When all of the owners of lots adjoining a public alley in the town between intersections of public alleys and public alleys, or public alleys and public streets request, by properly signed petitions, to have the public alley paved, then the town shall cooperate in the paving by furnishing the following:

(1) All necessary engineering service;

(2) All labor necessary to do necessary grading;

(3) All necessary gravel; and

(4) All necessary equipment.

(B) The lot owners shall do and furnish all else necessary, and all work done and material furnished shall be according to the plans and specifications duly approved by the Town Council.

(C) There must be sufficient funds available and appropriated to do and perform the things set out in divisions (A) and (B) above.

(D) If any of the owners fail or refuse to sign the original petition and other owners adjoining the alley sign an agreement to furnish material and labor for those failing or refusing to sign, then, in that event, the petition shall be considered as having been signed by all of the lot owners.

(E) If two or more petitions are pending at the same time, the Town Council shall be the sole judge as to which petition shall receive first consideration and action.

(F) The entire expense of paving intersections of alleys shall be paid by the town.
(1963 Code, Ch. 10, § 2) (Ord. 1-1942, passed 1-5-1942)

§ 94.03 PLANTING SHADE AND ORNAMENTAL TREES.

(A) It shall be lawful for any person owning or having the control of any lot or lots within the corporation to plant and cultivate shade or ornamental trees in front of the lot or lots, provided, that the trees when planted shall be at least eight feet from the front line of the lot or lots on Main, Perry, and Washington Streets, and at least six feet from the front line on all other streets.

(B) This section shall not affect the placement of shade or ornamental trees planted prior to the adoption of this section.
(1963 Code, Ch. 3, § 3) (Ord. 19-1878, passed 4-15-1878) Penalty, see § 94.99

CUTTING PUBLIC RIGHT-OF-WAY

§ 94.10 DEFINITIONS.

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

BACKFILL. The material used in refilling an opening from the bottom of the new base.

FLEXIBLE BASE. Asphalt concrete, stone, or other material commonly used in the construction of a roadway.

RIGID BASE. Cement concrete, or reinforced cement concrete under an asphalt surface.

SUPERINTENDENT. The Superintendent of Utilities, or any of his or her appointed representatives.
(Ord. 12-1981, passed 8-3-1981)

§ 94.11 CUTTING THE STREET OPENING.

(A) Openings shall be saw cut with straight, neat, vertical edges, and square corners.

(B) No opening shall have the dimension of less than 18 inches unless authorized by the Superintendent.

(C) Openings shall be made so that there is no section of adjacent old pavement with a dimension of less than 18 inches unless authorized by the Superintendent.

(D) Methods used in removal of pavement material shall not cause damage to adjacent pavement.

(E) Where existing pavement contains reinforcing, steel shall not be cut with pneumatic hammers, but shall be cut by sawing or gas cutting.

(F) Openings in concrete pavement shall be outlined with a saw to provide straight, neat joining lines.
(Ord. 12-1981, passed 8-3-1981) Penalty, see § 94.99

§ 94.12 BACKFILLING.

(A) *Method "A."* If protection for underground facilities does not require clay for backfill, then the entire depth of the excavation shall be filled with granular material in 12-inch layers with each layer being thoroughly compacted, as in Appendix A at the end of this chapter.

(B) *Method "B."* Selected clay material free from rocks may be used in the bottom two feet of the excavation under circumstances where clay material is desired for the protection of underground facilities, but the clay material shall not be used within 18 inches of the finish grade. Clay backfill must be placed in layers not to exceed four-inch thickness and each layer must be thoroughly compacted by mechanical means. The remaining depth shall be filled with granular material and compacted in no more than 6-inch layers as in Appendix A at the end of this chapter.
(Ord. 12-1981, passed 8-3-1981) Penalty, see § 94.99

§ 94.13 REPLACING PAVEMENT AND BASE.

(A) *Concrete and base.*

(1) Concrete will not be used if the cut is within two feet of any utility line owned by the town.

(2) When this is not the case, concrete will be used, and shall be high early strength type; have compressive strength of 4,000 P.S.I. after 28 days; be placed at a uniform depth.

(B) *When repairing concrete surfaces.*

(1) Concrete shall be broom finished to conform to the cross-section and profile of the roadway and the edges troweled to be neat and uniform.

(2) If an opening is to extend from one joint section of existing pavement into another, a butt joint or contraction joint of two inches in depth shall be constructed on the alignment of the original joint.

(3) If the opening is to be more than 15 feet in length and no original joints are provided, then contraction joints must be constructed so that no joint spacing is greater than 15 feet.

(C) *Hot asphalt concrete pavement.*

(1) Materials shall be placed and compacted in lifts not to exceed 1.5 inches in depth.

(2) The final surface will be rolled with equipment standard to the standard asphalt paving industry. Hand tamping will not be allowed.

(3) Materials and application will meet the specifications for hot asphalt concrete as prescribed by the Indiana State Highway Commission.
(Ord. 12-1981, passed 8-3-1981) Penalty, see § 94.99

§ 94.14 CURBING.

(A) All curbing will be installed according to curb and gutter detail drawing types A, B, and C in Appendix A to this chapter.

(B) As soon as newly placed concrete acquires an initial set but no more than 12 hours after placing, an approved method of curbing shall be initiated which will not discolor or disfigure the curbing and gutter.

(C) Newly poured curb and gutter shall be closed to traffic for a period of 48 hours when the temperature is above 50°F and for a period of 72 hours when the temperature is between 35° and 50°F.

(D) Only with the consent of the Superintendent will concrete be permitted to be placed as curb and gutter when the temperature is below 35°F.
(Ord. 12-1981, passed 8-3-1981) Penalty, see § 94.99

§ 94.15 PERMIT.

(A) *Generally*. No person shall dig or make an excavation of any kind in any public street, alley, or sidewalk of the town without first obtaining a written permit from the Superintendent of Utilities to do so.

(B) *Application for permit*. The applicant for the permit shall execute, in triplicate, a written application to be furnished by the office of the Town Clerk-Treasurer. The application shall contain the following information:

(1) The date when the proposed excavation is to be made and the estimated time for completion of the work necessitating the excavation;

(2) The location of the area where the excavation is to be made and the purpose; and

(3) The approximate dimensions of the excavation.

(C) *Agreement of applicant.*

(1) By his or her application, the applicant agrees to the following specifications to fill, close, seal, and resurface the excavation:

(a) To backfill opening of street, alley, or sidewalk, with pea gravel or bankrun gravel and to tamp in top of that part of the trench which is in the traveled street or alley and to maintain the street or alley surface which has been disturbed in a smooth and uniform condition for a period of 52 weeks after traffic is again permitted to pass over the filled trench, unless otherwise specifically provided;

(b) To resurface all openings at least 20 days after refill;

(c) To stop the work at any time on request of the Superintendent;

(d) To resurface with the same kind of material removed by cutting;

(e) To haul from the project all the unused material used in the refill; and

(f) To notify the Superintendent of the date of cutting and refill for proper inspection. All work must be approved by the Superintendent when completed.

(2) The applicant further agrees that in the event the excavation is not properly filled, closed, and sealed or resurfaced pursuant to the established standards and regulations and after due notice from the Superintendent of the defects or omissions, the applicant shall immediately proceed to correct the defects and omissions in the closing of the excavation.

(3) In the event that the defects or omissions are not corrected within a reasonable period of time after mailing of the notice, the Superintendent shall proceed to properly close and resurface the excavation, and shall bill the applicant for the cost of labor and material required to properly close and resurface the excavation. The applicant shall agree to reimburse the town for costs so incurred.

(4) The applicant agrees to erect and maintain, as safeguards and warnings to the public, proper and adequate guards and sufficient and adequate warning lights about the work and excavation until the project is complete and the surface is properly restored.

(5) The applicant agrees to indemnify and save harmless the town from and against any and all liability, damages, expenses, and judgments from injuries to any person or property as a result of the excavation.

(6) The applicant agrees to make the excavation within a period of 30 days after issuance of the permit.

(D) *Conditions of permit; fee.*

(1) Before the granting of a permit to any person, the Superintendent shall do the following:

(a) Require the applicant to file with the Clerk-Treasurer an insurance policy, or a certificate showing insurance to be in effect, issued by a responsible insurance carrier to protect the applicant and the town from personal and property damage arising from or caused or affected to any extent by an excavation made pursuant to the permit;

(b) Check the records of the town to ascertain whether the applicant has ever failed to reimburse the town for any work or materials furnished by the town in the filling and resurfacing of any excavation made by the applicant on a previous permit. In the event that the town records disclose any unpaid account owed by the applicant, the permit shall not be granted until payment is made in full; and

(c) Require the payment of a fee of $40 for a permit.

(2) Thereafter, the Superintendent shall issue a permit to the applicant and the permit shall contain the name of the applicant, the date of issuance of the permit, the place where the excavation is to be made, and the approximate dimensions thereof. The permit shall be authority to break the street, alley, or sidewalk specified therein.

(E) *Emergencies.* In the event of an emergency requiring the immediate excavation of a street, alley, or sidewalk, any person may proceed to open or make the excavation necessary to alleviate the condition causing the emergency without first applying for and being granted a permit. However, within 48 hours after making the excavation, the person shall make application for a permit as set forth above.

(F) *Issuance of a permit.* On the issuance of a permit the Superintendent shall mark each copy of the application Approved and Permit Issued; to which he or she shall also note the date of issuance and his or her signature. The original shall be retained by the Superintendent, a copy shall be delivered to the Town Clerk-Treasurer, and a copy shall be issued to the applicant.

(G) *Inspection.* The Superintendent shall inspect each project for which a permit has been issued to determine whether proper safeguards and lights may have been installed, to see that the excavation is properly closed and resurfaced, and to give notice and properly close and resurface the opening or excavation in the event that the restoration is not completed within a reasonable time or is inadequately or improperly completed by the permittee. On final inspection, the Superintendent shall note on his or her copy of the application the completion of the project. He or she shall further note any moneys expended by the city on behalf of the permittee in completing the project and shall then return his or her copy to the Town Clerk-Treasurer.

(H) *Waiver*. The Superintendent may waive the requirements of this subchapter and issue a permit to an applicant when the Building Commissioner has authorized new construction in regard to which provision has been made to protect public safety and hold the town harmless from any and all claims, liability, and damage.
Penalty, see § 94.99

§ 94.16 IMPROPER USE OF PUBLIC WAYS.

(A) No person shall obstruct or cause to be obstructed the movement of vehicular traffic or legal parking of vehicles in any public way located within the town, except as may be necessary while loading or unloading merchandise or materials, and except as may be permitted under this chapter. This provision shall also prevent any person from playing any game upon any street of the town. This provision shall also prevent any person from placing game playing equipment on any street, public way, or designated public right-of-way or easement of the town.

(B) Nothing contained herein shall negate the authority of the Town Council to issue permits with respect to street closings and other traffic and parking restrictions necessitated by circumstances approved by proper authority.
(Ord. 2-1997, passed 4-21-1997; Am. Ord. 3-2010, passed 4-19-2010)

§ 94.99 PENALTY.

(A) The penalty for the violation of any provision of this chapter for which no specific penalty is prescribed shall be as prescribed by and set forth in § 10.99 of Chapter 10 (Rules of Construction; General Penalty) of Title I (General Provisions) of the Town Code of Hagerstown, Indiana.

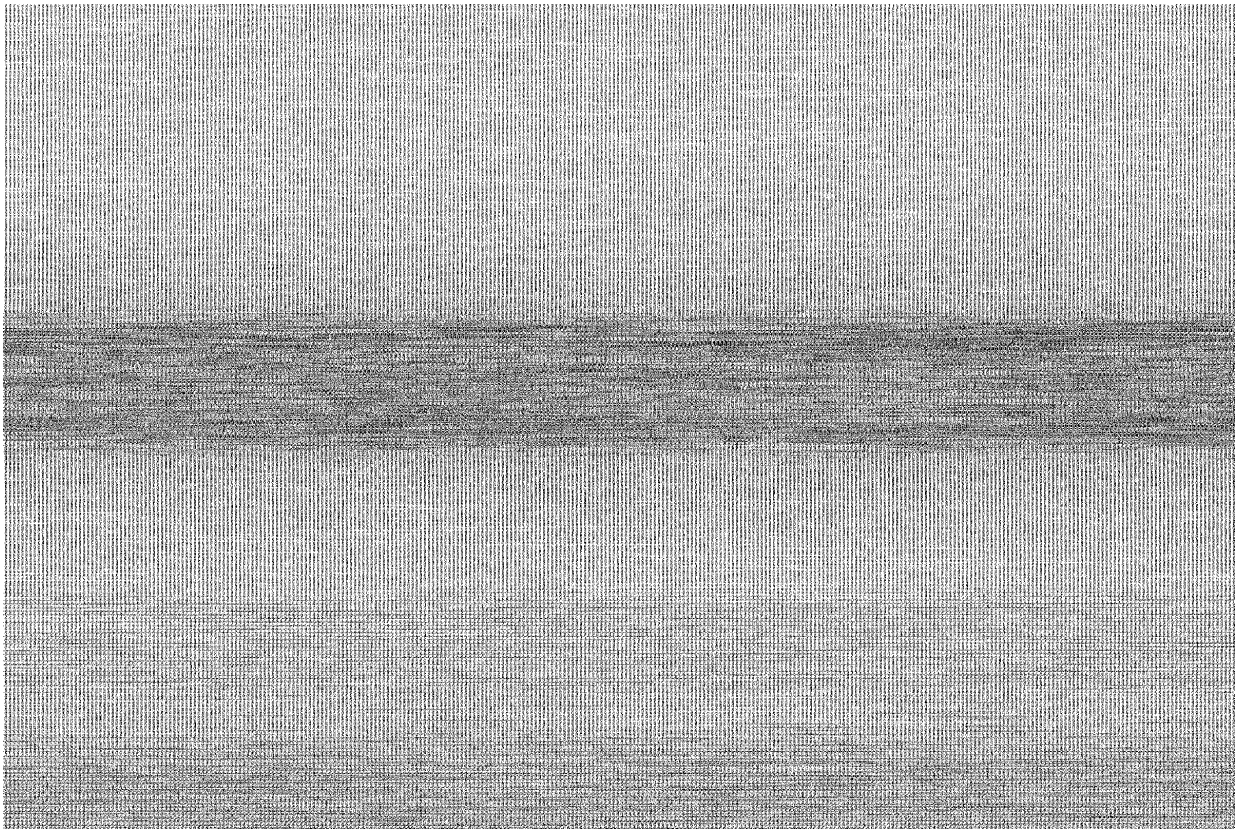
(B) The penalty for the violation of §§ 94.10 *et seq.* shall be subject to a penalty of not less than $50 and not more than $2,500 for each violation.
(Ord. 12-1981, passed 8-3-1981; Am. Ord. 2-1997, passed 4-21-1997; Am. Ord. 8-2007, passed - -)

APPENDIX A: DIAGRAMS

Section

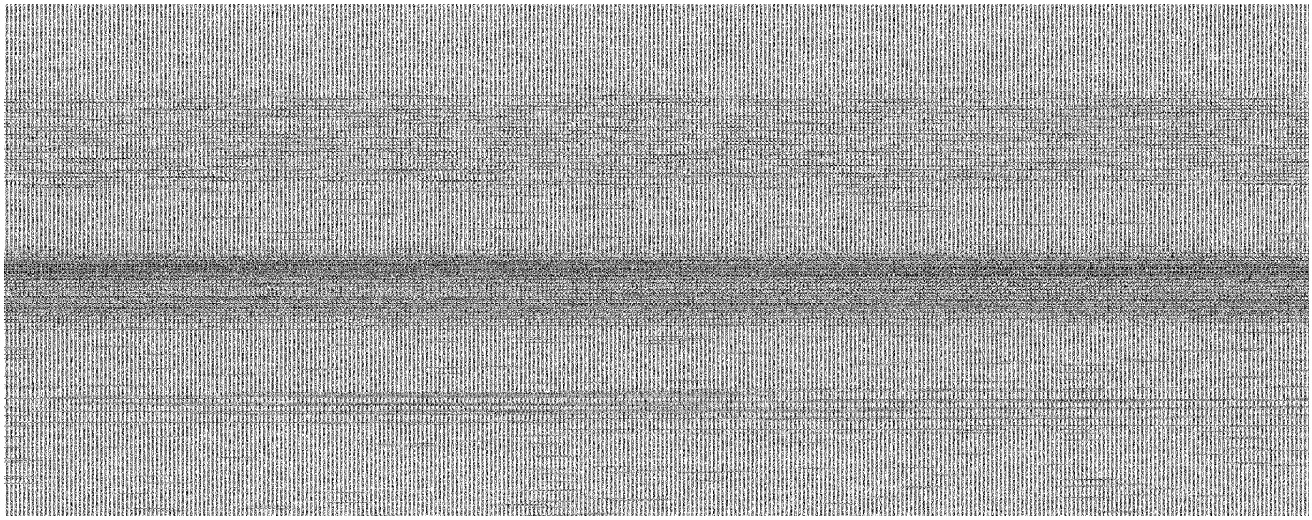
1. Surface and base repairs
2. Backfilling methods
3. Curb and gutter detail; Types A, B and C

§ 1. SURFACE AND BASE REPAIRS.



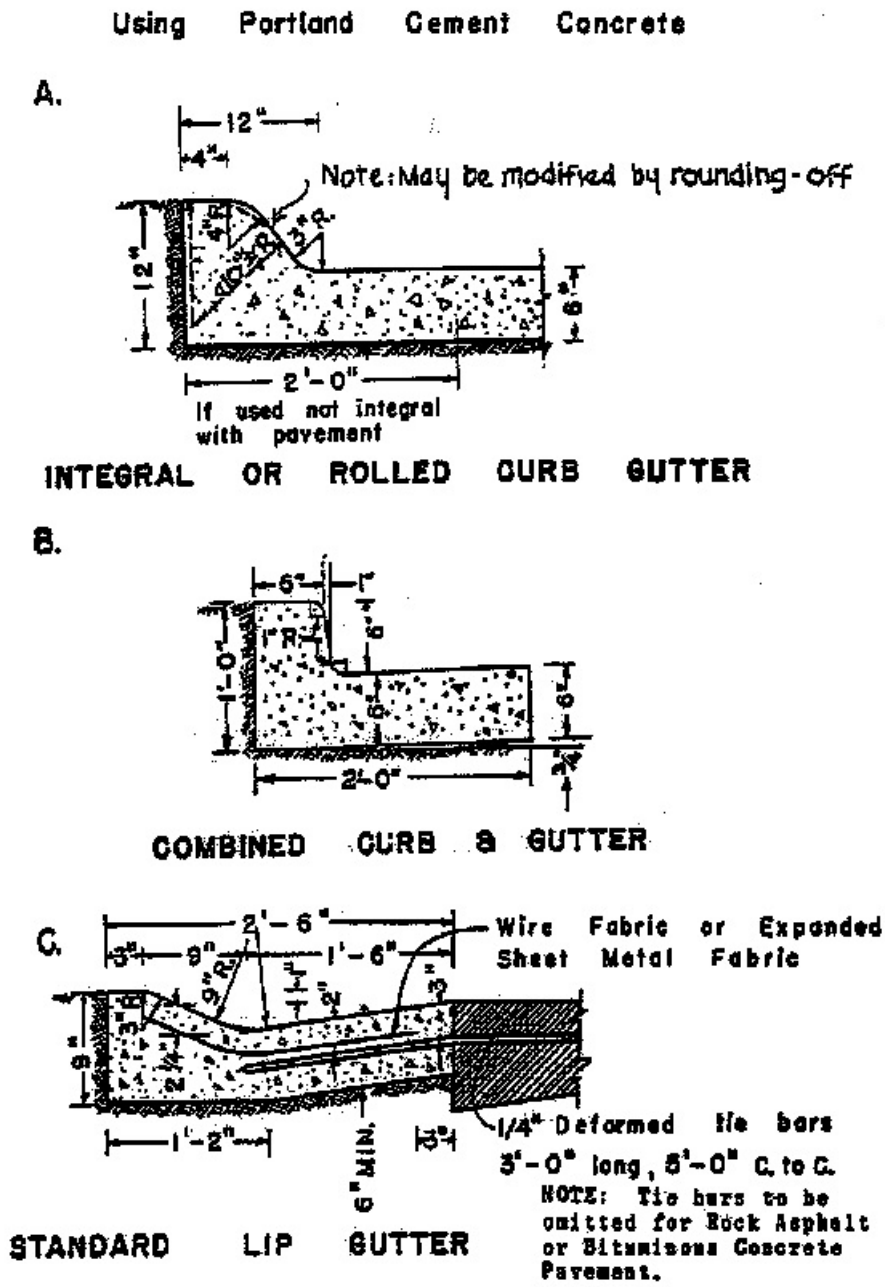
(Ord. 12-1981, passed 8-3-1981)

§ 2. BACKFILLING METHODS.



(Ord. 12-1981, passed 8-3-1981)

§ 3. CURB AND GUTTER DETAIL: TYPES A, B, AND C.



(Ord. 2-1958, passed 4-21-1958; Am. Ord. 9-1975, passed 4-21-1975)
(Ord. 2-1981, passed 8-3-1981)

CHAPTER 95: PERSONAL PROPERTY SALES

Section

95.01 Purpose
95.02 Definitions
95.03 Prohibitions

95.99 Penalty

§ 95.01 PURPOSE.

The Town Council finds and declares that the nonregulated sales of personal property in districts zoned residential in the town designated herein as garage sales are annoying to citizens of the town, conducive to congestion in the area, and that it is necessary for the safety and welfare of the citizens of the town to enact the provisions and prohibitions herein contained, not to prevent, but to regulate the sales.
(Ord. 11-1982, passed 12-6-1982)

§ 95.02 DEFINITIONS.

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

GARAGE SALE. All general sales, open to the public, conducted from or on a residential premise in any residential zone, as defined by the zoning ordinance, for the purpose of disposing of personal property, including, but not limited to, all sales entitled ***GARAGE***, ***LAWN***, ***YARD***, ***ATTIC***, ***PORCH***, ***ROOM***, ***BACKYARD***, ***PATIO***, ***FLEA MARKET***, or ***RUMMAGE SALE***.

PERSONAL PROPERTY. Property which is owned, utilized, and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence.

RESIDENTIAL DISTRICT. All districts shown in the code of ordinances and the zoning maps pertinent thereto which are zoned for residential one- or two-family or multiple residential use only within the corporate limits of the town.
(Ord. 11-1982, passed 12-6-1982)

§ 95.03 PROHIBITIONS.

(A) *Time limits.*

(1) No garage sale shall be conducted by any person, or held by any person, for a period in excess of four consecutive calendar days regardless of the time of day the sale commences or ends at the place the sale is held.

(2) No garage sale shall be held on the same premises at the same location by any person or persons more than three times in any calendar year, nor within 30 consecutive calendar days of any previous garage sale on the same premises at the same location.

(B) *Signs.*

(1) Signs, posters, or other materials used to advertise or promote a garage sale shall not be placed on public property without written permission of the owner or public body responsible for the use of the property.

(2) Signs, posters, or other materials used to advertise or promote a garage sale shall not be placed so as to interfere, impede, or lessen the clear view of vehicular and pedestrian traffic.

(3) Signs, posters, or other materials used to advertise or promote a garage sale shall conform to all other governmental laws and ordinances and shall be removed within 24 hours after the last day of any individual garage sale.
(Ord. 11-1982, passed 12-6-1982) Penalty, see § 95.99

§ 95.99 PENALTY.

(A) The penalty for the violation of any provision of this chapter for which no specific penalty is prescribed shall be as prescribed by and set forth § 10.99 of Chapter 10 (Rules of Construction; General Penalty) of Title I (General Provisions) of the Town Code of Hagerstown, Indiana.

(B) A separate violation shall be deemed committed upon each day during which a violation occurs or continues.
(Ord. 11-1982, passed 12-6-1982; Am. Ord. 8-2007, passed - -)
Statutory reference:
Authority, see I.C. 36-1-3-8(a)(10)

CHAPTER 96: HAGERSTOWN AIRPORT

Section

96.01 Rules and regulations adopted by reference
96.02 Rules and regulations may be amended by adoption

96.99 Penalty

§ 96.01 RULES AND REGULATIONS ADOPTED BY REFERENCE.

Rules and regulations for the operation and control of the Hagerstown Airport by the Hagerstown Board of Aviation Commissioners of the town and now on file in the office of the Clerk-Treasurer in three separate volumes of the rules and regulations of the town are hereby approved, adopted, and established by reference hereto and are incorporated herein as though fully set forth herein, the rules and regulations to continue to remain in effect hereinafter.
(Ord. 5-1989, passed 11-21-1989) Penalty, see § 96.99

§ 96.02 RULES AND REGULATIONS MAY BE AMENDED BY ADOPTION.

The rules and regulations of the airport may be amended from the time to time hereinafter by adoption and recommendation of the respective controlling boards or commissions and the Hagerstown Town Council, and the Town Clerk-Treasurer shall then place each and every amendment so adopted in the appropriate volume or volumes of rules and regulations on file in the office of the Clerk-Treasurer, all of which rules and regulations shall be open to public inspection during the established hours for business in the Town Hall.
(Ord. 5-1989, passed 11-21-1989)

§ 96.99 PENALTY.

(A) The penalty for the violation of any provision of this chapter for which no specific penalty is prescribed shall be as prescribed by and set forth in § 10.99 of Chapter 10 (Rules of Construction; General Penalty) of Title I (General Provisions) of the Town Code of Hagerstown, Indiana.

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

Statutory reference:

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

CHAPTER 97: FAIR HOUSING

Section

97.01 Policy statement
97.02 Definitions
97.03 Unlawful practice
97.04 Discrimination in the sale or rental of housing
97.05 Discrimination in residential real estate-related transactions
97.06 Discrimination in the provision of brokerage services
97.07 Interference, coercion, or intimidation
97.08 Prevention of intimidation in fair housing cases
97.09 Exemptions
97.10 Administrative enforcement of chapter
97.11 Separability of provisions

§ 97.01 POLICY STATEMENT.

It shall be the policy of the Town of Hagerstown to provide, within constitutional limitation, for fair housing throughout its corporate limits as provided for under the Federal Civil Rights Act of 1968, as amended, the Federal Housing and Community Development Act of 1974, as amended, and I.C. 22-9.5-1 *et seq.*
(Ord. 7-1997, passed 10-20-1997)

§ 97.02 DEFINITIONS.

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

AGGRIEVED PERSON. Includes any person who:

(1) Claims to have been injured by a discriminatory housing practice; or

(2) Believes that the person will be injured by a discriminatory housing practice that is about to occur.
(I.C. 22-9.5-2-2)

COMMISSION. The Indiana Civil Rights Commission created pursuant to I.C. 22-9-1-4 *et seq.* (I.C. 22-9.5-2-3)

COMPLAINANT. A person, including the Commission, who files a complaint under I.C. 22-9.5-6. (I.C. 22-9.5-2-4)

DISABLED.

(1) With respect to a person:

(a) A physical or mental impairment which substantially limits one or more of the person's major life activities;

(b) A record of having such an impairment;

(c) Being regarded as having such an impairment;

(d) An impairment described or defined pursuant to the Federal Americans with Disabilities Act of 1990; or

(e) Any other impairment defined under I.C. 22-9.5-2-10.

(2) The term ***DISABLED*** shall not include current illegal use of or addiction to a controlled substance as defined in 21 U.S.C. § 802 (I.C. 22-9.5-2-10 (b)); nor does the term ***DISABLED*** include an individual solely because that individual is transvestite (I.C. 22-9.5-2-10 (c)).
(Am. Ord. 8-2007, passed - -)

DISCRIMINATORY HOUSING PRACTICE. An act that is unlawful under §§ 97.04, 97.05, 97.06, 97.07, or 97.08 of this chapter or I.C. 22-9.5-5.

DWELLING. Any building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by one or more families; or any vacant land which is offered for sale or lease for the construction or location of a building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by one or more families.
(I.C. 22-9.5-2-8)

FAMILIAL STATUS. One or more individuals (who have not attained the age of 18 years) being domiciled with a parent or another person having legal custody of the individual or the written permission of the parent or other person. The protections afforded against discrimination on this basis of ***FAMILIAL STATUS*** shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

FAMILY. Includes a single individual, with the status of the family being further defined in ***FAMILIAL STATUS*** of this section.
(I.C. 22-9.5-2-9)

PERSON. Includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, nonincorporated organizations, trustees, trustees in cases under Title 11 of the United States Code, receivers, and fiduciaries.
(I.C. 22-9.5-2-11)

TO RENT. Includes to lease, to sublease, to let, and otherwise to grant for a consideration the right to occupy the premises owned by the occupant.
(I.C. 22-9.5-2-13)
(Ord. 7-1997, passed 10-20-1997)
Editor's Note:
I.C. 22-9.5-2-10 was repealed by P.L. 99-2007, § 224. For similar provisions, see I.C. 22-9.5-5-6.

§ 97.03 UNLAWFUL PRACTICE.

Subject to the provisions of division (B) below and I.C. 22-9.5-3, the prohibitions against discrimination in the sale or rental of housing set forth in I.C. 22-9.5-5-1 and in § 97.04 shall apply to:

(A) All dwellings, except as exempted by division (B) below and I.C. 22-9.5-3;

(B) Other than the provisions of division (C) below, nothing in § 97.04 shall apply to:

(1) Any single-family house sold or rented by an owner where the private individual owner does not own more than three single-family houses at any one time; provided that in the sale of such single-family house by a private individual owner not residing in the house at the time of sale or who was not the most recent resident of the house prior to the sale, the exemption shall apply only to one such sale within any 24-month period. The private individual owner may not own any interest in, nor have owned or reserved on his or her behalf, title to or any right to all or a portion of the proceeds from the sale or rental of more than three such single-family houses shall be expected from application of this section only if the house is sold or rented:

(a) Without the use in any manner of the sales or rental facilities or services of any real estate broker, agent, or salesperson, or any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, or salesperson, or person; and

(b) Without the publication, posting, or mailing, after notice of advertisement or written notice in violation of § 97.04(C), but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstracters, title companies, and other such professional assistance as necessary to perfect or transfer this title.

(2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of the living quarters as his or her residence.

(C) For the purposes of this section, a person shall be deemed to be in the businesses of selling or renting dwellings if:

(1) He or she has, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein;

(2) He or she has, within the preceding 12 months, participated as agent, other than in the sale of his or her own personal residence, in providing sales or rental facilities or services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or

(3) He or she is the owner of any dwelling unit designed or intended for occupancy by, or occupied by, five or more families.
(Ord. 7-1997, passed 10-20-1997)

§ 97.04 DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING.

As made applicable by § 97.03 and except as exempted by §§ 97.03(B) and 97.09, it shall be unlawful:

(A) To refuse to sell or rent after the mailing of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin;

(B) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, familial status, or national origin;

(C) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, disability, familial status, or national origin;

(D) To represent to any person because of race, color, religion, sex, disability, familial status, or national origin that any dwelling is not available for inspection, sale, or rental when the dwelling is in fact so available;

(E) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, disability, familial status, or national origin; and/or

(F) (1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of:

(a) That buyer or renter;

(b) A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(c) Any person associated with that person.

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with the dwelling, because of a disability of:

(a) That person;

(b) A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(c) Any person associated with that person.

(3) For purpose of this division (F), discrimination includes:

(a) A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the person full enjoyment of the premises except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

(b) Refusal to make reasonable accommodations in rules, policies, practices, or services, when the accommodations may be necessary to afford the person equal opportunity to use and enjoy a dwelling; or

(c) In connection with the design and construction of covered multi-family dwellings for first occupancy after the date that is 30 months after 9-13-1988, a failure to design and construct those dwellings in such a manner that:

1. The public use and common use portions of the dwellings are readily accessible to and usable by disabled persons;

2. All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by disabled persons in wheelchairs; and

3. All premises within the dwellings contain the following features of adaptive design:

a. An accessible route into and through the dwelling;

b. Lights, switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

c. Reinforcements in bathroom walls to allow later installation of grab bars; and

d. Usable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space.

(4) Compliance with the appropriate requirements of the Federal Americans with Disabilities Act of 1990 and of the American National Standard for buildings and facilities providing accessibility and usability for physically disabled people (commonly cited as ANSI A117.1) suffices to satisfy the requirements of division (F)(3)(c)3. above.

(5) Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.
(Ord. 7-1997, passed 10-20-1997; Am. Ord. 8-2007, passed - -) Penalty, see § 10.99

§ 97.05 DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS.

(A) It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, disability, familial status, or national origin.

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

RESIDENTIAL REAL ESTATE-RELATED TRANSACTION. Any of the following:

(a) The making or purchasing of loans or providing other financial assistance:

1. For purchasing, constructing, improving, repairing, or maintaining a dwelling; or

2. Secured by residential real estate.

(b) The selling, brokering, or appraising of residential real property.

(C) Nothing in this section prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, disability, or familial status.
(Ord. 7-1997, passed 10-20-1997; Am. Ord. 8-2007, passed - -) Penalty, see § 10.99

§ 97.06 DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES.

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him or her in the terms or conditions of the access, membership, or participation, on account of race, color, religion, sex, disability, familial status, or national origin.
(Ord. 7-1997, passed 10-20-1997; Am. Ord. 8-2007, passed - -) Penalty, see § 10.99

§ 97.07 INTERFERENCE, COERCION, OR INTIMIDATION.

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by §§ 97.03, 97.04, 97.05, or 97.06.
(Ord. 7-1997, passed 10-20-1997) Penalty, see § 10.99

§ 97.08 PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES.

Whoever, whether or not acting under color of law, by force, or threat of force, willfully injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with:

(A) Any person because of his or her race, color, religion, sex, disability, familial status, or national origin and because he or she is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing, or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwelling;

(B) Any person because he or she is or has been, or in order to intimidate the person or any other person or any class of persons from:

(1) Participating, without discrimination on account of race, color, religion, sex, disability, familial status, or national origin, in any of the activities, services, organizations or facilities described in § 97.05(A); or

(2) Affording another person or class of persons opportunity or protection so to participate.

(C) Any citizen because he or she is or has been, or in order to discourage the citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, disability, familial status, or national origin, in any of the activities, services, organizations, or facilities described in division (A) above, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to participate shall be fined according to local, state and federal law; and if bodily injury results shall be fined not more than $10 than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life.
(Ord. 7-1997, passed 10-20-1997; Am. Ord. 8-2007, passed - -) Penalty, see § 10.99

§ 97.09 EXEMPTIONS.

(A) Exemptions defined or set forth under I.C. 22-9.5-3 *et seq.* shall be exempt from the provisions of this chapter to include those activities or organizations set forth under divisions (B) and (C) below.

(B) Nothing in this chapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to those persons, unless membership in the religion is restricted on account of race, color, or national origin. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of the lodgings to its members or from giving preference to its members.

(C) (1) Nothing in this chapter regarding familial status shall apply with respect to housing for older persons.

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

HOUSING FOR OLDER PERSONS. Housing:

1. Provided under any state or federal program that the Secretary of the Federal Department of Housing and Urban Development or the State Civil Rights Commission determines is specifically designed and operated to assist elderly persons (as defined in the state or federal program);

2. Intended for, and solely occupied by, persons 62 years of age or older; or

3. Intended and operated for occupancy by at least one person 55 years of age or older per unit.

(Ord. 7-1997, passed 10-20-1997)

§ 97.10 ADMINISTRATIVE ENFORCEMENT OF CHAPTER.

(A) The authority and responsibility for properly administering this chapter and referral of complaints hereunder to the Commission as set forth in division (B) below shall be vested in the chief elected official of the Town of Hagerstown, Indiana.

(B) Notwithstanding the provisions of I.C. 22-9.5-4-8, the Town of Hagerstown, Indiana, because of a lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under this chapter, herein elects to refer all formal complaints of violation of the provisions of this chapter by complainants to the Indiana Civil Rights Commission (Commission) for administrative enforcement actions pursuant to I.C. 22-9.5-6 and the chief elected official of the Town of Hagerstown, Indiana, shall refer all the complaints to the Commission as provided for under division (A) above to the Commission for purposes of investigation, resolution, and appropriate relief as provided for under I.C. 22-9.5-6.

(C) All executive departments and agencies of the Town of Hagerstown, Indiana, shall administer their departments, programs, and activities relating to housing and urban development in a manner affirmatively to further the purposes of this chapter and shall cooperate with the chief elected official and the Commission to further the purposes.

(D) The chief elected official of the Town of Hagerstown, Indiana, or the chief elected official's designee, shall provide information on remedies available to any aggrieved person or complainant requesting the information.
(Ord. 7-1997, passed 10-20-1997)

§ 97.11 SEPARABILITY OF PROVISIONS.

If any provision of this chapter or the application thereof to any person or circumstances shall be determined to be invalid, the remainder of the chapter and the application of its provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.
(Ord. 7-1997, passed 10-20-1997)

CHAPTER 98: ABANDONED MOTOR VEHICLES

Section

98.01 Incorporation of state law
98.02 Towing, storage, and charges
98.03 Administration
98.04 Establishment of market value for disposal
98.05 Abandoned Vehicle Fund

§ 98.01 INCORPORATION OF STATE LAW.

(A) The provisions of I.C. 9-13-2-1 and 9-22-1-1 *et seq.*, including any amendments thereto, are declared to be in full force and effect for the town and those provisions of the law are incorporated herein by reference.

(B) All provisions of this chapter, which shall become a part of the town code of ordinances (hereinafter referred to from time to time for convenience sake as the code), shall be in conformance with and not in conflict with the aforementioned sections of the Indiana Code. Any provision(s) found to be in conflict with the Indiana Code shall be deemed amended to conform to the statute. This chapter is passed pursuant to I.C. 9-22-1-1 through 9-22-1-32 for the purpose of facilitating the removal and disposition of abandoned vehicles in the town.

(C) To the extent possible under law, any future amendment(s) and/or recodification(s) of any statute(s), regulation(s), and/or code(s) referenced and/or cited in this chapter shall be adopted by the passage of this chapter, or any amendment(s) thereto, and the chapter may be amended, without further action, to reflect a change(s) in the citation(s) to the statute(s), regulation(s), and/or code(s) when the updates are appropriate, provided that the amendment(s) does not alter the purpose of this chapter.
(Ord. 3-2000, passed 11-6-2000)

§ 98.02 TOWING, STORAGE, AND CHARGES.

(A) The Police Department, in conjunction with the Town Clerk-Treasurer, are hereby authorized to develop and implement a system for calling wreckers to tow vehicles which are not removed by owner's direction or pursuant to other contract or agreement. The Police Department, in conjunction

with the Town Clerk-Treasurer, shall be authorized to establish charges allowed for the towing and storage of vehicles, and the allowed charges, and any subsequent changes thereto, shall be filed with the Bureau pursuant to I.C. 9-22-1-30. The allowed charges shall be reasonable in light of all circumstances. The Police Department shall not have any vehicle towed until the time that allowed charges are established and filed with the Bureau as outlined herein.

(B) Any wreckers agreeing to tow and store vehicles pursuant to this chapter and I.C. 9-22-1-1 *et seq.* shall agree and acknowledge that the town is not responsible for payment for towing or storage, and that the wreckers are to be paid by the owners or lien holders in the event that the vehicle is released to the owner or lien holder pursuant to I.C. 9-22-1-8 (pursuant to the allowed charges filed with the Bureau), or paid by the Bureau in the event that the vehicle is sold pursuant to I.C. 9-22-1-23. Any wreckers agreeing to tow and store vehicles shall agree that any charges in excess of the charges allowed and paid by the owner, lien holder, or Bureau shall not be the responsibility of the town.
(Ord. 3-2000, passed 11-6-2000)

§ 98.03 ADMINISTRATION.

(A) This section is to provide assistance to the officers of the Police Department, which shall include the Town Marshal/Police Chief (hereinafter from time to time referred to for convenience sake as officers) in carrying out the requirements of I.C. 9-22-1-1 *et seq.*, including any amendments thereto.

(B) The Town Marshal/Police Chief of the town shall make available to officers a notice tag which complies with the requirements set forth in I.C. 9-22-1-11, and any future amendments thereto.

(C) After an abandoned vehicle or parts have been tagged pursuant to I.C. 9-22-1-11 and is not removed within the statutorily-provided period, the officer shall comply with all report and photographing requirements, and shall arrange for the removal of the vehicle pursuant to I.C. 9-22-1. The Town Marshal may, but is not required to, have the officer complete an affidavit of compliance to be placed with and maintained with the reports and other information required to be maintained by the Hagerstown Police Department by I.C. 9-22-1. The affidavit of compliance, if completed, shall contain the following information:

(1) That the officer believed the vehicle to be an abandoned vehicle;

(2) That the officer complied with the requirements of I.C. 9-22-1-1l;

(3) That, if applicable, the officer's opinion is that the market value of the vehicle is less than the amount established in this chapter; and

(4) That the officer has prepared the written report and taken the necessary photographs required by I.C. 9-22-1.

(D) After the removal of an abandoned vehicle to a storage area pursuant to I.C. 9-22-1, and within the time frame required therein, the Police Department shall prepare and forward to the Bureau an abandoned vehicle report in compliance with the chapter.

(E) Officers of the Police Department shall complete any and all necessary reports required by I.C. 9-22-1, and shall take necessary photographs as required by the statutory sections, and the reports and photographs shall be maintained and preserved on file by the Police Department in compliance with the time frames set forth in the statutory sections, and copies of the reports and photographs shall be forwarded to the appropriate agency or agencies as required by the statutory sections, including, but not limited to, the Indiana Bureau of Motor Vehicles.

(F) The Police Department shall cooperate with and assist the Indiana Bureau of Motor Vehicles in carrying out the Bureau's responsibilities and duties in regards to I.C. 9-22-1.

(G) The town establishes, pursuant to I.C. 9-22-1-30, that the means for disposition of vehicles shall be pursuant to I.C. 9-22-1-23, in that the Bureau shall be responsible for selling the vehicle or parts in the event that the owner or lien holder does not appear within the statutorily-allotted time frame after the Bureau mails the appropriate notice.
(Ord. 3-2000, passed 11-6-2000)

§ 98.04 ESTABLISHMENT OF MARKET VALUE FOR DISPOSAL.

Pursuant to I.C. 9-22-1-13(b), the Town Council, a municipality, hereby establishes the market value below which an officer may dispose of a vehicle or parts under I.C. 9-22-1-13(a) as $500.
(Ord. 3-2000, passed 11-6-2000)

§ 98.05 ABANDONED VEHICLE FUND.

The town, pursuant to I.C. 9-22-1-30, hereby establishes an Abandoned Vehicle Fund for the purposes of I.C. 9-22-1.
(Ord. 3-2000, passed 11-6-2000)

CHAPTER 99: NUISANCES

Section

99.01 Definitions
99.02 Growth of certain vegetation restricted
99.03 Notice of violation
99.04 Failure to abate nuisance; cost of removal; lien

§ 99.01 DEFINITIONS.

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

GRASS. The ornamental and/or environmental growth of plants having the slender leaves characteristic of the grass family and used to cover an expanse of land such as a lawn and is the primary ground cover for the expanse of land. Common names of grass may be, but are not limited to, bluegrasses, fescues, and ryegrasses.

NOXIOUS. Harmful to living things or injurious to health or having the potential to do so.

RANK VEGETATION. Vegetation that is ill smelling, fetid, malodorous, or noxious.

WEED. A plant commonly considered to be undesirable, unattractive, or troublesome, especially when growing where it is not wanted.
(Ord. 3-1998, passed 6-15-1998)

§ 99.02 GROWTH OF CERTAIN VEGETATION RESTRICTED.

It shall be unlawful and in violation of this chapter for any property owner to permit weeds, grass, or other rank or noxious vegetation as defined in this chapter to grow to a height exceeding 12 inches on their real estate located within the geographic limits of town, and the vegetation exceeding the height are hereby declared to be a nuisance. Any property owner who fails to remove the weeds, grass, or other rank vegetation shall be deemed in violation of this chapter.
(Ord. 3-1998, passed 6-15-1998) Penalty, see § 10.99

§ 99.03 NOTICE OF VIOLATION.

Notification in writing of a property in violation of this chapter will be given to the Town Manager, or designated employee, by any town employee or private citizen. The Town Manager will cause a view of the property to be made by a designated employee. Upon verification of the offense, the Town Manager, or designated employee, will inform the Clerk-Treasurer of the property in violation. Upon receipt of the notice from the Town Manager, the Clerk-Treasurer of the town shall issue a five-day Notice of Violation in writing to any property owner in violation of this chapter. The issuance of one Notice of Violation to a property owner in violation of this chapter in a calendar year shall serve as notice for that property for the full calendar year. In the event that the property owner resides within the corporate limits of the town, the Notice of Violation shall be served by:

(A) An officer of the town's law enforcement department upon the property owner; or

(B) By certified or registered mail addressed to the property owner's address as shown on the records of the Wayne County Treasurer's Office, Wayne County, Indiana. In the event the property owner does not reside within the corporate limits of the town, to the best knowledge of the town, the Notice of Violation shall be served by certified or registered mail addressed to the property owner's address as shown on the records of the Wayne County Treasurer's Office, Wayne County, Indiana. The Notice of Violation shall demand the abatement of the nuisance and removal of the weeds, grass, detrimental plants or other rank or noxious vegetation, as specified in the Notice of Violation, by the property owner within five days from the date of service of the Notice of Violation if by personal service or five days from the date of mailing the Notice of Violation, whichever is applicable.
(Ord. 3-1998, passed 6-15-1998; Am. Ord. 3-2007, passed 5-7-2007; Am. Ord. 12-2009, passed 11-17-2009)

§ 99.04 FAILURE TO ABATE NUISANCE; COST OF REMOVAL; LIEN.

(A) (1) The Town Manager, or a designated employee, will determine after the expiration of the aforementioned five day notice if there has been compliance with the Notice of Violation to abate the nuisance. If the property owner so served does not abate the nuisance and fails to remove the specified weeds, grass, detrimental plants or other rank or noxious vegetation on their property within the aforementioned five days, the town shall have the right to cut and remove the weeds, grass, detrimental plants or other rank or noxious vegetation specified in the Notice of Violation.

(2) The Town Manager, or designated employee, shall cause the cutting and removal of such to be done and forward information to the Clerk-Treasurer of the town for preparation of a certified statement of the actual costs incurred for such cutting and removal by the town, either by using its own employees or an independent contractor.

(B) Thereupon the Clerk-Treasurer shall have the statement delivered to the property owner by the town's law enforcement department or by certified or registered mail addressed to the property owner's address shown on the records of the Wayne County Treasurer.

(C) In the event the property owner disputes the Notice of Violation issued under this chapter or a certified statement of the cutting and removal costs, such property owner may file a written appeal with the Town Council for rescission or adjustment of such notice or certified statement within five days after the date of such notice or certified statement.

(D) Upon failure of the property owner to pay the certified statement issued under this chapter within ten days as set forth in this chapter, the Clerk-Treasurer shall file a certified copy of the statement of actual costs for the cutting and removal of such vegetation with the Office of the Wayne County Auditor for placement of the amount due upon the tax duplicate of the property owner for the collection as delinquent taxes are collected and disbursed to the general fund of the Town of Hagerstown as provided by I.C. 36-7-10.1-4.
(Ord. 3-1998, passed 6-15-1998; Am. Ord. 3-2007, passed 5-7-2007; Am. Ord. 12-2009, passed 11-17-2009)

TITLE XI: BUSINESS REGULATIONS

Chapter

110. ADVERTISING AND HANDBILLS

111. PLUMBERS

112. PEDDLERS, SOLICITORS, AND ITINERANT MERCHANTS

113. LIQUOR RETAILERS

114. CABLE REGULATIONS

115. PROCEDURE FOR TAX ABATEMENT

CHAPTER 110: ADVERTISING AND HANDBILLS

Section

Handbill Distributors

110.01 License required
110.02 Application for license; fee
110.03 Exception for farmers

110.99 Penalty

HANDBILL DISTRIBUTORS

§ 110.01 LICENSE REQUIRED.

It shall be unlawful for any person, whether a resident or a nonresident of Jefferson Township, who is employed by a person, firm, or corporation whose place of business is outside of Jefferson Township, to pass, post, distribute, or circulate handbills or posters bearing advertising upon the streets, alleys, or commons of the town, without obtaining a license.
(1963 Code, Ch. 8, § 13) (Ord. 1-1933, passed 1-16-1933) Penalty, see § 110.99

§ 110.02 APPLICATION FOR LICENSE; FEE.

Any person, persons, firm, or corporation, whose residence or place of business is outside of Jefferson Township, desiring to pass, post, distribute, or circulate handbills or posters within the corporate limits of the town shall apply to the Clerk-Treasurer for a license and pay the following license fee: for each day $10, but no license shall be issued for a period longer than one day and no license shall be transferable.
(1963 Code, Ch. 8, § 14) (Ord. 1-1933, passed 1-16-1933) Penalty, see § 110.99

§ 110.03 EXCEPTION FOR FARMERS.

This chapter does not prevent farmers from posting or passing sales bills which advertise for sale their own personal property or real estate.
(1963 Code, Ch. 8, § 15) (Ord. 1-1933, passed 1-16-1933)

§ 110.99 PENALTY.

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

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

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

(B) A separate violation shall be deemed committed upon each day during which a violation occurs or continues.
(Ord. 1-1933, passed 1-16-1933 Am. Ord. 8-2007, passed)
Statutory reference:
Authority, see I.C. 36-1-3-8(a)(10)

CHAPTER 111: PLUMBERS

Section

111.01 Definitions
111.02 Compliance with rules of State Fire Prevention and Building Safety Commission
111.03 Lights and guards at openings or obstructions
111.04 Disturbance of underground structures or public works
111.05 Excavations to be back-filled

111.99 Penalty

§ 111.01 DEFINITIONS.

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

PLUMBER. Any person, company, or corporation engaged, either wholly or in part, in the business of laying, fitting, connecting, and repairing natural or artificial gas pipes or mains, water pipes or mains, or sewerage pipes or drains, or in the doing of anything properly belonging to the work.

PLUMBING. The business of plumbing as engaged in by a plumber.
(1963 Code, Ch. 8, § 3) (Ord. 2-1953, passed 6-15-1953)

§ 111.02 COMPLIANCE WITH RULES OF STATE FIRE PREVENTION AND BUILDING SAFETY COMMISSION.

A plumber shall, in the performance of his or her occupation in the town, comply with the approved rules and regulations of the State Fire Prevention and Building Safety Commission and all approved revisions of that body; a copy of these rules and regulations shall be filed at the office of the Clerk-Treasurer for inspection.
(1963 Code, Ch. 8, § 5) (Ord. 2-1953, passed 6-15-1953) Penalty, see § 111.99
Statutory reference:
Fire Prevention and Building Safety Commission, see I.C. 22-12-1-1 et seq. through 22-15-7-1 et seq.

§ 111.03 LIGHTS AND GUARDS AT OPENINGS OR OBSTRUCTIONS.

(A) It is the duty of all town employees and officials to report any observation of trenches which are improperly bridged and to report whether or not proper lights or warnings are placed at all openings or obstructions; town employees and officials must also immediately notify the licensee of the dereliction, and if unable to find the proper parties, or if, when the proper parties are notified, the defect is not immediately remedied, to arrange for the placement of proper lights and guards.

(B) These reported acts of neglect shall be placed before the Town Council for disposition.
(1963 Code, Ch. 8, § 6) (Ord. 2-1953, passed 6-15-1953) Penalty, see § 111.99

§ 111.04 DISTURBANCE OF UNDERGROUND STRUCTURES OR PUBLIC WORKS.

It shall be unlawful for a plumber, his or her or its agents or employees, or any of them, in the prosecution of business, or in the laying of pipes, mains, conduits, or drains, or other apparatus, or in the excavation of the soil of any of the streets, alleys, sidewalks, lanes, or public ground, to displace, disturb, deface, or endanger any water main or sewer drain in the town, or any other public work, without the consent of the Town Council, or any of the pipes, mains, conduits, or other subterranean structures, or cables of any other person or company without the consent of the person or company, and shall be liable and pay to the town the necessary cost of repairs made necessary by the interference and disturbance.
(1963 Code, Ch. 8, § 7) (Am. Ord. 3-1969, passed 3-17-1969) Penalty, see § 111.99

§ 111.05 EXCAVATIONS TO BE BACK-FILLED.

(A) *Generally*. All excavations shall be back-filled in accordance with the following procedures.

(B) *Procedures*.

(1) No extremely wet or muddy back-fill material shall be used. If these conditions exist, gravel shall be used.

(2) Back-fill material will be returned to excavation in not more than 12-inch layers and each layer compacted by hand tamp, pneumatic tamper, or similar device before the next layer is added.

(3) The water-jet method of tunneling may be used under a sidewalk, curb, gutter, or other place of tunneling.

(4) Excavation shall be back-filled to a point two inches above the existing street level.

(5) The Utilities Superintendent shall be notified by the contractor before back-filling is started and he or she shall be responsible for the execution of these regulations.

(a) The Superintendent shall inspect back-filling during and at the finish of back-fill with a probe rod or any compaction indicator at his or her disposal.

(b) The Superintendent shall have the right to order reexcavation and refill if compaction does not comply with these regulations.

(6) The contractor shall maintain the two inches above street-level grade of excavation for a period of 30 days.
(Ord. 3-1969, passed 3-17-1969) Penalty, see § 111.99

§ 111.99 PENALTY.

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

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

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

(B) A separate violation shall be deemed committed upon each day during which a violation occurs or continues.
(Ord. 2-1953, passed 6-15-1953; Am. Ord. 8-2007, passed - -)
Statutory reference:
Authority, see I.C. 36-1-3-8(a)(10)

CHAPTER 112: PEDDLERS, SOLICITORS, AND ITINERANT MERCHANTS

Section

112.01 Definitions
112.02 License required
112.03 Application
112.04 Bond and license fee
112.05 Issuance
112.06 Use of license; surrender

112.99 Penalty

§ 112.01 DEFINITIONS.

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

ITINERANT or ***TRANSIENT SOLICITOR***, ***PEDDLER***, ***HAWKER***, ***SALESPERSON***, or ***VENDOR.*** Any person who comes into the town for the sole purpose of selling, or attempting to sell or solicit orders for the purchase of, any goods, wares, merchandise, services, magazines, papers, books and pamphlets, or subscriptions thereto, by going on private property and residences within the town without invitation from the owner or occupant or any person who sells, attempts to sell, offers to sell, or displays for sale any goods, merchandise, or services from a mobile or otherwise temporary vehicle or structure located within the corporate limits of the town; however, this definition does not include any person who has resided in the town for more than six months continuously immediately preceding any of the activities described above, or any person who is a resident householder or a member of the family of a resident householder residing in a household in the town; or one who offers to sell any food or foodstuffs from house to house; nor any person soliciting sales to or orders from resident merchants of the town, nor any student regularly enrolled in the Nettle Creek School System.
(1963 Code, Ch. 8, § 10) (Ord. 2-1962, passed 11-19-1962)

§ 112.02 LICENSE REQUIRED.

It shall be unlawful for any itinerant or transient solicitors, peddlers, hawkers, salespeople, or other vendors to sell or offer to sell from house to house or from a mobile or otherwise temporary vehicle or structure in the town any goods, wares, merchandise, services, magazines, papers, books and pamphlets, or subscriptions thereto, without having obtained a license.
(1963 Code, Ch. 8, § 9) (Ord. 2-1962, passed 11-19-1962; Am. Ord. 2-1984, passed 5-7-1984) Penalty, see § 112.99

§ 112.03 APPLICATION.

(A) Each itinerant or transient solicitor, peddler, hawker, salesperson, or other vendor shall, prior to engaging in sales or related activities, apply to the Clerk-Treasurer for a license to do so.

(B) Each applicant shall furnish to the Clerk-Treasurer the following information:

(1) Name;

(2) Permanent address;

(3) Local address;

(4) Date and place of birth;

(5) Merchandise or produce to be sold;

(6) Name and address of employer; and

(7) Name and address of immediate supervisor.
(Ord. 2-1962, passed 11-19-1962) Penalty, see § 112.99

§ 112.04 BOND AND LICENSE FEE.

(A) The applicant shall furnish a surety bond, acceptable to the Clerk-Treasurer, in the sum of $2,000, payable to the town for the protection of the public and conditioned upon the faithful performance of his or her obligations.

(B) The applicant shall pay to the Clerk-Treasurer the following license fee: for one day, $10; for one week, $25; for one month, $50; provided, no license shall be issued for longer than one month. The license shall be nontransferable.
(1963 Code, Ch. 8, § 11) (Ord. 2-1962, passed 11-19-1962) Penalty, see § 112.99

§ 112.05 ISSUANCE.

Upon the fulfillment of §§ 112.03 and 112.04, the Clerk-Treasurer shall issue over his or her signature and the seal of the town a license which shall contain the information set forth in § 112.03.
(1963 Code, Ch. 8, § 11) (Ord. 2-1962, passed 11-19-1962) Penalty, see § 112.99

§ 112.06 USE OF LICENSE; SURRENDER.

The licensee is required to carry the license on his or her person while engaged in business and to surrender it on his or her departure from the town or upon the expiration of the license period, whichever occurs first.
(1963 Code, Ch. 8, § 11) (Ord. 2-1962, passed 11-19-1962) Penalty, see § 112.99

§ 112.99 PENALTY.

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

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

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

(B) A separate violation shall be deemed committed upon each day during which a violation occurs or continues.
(Ord. 2-1962, passed 11-19-1962; Am. Ord. 8-2007, passed - -)
Statutory reference:
Authority, see I.C. 36-1-3-8(a)(10)

CHAPTER 113: LIQUOR RETAILERS

Section

113.01 Issuance of liquor retailers' permits

§ 113.01 ISSUANCE OF LIQUOR RETAILERS' PERMITS.

The consent of the town is given to the proper state legal authorities to issue liquor retailers' permits for the sale of alcoholic, spirituous beverages to applicants otherwise duly qualified to premises within the town.
(Ord. 1-1976, passed 3-1-1976)
Statutory reference:
Issuance of retailers' and dealers' permits, see I.C. 7.1-3-19-1 through 7.1-3-19-16

CHAPTER 114: CABLE REGULATIONS

Section

114.01 Rate regulations

§ 114.01 RATE REGULATIONS.

(A) The town will adhere to the FCC Rate Regulations in its regulation of the Basic Service Rates and Charges of the company and any other cable television system that now or in the future operates in the town, where in the town's opinion no effective competition exists among cable television operators, notwithstanding any different or inconsistent provisions in the franchise.

(B) In connection with the regulation, the town will ensure a reasonable opportunity for consideration of the views of interested parties.

(C) The Town Council, or its authorized designee, is authorized to execute on behalf of the town and file with the FCC the certification forms or other instruments as are now or may hereafter be required by the FCC Rate Regulations in order to enable the town to regulate basic service rates and charges.
(Ord. 1-1993, passed 11-1-1993)

CHAPTER 115: PROCEDURE FOR TAX ABATEMENT

Section

115.01 Statement of Benefits
115.02 Compliance with Statement of Benefits
115.03 General

§ 115.01 STATEMENT OF BENEFITS.

(A) The applicant's Statement of Benefits (SB1) shall be made available to the Town Council for a minimum of 45 days in order that it may be processed.

(B) In conjunction with the SB1, applicant shall simultaneously file supporting information required under Hagerstown form HSB1.

(C) The Town Council shall cause an investigation into the facts as set forth in the SB1 and HSB1.

(D) The person(s) or entities named by the Town Council shall make the investigation and shall verify the information contained in the SB1 and HSB1 applications, maintaining lawful confidentiality required of certain specific information that release to the public at large compromises the applicant's operation.

(E) The person(s) or entities making the investigation shall advise the Town Council of their findings and advise the Town Council of a recommended course of action, prior to any action being taken by the Town Council.

(F) The Town Council shall consider the following factors in making it's required findings of beneficial impact:

(1) Average wage paid to employees, including fringe benefits;

(2) Health benefits paid to employees;

(3) Potential for upward mobility of the jobs to be created or retained by the applicant; and

(4) Applicant's level of commitment and involvement in the Hagerstown community.

(G) In the event that the Town Council denies a tax abatement, in addition to the Town Council denying same during a public hearing, the applicant shall be notified in writing that the Town Council did not make the required findings of fact provided in I.C. 6-1.1-12.1 *et seq.*

(H) In the event that the town approves the taxpayer applicant's SB1, Council shall pass a resolution making the necessary findings of fact required by I.C. 6-1.1-12.1 *et seq.* Further, the resolution shall contain the following:

(1) Reference to the resolution number of the resolution establishing the taxpayer applicant's area as an Economic Revitalization Area;

(2) The established period or term of the abatement set forth in the referenced resolution establishing the area as an Economic Revitalization Area; or in the event that the referenced resolution contains no specific term, the term for which the Town Council is granting the abatement pursuant to the applicable terms provided by statute at the time of the passage; and

(3) Upon passage of the above, Town Council will provide the taxpayer applicant a copy of the resolution whereby the Statement of Benefits has been approved, and a copy of the resolution which established the area as an Economic Revitalization Area, in the event that the taxpayer applicant needs the documents to submit with the deduction application.

(I) Commencing in 1999, a representative number, but no less than 5% of all outstanding owners who have previously secured approved the Statement of Benefits from the Town Council, and are still in the period of their tax abatement phase-ins, may be randomly selected by the Town administration, and the owner's information regarding job creation and/or retention, and applicable wages and benefits, shall be audited by the Town administration as part of assuring continued compliance with the Statement of Benefits. And further, any written complaints received in regard to the alleged noncompliance of a specific business shall be subject to investigation and audit. To the extent any nonconforming information is found, the Town Council shall be enabled to take any and all action as authorized by I.C. 6-1.1-12.1-1 *et seq.*

(J) In order to implement and/or advise applicants of the guidelines set fort herein, an addendum to the Statement of Benefits form SB1, known as HSB1, a copy of which is incorporated by reference and attached to Ordinance 3-1999, shall be required of all applicants with their statements of benefits applications. Two copies of the HSB1 form are available for public inspection at the office of the Clerk-Treasurer. The HSB1 form, and any worksheet related thereto, may be amended from time to time as required by statute or at the discretion of the Town Council. In the event that an SB1 form is submitted without an accompanying HSB1 form, or in the event the documents are not completely filled out, the town shall notify and/or return the form(s) to the taxpayer applicant, informing the taxpayer applicant of the need for the HSB1 form or the need for additional information.
(Ord. 3-1999, passed 8-2-1999)

§ 115.02 COMPLIANCE WITH STATEMENT OF BENEFITS.

(A) Upon receiving a Compliance with Statement of Benefits form from a property owner (Form CF-1), the Town Council shall, as soon as possible, cause an investigation into the facts to determine whether or not the property owner has substantially complied with the Statement of Benefits.

(B) The person(s) or entities named by the Town Council shall make the investigation and shall verify the appropriate information to determine whether or not the property owner is in substantial compliance, maintaining confidentiality required as to certain specific information, of which release to the public at large would compromise the property owner's operation.

(C) The person(s) or entities making the investigation shall advise the Town Council of their findings and advise the Town Council of a recommended course of action.

(D) Within 45 days of receiving the Compliance with Statement of Benefits from a property owner (Form CF-1), and in the event that the Town Council determines that the property owner is in substantial compliance, Town Council may complete the CF-1 form, indicating the compliance.

(E) Within 45 days of receiving the Compliance with Statement of Benefits form from a property owner (Form CF-1), and in the event that the Town Council determines that the property owner is not in substantial compliance, the property owner shall be provided written notice pursuant to I.C. 6-1.1-12.1-5.9. The notice shall include the reasons for the determination and the date, time, and place of a hearing to be conducted by the Town Council. If a notice is mailed to a property owner for new manufacturing equipment, a copy of the written notice shall be sent to the State Board of Tax Commissioners.

(F) At any hearing held pursuant to division (E) above, the Town Council shall conduct the hearing for the purpose(s) set forth and in conformance with I.C. 6-1.1-12.1-5.9.

(G) Based on the information presented at the aforementioned hearing, the Town Council shall determine whether or not the property owner has made reasonable effort to substantially comply with the Statement of Benefits.

(H) In the event that the Town Council determines that the property owner has not made reasonable effort to comply with the Statement of Benefits, the Town Council shall adopt a resolution terminating the property owner's deduction. The Town Council shall mail a certified copy of the resolution to: the property owner; the County Auditor; and the State Board of Tax Commissioners if the deduction was granted under I.C. 6-1.1-12.1-4.5.
(Ord. 3-1999, passed 8-2-1999)

§ 115.03 GENERAL.

All provisions or sections of this chapter shall be in conformance with and not in conflict with I.C. 6-1.1-12.1-1 *et seq.*, including any amendments thereto. Any provision found to be in conflict with the statute shall be deemed amended to conform with the statute.
(Ord. 3-1999, passed 8-2-1999)

TITLE XIII: GENERAL OFFENSES

Chapter

130. PERSONS AND PROPERTY

131. PUBLIC PEACE

CHAPTER 130: PERSONS AND PROPERTY

Section

130.01 Reserved
130.02 Possession of explosives
130.03 Distribution of handbills, advertisements, or other circulars
130.04 Killing or injuring birds
130.05 Throwing or shooting missiles
130.06 Getting on or off moving trains

130.99 Penalty

§ 130.01 RESERVED.

§ 130.02 POSSESSION OF EXPLOSIVES.

It shall be unlawful for any person, firm, or corporation to have or keep within the limits of the town any nitroglycerin, dynamite, or other dangerous explosive.
(1963 Code, Ch. 5, § 6) (Ord. 90-1899, passed 3-20-1899) Penalty, see § 130.99

§ 130.03 DISTRIBUTION OF HANDBILLS, ADVERTISEMENTS, OR OTHER CIRCULARS.

(A) It shall be unlawful for any person to throw, place, or deposit in or on any street, alley, gutter, porch, yard, lot, or common within the limits of the town any handbill, advertisement, circular, or other paper or to tack or fasten any number of handbills, advertisements, circulars, or other papers to any pole, post, fence, building, or other object on the outside of any building or house.

(B) Any person licensed to circulate or distribute handbills, advertisements, or other papers among the inhabitants of the town shall so circulate, distribute, place, and deposit them in stores, houses, or buildings in such manner that they are not blown and scattered over and on the streets, gutters, alleys, lots, yards, and commons of the town.

(C) This section does not prevent the posting of legal notices required by law to be posted in public places nor the posting up of ordinary show bills and notices of amusement where these are securely posted or fastened in single sheets to billboards or other permanent objects.
(1963 Code, Ch. 5, § 7) (Ord. 110-1911, passed 2-6-1911) Penalty, see § l30.99

§ 130.04 KILLING OR INJURING BIRDS.

It shall be unlawful for any person to kill or injure, or pursue with intent so to do, any turtledove, meadowlark, robin, mockingbird, wren, redbird, martin, thrush, swallow, oriole, yellowhammer, catbird, or peewee, or to destroy or disturb the eggs or the young of these birds.
(1963 Code, Ch. 5, § 8) (Ord. 34-1878, passed 4-15-1878) Penalty, see § l30.99

§ 130.05 THROWING OR SHOOTING MISSILES.

It shall be unlawful for any person to throw or shoot stones, clubs, shot, or any objects or missiles, either with hand, sling, or other instrument for the purpose of throwing or shooting at any person or animal or at any building or other property, or to throw or shoot objects or missiles in like manner upon any of the streets or alleys within the limits of the town.
(1963 Code, Ch. 5, § 9) (Ord. 20-1878, passed 4-15-1878; Am. Ord. 34-1878, passed 4-15-1878) Penalty, see § 130.99

§ 130.06 GETTING ON OR OFF MOVING TRAINS.

It shall be unlawful for any person other than passengers or employees to get on or off or to swing or hang on the outside of any railroad engine or car while it is in motion or switching within the corporate limits of the town.
(1963 Code, Ch. 5, § 10) (Ord. 47-1879, passed 12-15-1879) Penalty, see § 130.99

§ 130.99 PENALTY.

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

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

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

(B) A separate violation shall be deemed committed upon each day during which a violation occurs or continues.
(Am. Ord. 8-2007, passed - -)

CHAPTER 131: PUBLIC PEACE

Section

131.01 Curfew for persons under 18 years of age
131.02 Defenses to curfew violations
131.03 Noise control
131.04 Loitering prohibited

131.99 Penalty

§ 131.01 CURFEW FOR PERSONS UNDER 18 YEARS OF AGE.

(A) *Curfew violations; children 15 through 17 years of age*. It is a curfew violation for a child 15, 16, or 17 years of age to be in a public place:

(1) Between 1:00 a.m. and 5:00 a.m. on Saturday or Sunday;

(2) After 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday, or Thursday; or

(3) Before 5:00 a.m. on Monday, Tuesday, Wednesday, Thursday, or Friday.

(B) *Right to detain or take custody of child for violation of division (A)*. A law enforcement officer may not detain a child or take a child into custody based on a violation of division (A) above unless the law enforcement officer, after making a reasonable determination and considering the facts and surrounding circumstances, reasonably believes that:

(1) The child has violated said division (A); and

(2) There is no legal defense to the violation.

(C) *Curfew violations; children less than 15 years of age*. It is a curfew violation for a child less than 15 years of age to be in a public place after 11:00 p.m. or before 5:00 a.m. on any day.

(D) *Right to detain or take custody of child for violation of division (C).* A law enforcement officer may not detain a child or take a child into custody based on a violation of division (C) above unless the law enforcement officer, after making a reasonable determination and considering the facts and surrounding circumstances, reasonably believes that:

(1) The child has violated said division (C); and

(2) There is no legal defense to the violation.

(E) *Intent of town; amendments to Indiana Code.*

(1) It is the intent of the Town, by adoption of § 131.01, to incorporate the applicable provisions of I.C. 31-37-3, including any amendments thereto and future recodifications thereof.

(2) It is the intent of the Town that this section shall be in conformance with and not in conflict with I.C. 31-37-3, including any amendments thereto and future recodifications thereof. Any provision(s) found to be in conflict with the Indiana Code shall be deemed amended to conform to the statute. This section is passed pursuant to I.C. 31-37-3 to govern curfew violations within the town.

(3) To the extent possible under law, any future amendment(s) and/or recodification(s) of the applicable Indiana Code cited above in this section, shall be adopted by the passage of this section, or any amendment(s) thereto, and this section would be amended, without further action, to reflect a change(s) in the citation(s) to said Indiana Code when said updates, amendments, and/or recodifications occur and are appropriate, provided that said updates, amendments, and/or recodifications of the applicable section of Indiana Code do not alter the purpose of this section.
(1963 Code, Ch. 5, § 11) (Ord. 2-1957, passed 5-20-1957; Am. Ord. 5-2007, passed 5-7-2007) Penalty, see § 131.99
Statutory reference:
Curfews-local option, see I.C. 31-30

§ 131.02 DEFENSES TO CURFEW VIOLATIONS .

(A) *Emancipation of child.* It is a defense to a violation under § 131.01 that the child was emancipated:

(1) Under I.C. 31-37-19-27 or I.C. 31-6-4-15.7 (before its repeal);

(2) By virtue of having married; or

(3) In accordance with the laws of another state or jurisdiction; at the time that the child engaged in the prohibited conduct.

(B) *Defenses to child engaging in prohibited conduct*. It is a defense to a violation under § 131.01 that the child engaged in the prohibited conduct while:

(1) Accompanied by the child's parent, guardian, or custodian;

(2) Accompanied by an adult specified by the child's parent, guardian, or custodian;

(3) Participating in, going to, or returning from:

(a) Lawful employment;

(b) A school sanctioned activity;

(c) A religious event;

(d) An emergency involving the protection of a person or property from an imminent threat of serious bodily injury or substantial damage;

(e) An activity involving the exercise of the child's rights protected under the First Amendment to the United States Constitution of Article 1, Section 31 of the Constitution of the State of Indiana, or both, such as freedom of speech and the right of assembly; or

(f) An activity conducted by a nonprofit or governmental entity that provides recreation, education, training, or other care under the supervision of one or more adults;

(4) Participating in an activity undertaken at the prior written direction of the child's parent, guardian, or custodian; or

(5) Engaged in interstate or international travel from a location outside Indiana to another location outside Indiana.

(C) *Intent of town; amendments to Indiana Code*.

(1) It is the intent of the town, by adoption of § 131.02, to incorporate the applicable provisions of I.C. 31-37-3, including any amendments thereto and future recodifications thereof.

(2) It is the intent of the town that this section shall be in conformance with and not in conflict with I.C. 31-37-3, including any amendments thereto and future recodifications thereof. Any provision(s) found to be in conflict with the Indiana Code shall be deemed amended to conform to the statute. This section is passed pursuant to I.C. 31-37-3 to govern curfew violations within the town.

(3) To the extent possible under law, any future amendment(s) and/or recodification(s) of the applicable Indiana Code cited above in this section, shall be adopted by the passage of this section, or any amendment(s) thereto, and this section would be amended, without further action, to reflect a change(s) in the citation(s) to said Indiana Code when said updates, amendments, and/or recodifications occur and are appropriate, provided that said updates, amendments, and/or recodifications of the applicable section of Indiana Code do not alter the purpose of this section.
(1963 Code, Ch. 5, § 12) (Ord. 2-1957, passed 5-20-1957; Am. Ord. 5-2007, passed 5-7-2007) Penalty, see § 131.99
Statutory reference:
Contributing to the delinquency of a minor, see I.C. 35-46-1-8

§ 131.03 NOISE CONTROL.

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

DEVICE. Any radio, tape recorder/player, compact disc player, stereo system, record player, television or other electronic or mechanical device capable of producing or reproducing any sound, noise, musical rhythm or vocal sound.

MOTOR VEHICLE. Any vehicle, such as, but not limited to automobiles, trucks, motorcycles or any other vehicles propelled or operated by means of power.

PLAINLY AUDIBLE. Any noise, musical sound, musical rhythm or any other sound that is electronically amplified or broadcast in any manner that can be heard by the human ear.

PUBLIC RIGHT-OF-WAY or PUBLIC PLACE. Includes, but is not limited to, any avenue, street, road, alley, easement, parkway, highway, sidewalk, park or other public place that is owned or controlled by any governmental entity.

(B) *Offense*.

(1) No person, corporation, entity, or landowner shall permit any noise to be generated or produced which is plainly audible from the device producing the noise for more than two minutes per hour, when measured at least ten feet from the property line of the property where such sound originates.

(2) It shall be unlawful within the municipal limits of the town, for any device within or attached to any motor vehicle to be utilized in or at such a level so as to be plainly audible at a distance greater than 40 feet from said device, or which causes a distraction to any person.

(3) The use and operation of lawn mowers, weed eaters, blowers, garden tractors, construction and repair equipment, go-carts, generators and power tools and the like, shall be limited to the following hours: between the hours of 7:00 a.m. and 10:00 p.m. May 15th to September 15th, and 7:00 a.m. to 9:00 p.m. September 16th to May 14th only.

(C) *Exceptions*. The following are exempted from the provisions of this section:

(1) Sounds emitted from authorized emergency vehicles or sirens (including tornado sirens).

(2) Burglar and car alarms and other warning devices, when properly installed, providing the cause for such alarm or warning device sound is investigated and turned off within a reasonable period of time.

(3) Town or other governmental entity sanctioned parades, festivals, carnivals, fairs, celebrations, concert performances, band and drum corps performances, artistic performances and the like, as well as any rehearsals for same.

(4) The emission of sound for the purposes of alerting persons to the existence of an emergency or the testing of such equipment, or for the performance of emergency construction, repair or other work.

(5) Subject to the other provisions of this section, and any other applicable law, rule or regulation, those sounds associated with motor vehicles lawfully operating on town, county, state, and federal streets and highways.

(6) Sounds associated with the operation of aircraft or snow removal equipment.

(7) Sounds emitted by emergency generators in the event of power failure, periodic testing and maintenance of which shall adhere to the limitations set forth in division (B) above.

(8) Sounds emitted by construction/road work approved by the town or other governmental entity.

(9) Train horns as required by law.

(D) *Penalty*.

(1) Any person violating any provision of this chapter shall have committed an offense subject to the jurisdiction of the Ordinance Violation Bureau and shall be punished accordingly, with each violation being a separate and distinct violation and subject to being penalized accordingly. The schedule of fines payable through the Ordinance Violation Bureau shall provide for an increasing fine for subsequent offenses.

(2) Any person who violates the provisions of this section shall be guilty of an infraction, punishable by a fine of not more than:

First offense	Up to $50
Second offense	Up to $100
Third offense	Up to $250
Fourth and subsequent offenses	Up to $500

(E) *Enforcement*. Citations for violation of this section may be issued by any sworn member of the Police Department.
(Ord. 1-2015, passed 2- -2015)

§ 131.04 LOITERING PROHIBITED.

(A) A person commits a violation if he or she loiters or prowls in a place, at a time, or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity.

(B) Circumstances which may be considered in determining whether alarm is warranted include:

(1) The fact the actor takes flight upon appearance of a peace officer;

(2) Refuses to identify himself or herself; or

(3) Manifestly endeavors to conceal himself or herself or any object.

(C) Unless flight by the actor or other circumstances makes it impracticable, a peace officer shall, prior to any arrest for an offense under this section, afford the actor an opportunity to dispel any alarm which would otherwise be warranted, by requesting him or her to identify himself or herself and explain his or her presence and conduct.

(D) No person shall be convicted of an offense under this section if the officer did not comply with division (C) above, or if it appears at the trial that the explanation given by the actor was true and, if believed by the peace officer at the time, would have dispelled the alarm.
(Ord. 5-1972, passed 9-18-1972) Penalty, see § 131.99

§ 131.99 PENALTY.

(A) Any person who commits a curfew violation under §§ 131.01 or 131.02 shall be punished in accordance with I.C. 31-37-1 *et seq*. Any person guilty of the offenses prohibited in § 131.03 shall be fined not exceeding $10 for each and every offense.
(Am. Ord. 5-2007, passed 5-7-2007)

(B) Violation of § 131.04 shall be a misdemeanor and any person violating this section shall, upon conviction, be subject to a fine of not less than $20 nor more than $50.

TITLE XV: LAND USAGE

Chapter

150. PLANNING

151. ZONING CODE

152. RESERVED

153. BUILDING CODE

154. RESERVED

155. THOROUGHFARE PLAN

156. ELECTRICAL PROVISIONS

157. FLOOD HAZARD PREVENTION

158. BUILDING COMMISSIONER

159. UNSAFE BUILDINGS

CHAPTER 150: PLANNING

Section

Master Plan

150.01 Designation of Master Plan
150.02 Purpose of Plan
150.03 Content of Plan
150.04 Certain matters to conform to Master Plan
150.05 General policy of Master Plan to be guide
150.06 Power of Town Plan Commission
150.07 Master Plan available for public inspection
150.08 Building Commissioner, Clerk-Treasurer to keep copies of Plan for public inspection
150.09 Manner of amendment

Plan Commission

150.15 Creation; designation
150.16 Membership; terms; appointment
150.17 Powers and duties

Urban Development Areas

150.25 Hagerstown Industrial Park

Numbering of Houses and Structures

150.35 Conformity with county uniform numbering system
150.36 Administration
150.37 Compliance with Master Plan
150.38 Appeals

150.99 Penalty

MASTER PLAN

§ 150.01 DESIGNATION OF MASTER PLAN.

This chapter, as amended, shall be referred to as the Master Plan of Hagerstown, Indiana.
(Ord. 5-1975, passed 4-21-1975) Penalty, see § 150.99

§ 150.02 PURPOSE OF PLAN.

The purpose of the Master Plan is to establish a single, unified body of information consisting of all plans, reports, and ordinances plus supplemental details that deal with the subjects of planning and zoning, as a comprehensive guide to the future growth and development of the town and its environs.
(Ord. 5-1975, passed 4-21-1975) Penalty, see § 150.99

§ 150.03 CONTENT OF PLAN.

(A) The Master Plan consists of maps, charts, reports, and ordinances concerning zoning, subdivision control, thoroughfares, parking, school, park, recreation, and public areas, and a separate plan entitled Comprehensive Development Plan as well as other related subjects.

(B) The following plans, as amended, reflect the policy of the town with respect to the present and future development of land uses concerning the subjects set forth above, and are a part of this plan:

(1) Comprehensive Development Plan, Town of Hagerstown, 1974, sheet one of two; and

(2) Comprehensive Development Plan, Jurisdictional Area, Hagerstown, Indiana, 1974, sheet two of two.
(Ord. 5-1975, passed 4-21-1975) Penalty, see § 150.99

§ 150.04 CERTAIN MATTERS TO CONFORM TO MASTER PLAN.

The layout, location, relocation, extension, or widening of thoroughfares, the general design of neighborhoods and their street patterns, the use of land, and the location of sites for schools, parks, recreation, and other public uses, shopping centers, off-street parking lots, and community facilities shall conform to the principles, policies, and provisions of the plan.
(Ord. 5-1975, passed 4-21-1975) Penalty, see § 150.99

§ 150.05 GENERAL POLICY OF MASTER PLAN TO BE GUIDE.

The Town Council and all municipal boards, commissions, and all other agencies of the town shall be guided by and give consideration to the general policy and pattern of development set out in the Master Plan prior to the authorization, construction, alteration, or abandonment of any public installation, required or necessitated in the interest of the physical development of the town and its environs.
(Ord. 5-1975, passed 4-21-1975) Penalty, see § 150.99

§ 150.06 POWER OF TOWN PLAN COMMISSION.

The Town Plan Commission shall from time to time consider and review proposals with respect to changes and amendments in the Master Plan and, upon conclusion of their consideration including a public hearing thereon, shall certify to the Town Council reports on these matters.
(Ord. 5-1975, passed 4-21-1975) Penalty, see § 150.99

§ 150.07 MASTER PLAN AVAILABLE FOR PUBLIC INSPECTION.

The maps, charts, plans, reports, and ordinances which comprise the Master Plan are on file in the office of the Building Commissioner and the office of the Clerk-Treasurer in the Town Hall, and are available for public inspection during all regular office hours.
(Ord. 5-1975, passed 4-21-1975) Penalty, see § 150.99

§ 150.08 BUILDING COMMISSIONER, CLERK-TREASURER TO KEEP COPIES OF PLAN FOR PUBLIC INSPECTION.

The Building Commissioner and the Clerk-Treasurer are required to keep on file for public inspection, during all regular office hours, two copies of the Master Plan, including maps, charts, reports, and ordinances.
(Ord. 5-1975, passed 4-21-1975) Penalty, see § 150.99

§ 150.09 MANNER OF AMENDMENT.

The Master Plan may be amended from time to time according to the procedure set forth in I.C. 36-7-4-509 through 36-7-4-511, as amended, except that, if the Town Council desires an amendment, it may direct the Town Plan Commission to prepare an amendment and submit it to a public hearing within 60 days after formal written request by the Town Council.
(Ord. 5-1975, passed 4-21-1975) Penalty, see § 150.99

PLAN COMMISSION

§ 150.15 CREATION; DESIGNATION.

(A) There is hereby created an Advisory Plan Commission for the town for the purpose of promoting the orderly development of the governmental units and environs of the town.
(1963 Code, Ch. 13, Part 1, § 1)

(B) The Commission shall be known as the Hagerstown Advisory Plan Commission.
(1963 Code, Ch. 13, Part 1, § 3)
(Ord. 1-1957, passed - -; Am. Ord. 4-2011, passed 11-21-2011)

§ 150.16 MEMBERSHIP; TERMS; APPOINTMENT.

(A) The Hagerstown Advisory Plan Commission shall consist of nine members, three of whom shall be persons in the town government and appointed by the municipal legislative body, and four of whom shall be citizen members, not more than two of whom shall be members of the same political party and appointed by the municipal executive, and, two members of whom shall reside in the unincorporated, two-mile jurisdictional territory, not of the same political party and appointed by the executive of the county.

(B) The terms of two of the citizen members shall expire on 1-1-1960, and the terms of the remaining two citizen members shall expire on 1-1-1961. Thereafter, as the terms expire, each new appointment shall be for a term of four years. The terms of the members who are in the town government shall expire with the expiration of office in the government.

(C) All members shall be appointed as provided for in I.C. 36-7-4-207, and all acts and laws amendatory and supplemental thereto.
(1963 Code, Ch. 13, Part 1, § 2) (Ord. 1-1957, passed - -; Am. Ord. 4-2011, passed 11-21-2011)

§ 150.17 POWERS AND DUTIES.

The Plan Commission shall have all the rights, duties, obligations, and powers conferred upon plan commissions under and by the terms and provisions of I.C. 36-7-4-101 *et seq.*, and all acts and laws amendatory and supplemental thereto, and this subchapter shall be construed so as to give full force and effect to the spirit and the letter of I.C. 36-7-4-101 *et seq.*, and all laws and acts amendatory and supplemental thereto.
(1963 Code, Ch. 13, Part 1, § 4) (Ord. 1-1957, passed - -)

URBAN DEVELOPMENT AREAS

§ 150.25 HAGERSTOWN INDUSTRIAL PARK.

(A) The Town Council acquired, developed, and now owns a parcel of real estate within the town as described in deed record book 381 at page 450 in the office of the Wayne County Recorder. Only one lot in one section of the industrial park development has been sold and is used as a waste compaction station. The Town Council finds that since acquisition of the area by the town on 12-8-1975 there has been a lack of development in the industrial park area, a cessation of growth, and a general decline in the economy affecting further establishment of industrial use of the park without further stimulation and encouragement by appropriate governmental action available under state law to grant tax abatement inducements to attract new or expanded industrial development.

(B) The Town Council now finds that the part of the Hagerstown Industrial Park now owned by the town as described in that certain deed from Dana Corporation to the town dated 12-8-1975 and recorded in deed record book 381 at page 450 of the records of the Wayne County Recorder, excepting therefrom that portion of Section one of the real estate previously conveyed to Hagerstown Industrial Complex, Inc., has become impossible of normal development because of a lack of development and cessation of growth and is an Urban Development Area within the provisions of I.C. 6-1.1-12.1-1 *et seq.* and those persons hereafter acquiring parcels of land in the described Hagerstown Industrial Park for closed industrial use shall be eligible to make application for the property tax relief as is available under Indiana law.
(Res. 2-1983, passed l-19-1983)

NUMBERING OF HOUSES AND STRUCTURES

§ 150.35 CONFORMITY WITH COUNTY UNIFORM NUMBERING SYSTEM.

Houses and structures in the jurisdictional area under the town's Master Plan and zoning code outside of the town limits shall be numbered or renumbered in conformity with the uniform numbering system as established by the County Board of Commissioners by existing ordinance or by amendment or additional ordinance hereafter.
(Ord. 3-1987, passed 9-21-1987)

§ 150.36 ADMINISTRATION.

The Town Building Commissioner shall act as the liaison official for the town to cooperate and implement the numbering and renumbering of houses and structures as issued by the administrative office of the County Plan Department within the jurisdictional area of the town zoning code outside of the town limits. Building permits issued by the Building Commissioner shall show compliance with the uniform numbering system, and require such of any applicant.
(Ord. 3-1987, passed 9-21-1987)

§ 150.37 COMPLIANCE WITH MASTER PLAN.

This subchapter shall become a part of the Master Plan, and the Hagerstown Advisory Plan Commission shall implement this subchapter with consideration of the citizens in the jurisdictional area outside of the town, to achieve cooperation with and implementation of the county uniform numbering system.
(Ord. 3-1987, passed 9-21-1987; Am. Ord. 4-2011, passed 11-21-2011)

§ 150.38 APPEALS.

All appeals filed by citizens and applicants in the jurisdictional area governed by the town zoning code, with respect to renumbering or numbering of houses and structures under this subchapter, shall be heard by the Hagerstown Advisory Plan Commission, whose determination in such matters shall be final, subject to appeal rights therefrom, irrespective of assigned numbers recommended by the County Plan Department, where the numbers would violate the intent and spirit of the town's Master Plan and zoning code.
(Ord. 3-1987, passed 9-21-1987; Am. Ord. 4-2011, passed 11-21-2011)

§ 150.99 PENALTY.

Action on the violation of any provision of this chapter and the right of injunction against a violation shall be as provided by I.C. 36-7-4-100 *et seq.* and all amending acts.
(Ord. 5-1975, passed 4-21-1975)

CHAPTER 151: ZONING CODE

Section

151.01 Adopted by reference

§ 151.01 ADOPTED BY REFERENCE.

The Zoning Ordinance of the Town of Hagerstown, Indiana, is hereby adopted by reference as if set forth in full herein. The full text of the zoning ordinance is available to the public: 1) in the Office of the Town Clerk-Treasurer during regular office hours; or 2) on the town website www.hagerstown.in.gov.
(Ord. 5-2011, passed 11-21-2011; Am. Ord. 6-2011, passed 11-21-2011)

CHAPTER 152: RESERVED

[Text continues on page 221]

CHAPTER 153: BUILDING CODE

Section

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GENERAL REQUIREMENTS

§ 153.01 SHORT TITLE.

This chapter and all material included herein by reference shall be known as the Building Code of Hagerstown, Indiana.
(Ord. 19-2006, passed 12-4-2006)

§ 153.02 PURPOSE.

The purpose of this chapter is to provide minimum standards to protect the life, public safety, health, and general welfare of the citizens of Hagerstown, Indiana, and shall be construed in such a manner to effectuate this purpose.
(Ord. 19-2006, passed 12-4-2006)

§ 153.03 DEFINITIONS.

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

BUILDING COMMISSIONER. As used in this chapter, includes individuals employed by the Building Department that are authorized to represent the Building Commissioner.

CLASS 1 STRUCTURE. Pursuant to I.C. 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 subdivision (1)(a) above.

(c) Outdoor stage equipment. This subdivision expires January 1, 2014.

(d) Any class of buildings or structures that the commission determines by rules to affect a building or structure described in subdivision (1)(a) above, except buildings or structures described in subdivisions (3) through (6) below.

(2) Subdivision (1)(a) includes a structure that contains three or more condominium units (as defined in I.C. 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) Subdivision (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.

(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) Subdivision (1)(a) does not include a Class 2 structure.

(5) Subdivision (1)(a) does not include a vehicular bridge.

(6) Subdivision (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.

(c) Pursuant to I.C. 22-12-1-24, structure includes swimming pool.

CLASS 2 STRUCTURE. Pursuant to I.C. 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 subdivision (1)(a) above, 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 I.C. 22-12-1-24, structure includes swimming pool.

CONSTRUCTION. Pursuant to I.C. 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 wher it will be used.

(3) Installation of any part of the permanent heating, ventilating, air conditioning, electrical, plumbing, sanitary, emergency detection, emergency communication, or fie 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 I.C. 22-12-1-14, means any part of a building or other structure that is in whole or 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 I.C. 22-12-1-16 has the meaning set forth in 42 U.S.C. § 5402 as it existed on 1-1-2003. 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 the term shall not include any self-propelled recreational vehicle.

MOBILE STRUCTURE. Pursuant to I.C. 22-12-1-17, has the following definition.

(a) Means any part of a fabricated unit that is designed to be:

1. Towed on its own chassis; and

2. Connected to utilities for year-round occupancy or use as a Class 1 structure, a Class 2 structure, or another structure.

(b) The term includes the following.

1. Two or more components that can be retracted for towing purposes and subsequently expanded for additional capacity.

2. Two or more units that are separately towable but designed to be joined into one integral unit.

PERSON. Pursuant to I.C. 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 I.C. 22-12-1-26, means any bridge that is neither:

(a) A pedestrian walkway; nor

(b) A passageway for light vehicles; suspended between two or more parts of a building or between two or more buildings.
(Ord. 19-2006, passed 12-4-2006)

§ 153.04 SCOPE.

(A) All construction shall be accomplished in compliance with the provisions of this building code.

(B) Pursuant to I.C. 22-13-2-6, this building code shall not apply to industrialized building systems or mobile structures certified under I.C. 22-15-4; however, the provisions of this building code 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 I.C. 22-15-4.

(C) Pursuant to I.C. 22-13-2-9, this building code is not applicable to regulated amusement devices, regulated boilers, regulated pressure vessels, or regulated lifting devices.

(D) The town, and in the event that extraterritorial jurisdiction has been established by law, the contiguous unincorporated territory shown on a map filed by the Town Plan Commission with the County Recorder of Wayne County, constitutes the jurisdiction of the Town Plan Commission.
(Ord. 19-2006, passed 12-4-2006)

§ 153.05 AUTHORITY.

The Building Commissioner of the town is authorized and directed to administer and enforce the provisions of this chapter, the town's building code, consistent with the authority and duties of the Building Commissioner as established by the Town Code of the Town of Hagerstown.
(Ord. 19-2006, passed 12-4-2006)

§ 153.06 SEVERABILITY.

Should any provision (section, clause, phrase, word, or any other portion) of this chapter be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provisions shall not be affected, if and only if the remaining provisions can, without the invalid provision or provisions, be given the effect intended in adopting this chapter. To this end, the provisions of this chapter are severable.
(Ord. 19-2006, passed 12-4-2006)

§ 153.07 EFFECT OF ADOPTION ON PRIOR ORDINANCES.

The expressed or implied repeal of amendment by this chapter of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this chapter. These rights, liabilities, and other proceedings are continued and penalties shall be imposed and enforced under the repealed or amended ordinance as if this chapter had not been adopted.
(Ord. 19-2006, passed 12-4-2006)

§ 153.08 FEES.

(A) Permit fees shall be in accordance with the official permit fee schedule as adopted by the Town Council of the Town of Hagerstown. Reinspection fees for work found incomplete or not ready upon requested inspection shall be as in the official permit fee schedule. Permit re-issue fees shall be in the official permit fee schedule. Investigation fees of work for which a permit is required and has been commenced without first obtaining a permit shall be as in the official permit fee schedule.

(B) Building permit fees may only be reduced or waived by the Town Council. A written request shall be submitted to the Hagerstown Town Council indicating why the permit fee should be reduced or waived. The Building Commissioner shall submit the request to the Hagerstown Town Council with a recommendation.
(Ord. 19-2006, passed 12-4-2006)

BUILDING PERMITS

§ 153.09 BUILDING PERMIT REQUIRED.

Construction is prohibited unless in conformity with a valid building permit obtained from the Building Commissioner prior to commencement of construction. A building permit shall be required and obtained before beginning any construction, alteration, or repair of any building or structure which is anticipated to have a cost which shall exceed $500.
(Ord. 19-2006, passed 12-4-2006)

§ 153.10 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, the plot plan shall not be required in the instance where all the 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 the 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 I.C. 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; and

(6) The fee established by Town of Hagerstown.

(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. 19-2006, passed 12-4-2006)

§ 153.11 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.
(Ord. 19-2006, passed 12-4-2006)

§ 153.12 CERTIFICATE OF OCCUPANCY.

No certificate of occupancy for any building or structure shall be issued unless the building or structure was constructed in compliance with the provisions of the building code. It shall be unlawful to occupy any such building or structure unless a full, partial, or temporary certificate of occupancy has been issued by the Building Commissioner.
(Ord. 19-2006, passed 12-4-2006)

INVESTIGATIONS AND INSPECTIONS OF CONSTRUCTION ACTIVITIES

§ 153.13 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 building code or to the rules of the Fire Prevention And Building Safety Commission is located for the purposes of inspection and investigation of the structure. The 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 building code and the rules of the Fire Prevention And Building Safety Commission.
(Ord. 19-2006, passed 12-4-2006)

§ 153.14 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 I.C. 36-8-17).
(Ord. 19-2006, passed 12-4-2006)

§ 153.15 LICENSING OF PLUMBERS.

Licensing of plumbers shall be as regulated by the State of Indiana.

ENFORCEMENT AND PENALTIES

§ 153.16 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 to the Building Commissioner (including checks returned for insufficient funds, permit fees owed pursuant to the Town of Hagerstown, or inspection fees owed pursuant to the Town of Hagerstown), the Building Commissioner may withhold the issuance of subsequently requested permits until the 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 the time that the property is brought into conformance with applicable ordinances. (Ord. 19-2006, passed 12-4-2006)

§ 153.17 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. 19-2006, passed 12-4-2006)

§ 153.18 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 code 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 substantially difficult to correct the violation; and/or

(3) Construction for which a building permit is required is proceeding without a building permit being in force.

(D) The issuance of a stop-work order shall in no way limit the operation of penalties provided elsewhere in this building code.
(Ord. 19-2006, passed 12-4-2006)

§ 153.19 CIVIL ACTION.

Pursuant to I.C. 36-1-6-4, the town may initiate a civil action in a court of competent jurisdiction to restrain any person from violating a provision of this building code.
(Ord. 19-2006, passed 12-4-2006)

§ 153.20 MONETARY 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.
(Ord. 19-2006, passed 12-4-2006)

§ 153.21 RIGHT OF APPEAL.

(A) 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.

(B) Such a person may file a petition using either, or both, of the following procedures.

(1) *Appeal to the Fire Prevention and Building Safety Commission.*

(a) A person aggrieved by an order issued under this building code may appeal to the Fire Prevention and Building Safety Commission, in accordance with I.C. 22-13-2-7.

(b) The Commission may modify or reverse any order issued by the town that covers a subject governed by I.C. 22-12, I.C. 22-13, I.C. 22-14, I.C. 22-15, a fire safety, or a building rule.

(c) 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 I.C. 4-21.5-3-7 within 30 days after the issuance of the order.

(d) The Fire Prevention and Building Safety Commission may review all other orders issued under this building code.

(e) 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.

(2) *Appeal to an established local administrative body or court.* If, pursuant to I.C. 36-1-6-9, the town 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 administrative body exists, then the person may petition a court for judicial review of the order.
(Ord. 19-2006, passed 12-4-2006)

MINIMUM CONSTRUCTION STANDARDS

§ 153.22 ADOPTION OF RULES BY REFERENCE.

(A) Pursuant to I.C. 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; and

(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; and

(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-Treasurer of the Town of Hagerstown for public inspection as required by I.C. 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 I.C. 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. 19-2006, passed 12-4-2006)

§ 153.23 LIFTING DEVICES LOCATED WITHIN A PRIVATE RESIDENCE.

(A) Pursuant to I.C. 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 A18.1 a, 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 Al 8.1 a, 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-Treasurer of the Town of Hagerstown for public inspection as required by I.C. 36-1-5-4.
(Ord. 19-2006, passed 12-4-2006)

§ 153.24 MOBILE HOME FOUNDATIONS.

In the event, and only in the event, that the zoning code of the Town of Hagerstown provides for and allows mobile homes to be located in any district or districts in the town or jurisdictional area in which the town controls zoning regulation and which are not located in a mobile home park, the installation and tie-down requirements for manufactured housing shall be as specified by the manufacturer of the home. In the absence of the specifications, installation shall be as provided for in the Indiana Residential Code.
(Ord. 19-2006, passed 12-4-2006)

EFFECTIVE DATE

§ 153.25 EFFECTIVE DATE.

This building code shall be in full force and effect from and after the date on which both of the following have occurred.

(A) The Town Council has adopted this Building Code/Ordinance.

(B) The Fire Prevention and Building Safety Commission of Indiana has approved of this chapter as required by I.C. 22-13-2-5.
(Ord. 19-2006, passed 12-4-2006)

APPENDIX A: FEE SCHEDULE FOR BUILDING CODE PERMITS

(1) *New homes*. The designation SF shall mean square feet each time it appears throughout this section.

Construction Type (1)	*Required Inspections*	*Reinspection Fee*	*Permit Fee*
Up to 1,000 SF	4	$20	$80
1,001 to 1,500 SF	4	$20	$90
1,501 to 2,000 SF	4	$20	$120
2,001 to 2,500 SF	4	$20	$150
2,501 to 3,000 SF	4	$20	$180
3,001 to 3,500 SF	5	$20	$210
3,501 to 4,000 SF	5	$20	$240
Over 4,000 SF	5	$20	$.06 per SF
NOTES TO TABLE: Square footage shall be based on outside dimensions to include attached garage if applicable. Multi-store dwellings shall be total of square feet of all levels.			

(2) *Room addition, residential.*

Construction Type (2)	*Required Inspections*	*Reinspection Fee*	*Permit Fee*
Up to 400 SF	2	$20	$20
401 to 800 SF	2	$20	$40
801 to 1,200 SF	2	$20	$60
Over 1,200 SF	2	$20	$.05 per SF

(3) *Residential remodeling*.

Construction Type (3)	*Required Inspections*	*Reinspection Fee*	*Permit Fee*
Up to $10,000	2	$20	$20
Over $10,000	2	$20	$2 per $1,000 of actual cost

(4) *Garages (attached and detached), pole barns, patios, porches, decks, accessory buildings (based on outside dimensions).*

Construction Type (4)	*Required Inspections*	*Reinspection Fee*	*Permit Fee*
Up to 600 SF	1	$20	$20
601 to 1,200 SF	1	$20	$30
1,201 and over SF	1	$20	$40

(5) *Mobile homes.*

Construction Type (5)	*Required Inspections*	*Reinspection Fee*	*Permit Fee*
All mobile homes	1	$20	$.06 per SF

(6) *Modular homes and manufactured homes (based on outside dimensions).*

Construction Type (6)	*Required Inspections*	*Reinspection Fee*	*Permit Fee*
All	3	$20	$.06 per SF

(7) *Commercial, institutional, industrial structures (new).*

Construction Type (7)	*Required Inspections*	*Reinspection Fee*	*Permit Fee*
All	6	$20	$1.50 per $1,000 of actual cost (minimum $75)

(8) (a) *Commercial, institutional, industrial structures (remodeling except roofing and siding).*

Construction Type (8)	*Required Inspections*	*Reinspection Fee*	*Permit Fee*
All	6	$20	$1.50 per $1,000 of actual cost (minimum $75)

(b) *Commercial, institutional, industrial structures (roofing and siding only).*

Construction Type (8)	*Required Inspections*	*Reinspection Fee*	*Permit Fee*
All	2	$20	$35 for the first $10,000/ in excess of $10,000, treated as (remodeling except roofing and siding

(Am. Ord. 4-2007, passed 5-7-2007)

(9) *Swimming pools (residential).*

Construction Type (9)	*Required Inspections*	*Reinspection Fee*	*Permit Fee*
Above-grade	1	$20	$20
Below-grade	2	$20	$40

(10) *Swimming pools (commercial).*

Construction Type (10)	*Required Inspections**	*Reinspection Fee**	*Permit Fee**
NOTES TO TABLE:			
* Based on the number of inspections deemed necessary by the Building Commissioner in relation to the scope of the project and communicated to the applicant prior to construction, based on the following formula: number of inspections times $20 equals fee.			

(11) *Certificate of occupancy*. Certificate of occupancy shall not be issued until the time as permit holder documents the final cost of the work to the Building Commissioner on construction wherein fee is based on actual costs. Any fee adjustment shall be resolved at this time.

(12) *Demolition of building.*

Construction Type (12)	*Required Inspections**	*Reinspection Fee**	*Permit Fee**
NOTES TO TABLE:			
* Based on the number of inspections deemed necessary by the Building Commissioner in relation to the scope of the project and communicated to the applicant prior to demolition, based on the following formula: number of inspections times $20 equals fee. In addition to the fee, demolition of a building requires a $1,000 performance bond.			

(13) *Electrical service permit.*

Construction Type (13)	*Required Inspections**	*Reinspection Fee $20**	*Permit Fee $20**
NOTES TO TABLE:			
* Based on the number of inspections deemed necessary by the Building Commissioner in relation to the scope of the project and communicated to the applicant, based on the following formula: number of inspections times $20 equals fee.			

(14) *Moving or changing location of buildings.*

Construction Type (14)	*Required Inspections**	*Reinspection Fee $20**	*Permit Fee $20**
NOTES TO TABLE:			
* Based on the number of inspections deemed necessary by the Building Commissioner in relation to the scope of the project and communicated to the applicant, based on the following formula: number of inspections times $20 equals fee.			

(Ord. 15-2006, passed 11-6-2006)

(15) *Cumulative fees*. The town hereby establishes a limit on the total amount of permit fees that the town shall collect as Building Code related fees from the same project. In no event shall the total permit fees for the same project exceed $500. However, any reinspection fees collected due to the failure of the person to pass any initial inspections shall not count toward the limit amount, and are fees that shall be in excess of said limit.
(Am. Ord. 4-2007, passed 5-7-2007)

CHAPTER 154: RESERVED

[Text continues on page 249]

CHAPTER 155: THOROUGHFARE PLAN

Section

155.01 Scope and purpose
155.02 Short title
155.03 Maps of thoroughfares
155.04 Drawings of cross-sections
155.05 Designation of thoroughfares
155.06 Policies and directives
155.07 Authority of Town Plan Commission
155.08 Amendments
155.09 Thoroughfare plan on file
155.10 Duty of Clerk-Treasurer

§ 155.01 SCOPE AND PURPOSE.

The purpose of this chapter is to establish an official thoroughfare plan to promote the orderly development of the town and its environs; to improve the health, safety, convenience, and welfare of its residents to the end that the highway system be carefully planned; that new community centers grow only with adequate highway facilities; that the needs of industry, business, and agriculture be recognized in future growth; that residential areas provide safe and healthy surroundings for family life; that the development of the town be commensurate with the promotion of the efficient and economical use of public funds for the purpose of formulating definite policies for the laying out, development, and improvement of public streets and highways; to provide services to platted and unplatted land; and to provide for the establishment of a thoroughfare fund.
(Ord. 3-1958, passed 4-21-1958; Am. Ord. 6-1975, passed 4-21-1975)

§ 155.02 SHORT TITLE.

This chapter, as amended, shall hereafter be referred to as the Thoroughfare Plan of the Town of Hagerstown.
(Ord. 3-1958, passed 4-21-1958; Am. Ord. 6-1975, passed 4-21-1975)

§ 155.03 MAPS OF THOROUGHFARES.

(A) The official thoroughfare plan of the town and its environs is shown on the maps listed in division (B) below.

(B) The following plans, as amended, which reflect the policy of the town with respect to the present and future development of thoroughfares, are incorporated into and made a part of this chapter:

(1) Comprehensive Development Plan, Hagerstown, Indiana, 1974, Sheet one of two; and

(2) Comprehensive Development Plan, Jurisdictional Area, Hagerstown, Indiana, 1974, Sheet two of two.

(C) Notations, references, indications, and other details shown on the thoroughfare plan portions of the comprehensive development plan maps are as much a part of this chapter as if they were fully described in the text of this chapter.
(Ord. 3-1958, passed 4-21-1958; Am. Ord. 6-1975, passed 4-21-1975)

§ 155.04 DRAWINGS OF CROSS-SECTIONS.

A drawing entitled *Typical Thoroughfare Cross Sections, Hagerstown, Indiana*, showing cross-sections for streets as designated on the comprehensive development plan maps, is incorporated by reference to this chapter.
(Ord. 3-1958, passed 4-21-1958; Am. Ord. 6-1975, passed 4-21-1975)

§ 155.05 DESIGNATION OF THOROUGHFARES.

The thoroughfares are classified as to width and type in accordance with their functions as a part of the thoroughfare system, and are designated as arterial, feeder, and residential streets as shown on the comprehensive development plan maps. The streets are to be provided with the right-of-way widths shown on the plan maps as set out in § 155.06 and are to be improved.
(Ord. 3-1958, passed 4-21-1958; Am. Ord. 6-1975, passed 4-21-1975)

§ 155.06 POLICIES AND DIRECTIVES.

(A) *Opening or widening of streets*. Whenever a street designated in the thoroughfare plan is to be platted as a part of the subdivision of land, the right-of-way width shall conform to the policies and specified designations and indications in the thoroughfare plan; however, where a street borders a tract of land to be subdivided, the owner of the land shall be required to plat only one-half of the right-of-way width designated for the street, measured at 90 degrees to the center line thereof.

(B) *Location of streets*. Wherever the locations of the streets are indicated in the thoroughfare plan as following existing roads or streets, or section or half-section lines, or other established property lines, they shall conform to these locations; however, streets lying wholly within a subdivision, and not designated as following an existing road or a section line, may be varied in their alignment when the variance promotes the plan of a neighborhood development unit in accordance with good site-planning principles, and if the alignment provides for the continuity of traffic movement. Streets which follow irregular alignment, or indicate revised alignments, or are not referenced to established lines, shall follow in a general manner the alignment shown on the thoroughfare plan maps. Their alignment shall be subject to detailed surveys which may be made by the Town Engineer, the Town Plan Commission or other public agencies, or by the owners of land to be subdivided. The surveys shall be subject to the approval of the Town Plan Commission prior to the acquisition of land or the filing of subdivision plans affecting the streets.

(C) *Consideration of public agencies*. After adoption of the official thoroughfare plan and this chapter, the Town Council and other governing bodies within the jurisdiction of the Commission shall be guided by and give consideration to the general policy and pattern of development set out in the official thoroughfare plan in the authorization, construction, alteration, or abandonment of public highways and structures.

(D) *Issuance of permits*. In the case of permits authorized by the Town Council for the erection or alteration of structures and other improvements, the permit shall be issued only if the proposed street and thoroughfare rights-of-way as set forth in the official thoroughfare plan will be protected from encroachment, and, for planning and zoning purposes, the proposed street and thoroughfare right-of-way lines will be considered as the front line of lots and tracts bordering the streets and thoroughfares.
(Ord. 3-1958, passed 4-21-1958; Am. Ord. 6-1975, passed 4-21-1975) Penalty, see § 10.99

§ 155.07 AUTHORITY OF TOWN PLAN COMMISSION.

Subsequent to the adoption of the official thoroughfare plan and the passage of this chapter, the Town Plan Commission may:

(A) Determine lines for new, extended, widened, or narrowed thoroughfares in any portion of its jurisdiction; and

(B) Certify to the Town Council the amended or additional plan under the same procedures as established for the certification and approval of the official thoroughfare plan.
(Ord. 3-1958, passed 4-21-1958; Am. Ord. 6-1975, passed 4-21-1975)

§ 155.08 AMENDMENTS.

In addition to the provisions of § 155.07, amendments may be initiated as follows.

(A) The Town Council may direct the Town Plan Commission to prepare an amendment, as desired, and submit it to public hearing within 60 days after formal written request by the Town Council.

(B) The owners of 50% or more of the property abutting upon a street may also petition the Town Plan Commission requesting an amendment to the official thoroughfare plan.
(Ord. 3-1958, passed 4-21-1958; Am. Ord. 6-1975, passed 4-21-1975)

§ 155.09 THOROUGHFARE PLAN ON FILE.

The maps, charts, plans, reports, and ordinances which comprise the thoroughfare plan are on file in the office of the Building Commissioner and office of the Clerk-Treasurer in the Town Hall and are available for public inspection during all regular office hours.
(Ord. 3-1958, passed 4-21-1958; Am. Ord. 6-1975, passed 4-21-1975)

§ 155.10 DUTY OF CLERK-TREASURER.

The Building Commissioner and the Clerk-Treasurer of the town are directed to keep on file, for public inspection during all regular office hours, two copies of the thoroughfare plan including maps, charts, reports, and ordinances.
(Ord. 3-1958, passed 4-21-1958; Am. Ord. 6-1975, passed 4-21-1975)

CHAPTER 156: ELECTRICAL PROVISIONS

Section

156.01 Adoption of National Electrical Code
156.02 Residential Wiring Code

§ 156.01 ADOPTION OF NATIONAL ELECTRICAL CODE.

For provisions concerning the adoption of the National Electrical Code by the Municipal Electric Utility, see Chapter 51.

§ 156.02 RESIDENTIAL WIRING CODE.

For provisions concerning the establishment of a residential wiring code by the Municipal Electric Utility, see §§ 51.110 *et seq.*

CHAPTER 157: FLOOD HAZARD PREVENTION

Section

157.01 Adoption by reference

§ 157.01 ADOPTION BY REFERENCE.

The Flood Hazard Prevention Ordinance of the Town of Hagerstown, Indiana, is hereby adopted by reference as if set forth in full herein. The full text of the Flood Hazard Prevention Ordinance is available to the public: 1) in the Office of the Town Clerk-Treasurer during regular office hours; or 2) on the town website www.hagerstown.in.gov.
(Ord. 2-2015, passed 3-16-2015)

[Chapter 158 begins on Page 285]

CHAPTER 158: BUILDING COMMISSIONER

Section

158.01 Establishment of office
158.02 Authority

§ 158.01 ESTABLISHMENT OF OFFICE.

(A) There is established the Office of Building Commissioner in the town, which shall consist of the Building Commissioner, and may also consist of a Secretary and assistants. ***BUILDING COMMISSIONER***, as used in this chapter, includes individuals employed by the Building Department that are authorized to represent the Building Commissioner.

(B) The President of the Town Council is authorized to employ a Building Commissioner, Secretary, and other employees the President deems necessary, and subject to the approval of the Town Council.

(C) Their appointments shall continue during good behavior and service, and they shall not be removed from office except for cause.
(Ord. 16-2006, passed 11-6-2006)

(D) The Building Commissioner shall report to, be under the management and supervision of, and take direction from the Town Manager of the town.
(Am. Ord. 7-2007, passed 6-4-2007)

§ 158.02 AUTHORITY.

(A) The Building Commissioner is hereby authorized and directed to administer and enforce the following:

(1) All of the provisions of the town's building code (Chapter 153 of the Town Code);

(2) Any and all other matters within the Town Code requiring action or administration by the Building Commissioner;

(3) Variances granted in accordance with I.C. 22-13-2-11; and

(4) Orders issued under I.C. 22-12-7.

(B) The basic duties of the Building Commissioner are as follows.

(1) Issue, in the name of the Board of Zoning Appeals, improvement location permits and certificates of occupancy and maintain records thereof; however, it shall be the privilege of the Board or any members of the Board to require that an application submitted to the Building Commissioner be brought before the Board for its review and actions.

(2) Issue building permits, conduct inspections of buildings, structures, and use of land to determine compliance with the terms of this chapter, and report findings and violations to the Plan Commission and Board of Zoning Appeals for the purpose of ordering compliance.

(3) Provide interpretation of the Master Plan and the Building Code when necessary, and the technical and clerical assistance as the Plan Commission and Board of Zoning Appeals may require.

(4) Provide and maintain a public information service relative to all matters arising out of the Master Plan and the building code.

(5) Provide information to the Plan Commission and the Board of Zoning Appeals and maintain permanent and current records arising from the administration of the Master Plan and the building code, including, but not limited to, all maps, amendments, improvement location permits, certificates of occupancy, variances, conditional uses and appeals, and applications thereof, and records of hearing thereon.

(C) The powers of the Building Commissioner shall include, but are not necessarily limited to, the following.

(1) The Building Commissioner, including assistants under his or her supervision, is authorized to enforce all of the provisions of the building code, the zoning code, and all other provisions of the Master Plan. In the performance of these functions the Building Commissioner, and other officials shall be responsible to the Town Council, the Plan Commission, and the Board of Zoning Appeals.

(2) If the Building Commissioner finds that any of the provisions of the Master Plan and the Building Code are being violated, he or she shall notify in writing the person responsible for the violations, indicating the nature of the violation and ordering the action necessary to correct it. He or she shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by law to ensure compliance with or to prevent violations of these provisions.

(3) It is the intent of this chapter that all questions of interpretation of provisions of the Master Plan and the building code shall be first presented to the Building Commissioner.
(Ord. 16-2006, passed 11-6-2006)

CHAPTER 159: UNSAFE BUILDINGS

Section

159.01 Establishment
159.02 Scope
159.03 Definitions
159.04 Public nuisances
159.05 Building Commissioner authorization
159.06 Rules and standards established by ordinance
159.07 Unsafe building defined
159.08 Workmanlike manner
159.09 Director
159.10 Unsafe Building Fund
159.11 Contractor
159.12 Sealing and securing of vacant building or structure
159.13 Repaired and rehabilitated building or structure
159.14 Vacant more than six months
159.15 Exterior maintained
159.16 Violation
159.17 Town Council
159.18 Complaint and summons

159.99 Penalty

§ 159.01 ESTABLISHMENT.

Under the provisions of I.C. 36-7-9-3, there is hereby established the Unsafe Building Ordinance of the Town of Hagerstown.
(Ord. 6-1990, passed 9-16-1991; Am. Ord. 20-2006, passed 12-4-2006)

§ 159.02 SCOPE.

I.C. 36-7-9-1, 36-7-9-2 as amended herein, 36-7-9-3 through 36-7-9-10, 36-7-9-11, and 36-7-9-12 as amended herein, and 36-7-9-13 through 36-7-9-28 are hereby adopted by reference as the Unsafe Building Ordinance of the Town of Hagerstown, together with any and all amendments thereto that are

made following the date of adoption of this chapter. All proceedings within the corporate limits of the town, for inspection, repair, and removal of unsafe buildings shall be governed by the law and the sections of this chapter.
(Ord. 6-1990, passed 9-16-1991; Am. Ord. 20-2006, passed 12-4-2006)

§ 159.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words in the singular include the plural and words in the plural include the singular. The word ***PERSONS*** includes a corporation, unincorporated association and ***BUILDING*** includes ***STRUCTURE*** and shall be construed as if followed by the words "or part thereof."

DEPARTMENT. The office of Building Commissioner of the Town.

ENFORCEMENT AUTHORITY. The Building Commissioner or his or her authorized representative.

HEARING AUTHORITY. The Town Council.

SUBSTANTIAL PROPERTY INTEREST. Any right in real property that may be affected in a substantial way by actions authorized by this chapter, including a fee interest, a life estate, a future interest, a present possessory or an equitable interest of a contract purchaser. The interest reflected by a deed, lease, license, mortgage, land sale contract, or lien is not a substantial property interest unless the deed, lease, license, mortgage, land sale contract, lien of evidence of it is:

(1) Recorded in the office of the Wayne County Recorder; and/or

(2) The subject of a written information that is received by the Building Commissioner and includes the name and address of the holder of the interest described.
(Ord. 6-1990, passed 9-16-1991; Am. Ord. 20-2006, passed 12-4-2006)

§ 159.04 PUBLIC NUISANCES.

All buildings or portions thereof within the town which are determined, after inspection by the Building Commissioner, to be unsafe as defined in this chapter are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedures specified herein.
(Ord. 6-1990, passed 9-16-1991; Am. Ord. 20-2006, passed 12-4-2006) Penalty, see § 159.99

§ 159.05 BUILDING COMMISSIONER AUTHORIZATION.

The Building Commissioner or his or her authorized representative shall be authorized to administer and to proceed under the provisions of the law in ordering the repair or removal of any buildings found to be unsafe as defined by state law adopted herein and the definitions set forth in § 153.03.
(Ord. 6-1990, passed 9-16-1991; Am. Ord. 20-2006, passed 12-4-2006) Penalty, see § 159.99

§ 159.06 RULES AND STANDARDS ESTABLISHED BY ORDINANCE.

Wherever in the building code of the town or in this chapter it is provided that anything must be done to the approval of or subject to the direction of the Building Commissioner or any other officer of the town, this shall be construed to give the officer only the discretion of determining whether the rules and standards established by ordinance have been complied with; and no provisions shall be construed as giving any officer discretionary powers as to what the regulations or standards shall be, power to require conditions not prescribed by ordinance, or to enforce ordinance provisions in an arbitrary or discretionary manner.
(Ord. 6-1990, passed 9-16-1991; Am. Ord. 20-2006, passed 12-4-2006) Penalty, see § 159.99

§ 159.07 UNSAFE BUILDING DEFINED.

The definition of an unsafe building contained in I.C. 36-7-9-4 is hereby supplemented to provide minimum standards for building condition or maintenance in the town by adding the following definition.

UNSAFE BUILDING. 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 the conditions or defects exist to the extent that life, health, property, or safety of the public or its occupants are endangered.

(1) Whenever a door, aisle, passageway, 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 stress in any materials, members, or portion thereof, due to all dead and live loads, is more than one and one-half times the working stress and stresses allowed for new buildings of similar structure, purpose, or location.

(3) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood, or by any other cause, to an extent that the structural strength or stability thereof is materially less than it was before the catastrophe and is less than the minimum requirements for new buildings of similar structure, purpose, or location.

(4) Whenever any portion, member, or appurtenance thereof is likely to fail, 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 for new buildings of similar structure, purpose, or location without exceeding the working stresses permitted for the buildings.

(6) Whenever any portion thereof has wracked, warped, buckled, or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.

(7) Whenever the building or structure, or any portion thereof, because of: dilapidation, deterioration, or decay; faulty construction; the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting the building; the deterioration, decay, or inadequacy of its foundation; or any other cause, is likely to partially or completely collapse.

(8) Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

(9) Whenever the exterior walls or other vertical structural members list, lean or buckle to an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.

(10) 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 nonsupporting member, enclosing or outside walls or coverings.

(11) Whenever the building or structure has been so damaged by fire, wind, earthquake, or flood or has become so dilapidated or deteriorated so as to become an attractive nuisance to children, or freely accessible to persons for the purpose of committing unlawful acts.

(12) Whenever any building or structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to the building or structure provided by the building code of this town, or of any law or ordinance of this state or this town relating to the condition, location, or structure of buildings.

(13) Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances has in any nonsupporting part, member, or portion less than 50%, or in any supporting part, member, or portion less than 66% of the strength, fire-resisting qualities or characteristics, or weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height, and occupancy in the same location.

(14) Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangements, inadequate light, air or sanitation facilities, or otherwise, is determined by the County Health Department to be unsanitary, unfit for human habitation, or in a condition that is likely to cause sickness or disease.

(15) Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections, or heating apparatus, or other cause is determined by the Fire Department to be a fire hazard.

(16) 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 the building or portion thereof an attractive nuisance or hazard to the public.

(17) Any building or structure in a condition as to constitute a public nuisance known to the common law or equity jurisprudence.
(Ord. 6-1990, passed 9-16-1991; Am. Ord. 20-2006, passed 12-4-2006) Penalty, see § 159.99

§ 159.08 WORKMANLIKE MANNER.

All work for the reconstruction, alteration, repair, or demolition of buildings and other structures shall be performed in a good workmanlike manner according to the accepted standards and practices in the trade. The provisions of the building code and regulations pertaining to construction, plumbing, electrical, mechanical, and one- and two-family dwellings, promulgated by the Fire Prevention and Building Safety Commission of Indiana and as amended hereafter, shall be considered standard acceptable practice for all matters covered by this chapter or orders issued pursuant to this chapter by the Building Commissioner.
(Ord. 6-1990, passed 9-16-1991; Am. Ord. 20-2006, passed 12-4-2006) Penalty, see § 159.99

§ 159.09 DIRECTOR.

In any instance where the word ***DIRECTOR*** is used in the provisions of the Indiana Code as adopted herein, the same shall be construed to apply to the Building Commissioner of the town.
(Ord. 6-1990, passed 9-16-1991; Am. Ord. 20-2006, passed 12-4-2006)

§ 159.10 UNSAFE BUILDING FUND.

An Unsafe Building Fund is hereby established in the operating budget of the town in accordance with the provisions of I.C. 36-7-9-12 and pursuant to the provisions contained therein any balance remaining at the end of a fiscal year shall be carried over in the fund for the following year and does not revert to the General Fund.
(Ord. 6-1990, passed 9-16-1991; Am. Ord. 20-2006, passed 12-4-2006)

§ 159.11 CONTRACTOR.

In any instance where the words ***CONTRACTOR*** or ***CONTRACTOR LICENSED AND QUALIFIED UNDER LAW*** are used in I.C. 36-7-9-11, I.C. 36-7-9-12, or any other sections of the statute, as adopted herein, requirements are modified in that any contractor approved by the Building Commissioner may perform any work that is required in complying with the orders of the Building Commissioner.
(Ord. 6-1990, passed 9-16-1991; Am. Ord. 20-2006, passed 12-4-2006) Penalty, see § 159.99

§ 159.12 SEALING AND SECURING OF VACANT BUILDING OR STRUCTURE.

(A) The sealing and securing of any vacant building or structure, including any work performed subject to an order and issued under the Unsafe Building Ordinance of the town or any work performed by an owner of his or her own initiative, shall be required to be accomplished pursuant to the following uniform standard: Screws or double headed nails shall be utilized to fasten 1/2-inch exterior grade plywood to all exterior openings of every floor. The plywood shall be cut and installed to precisely fit each opening so as to present a neat, workmanlike appearance. The plywood shall be painted white or other neutral color.

(B) Prior to the sealing and securing of any vacant building or structure, the building or structure shall be cleared of all human inhabitants.
(Ord. 5-1990, passed 9-16-1991; Am. Ord. 20-2006, passed 12-4-2006) Penalty, see § 159.99

§ 159.13 REPAIRED AND REHABILITATED BUILDING OR STRUCTURE.

Any building or structure that has been sealed and secured shall be repaired and rehabilitated as required to bring the building or structure into compliance with the present building code prior to the building or structure being again occupied or used.
(Ord. 5-1990, passed 9-16-1991; Am. Ord. 20-2006, passed 12-4-2006) Penalty, see § 159.99

§ 159.14 VACANT MORE THAN SIX MONTHS.

Any building or structure that has been vacant for more than six months may be deemed to be an unsafe building pursuant to the Unsafe Building Ordinance of the town.
(Ord. 5-1990, passed 9-16-1991; Am. Ord. 20-2006, passed 12-4-2006) Penalty, see § 159.99

§ 159.15 EXTERIOR MAINTAINED.

(A) The exterior of all premises and the condition of all buildings and structures thereon shall be maintained so that the appearance thereof shall reflect a level of maintenance in keeping with the standards of the town and so as to avoid blighting effects and hazard to health, safety, and welfare.

(B) The owner and operator shall keep the exterior of all premises and every structure thereon including but not limited to walls, roofs, cornices, chimneys, drains, towers, porches, landings, fire escapes, stairs, refuse or garbage containers, store fronts, signs, windows, doors, awnings and marquees, in good repair, and all surfaces thereof shall be kept painted or protected with other approved coating or material where necessary for the purpose of preservation and avoiding a blighting influence on adjoining properties. Exterior wood, composition, or metal surfaces shall be protected from the elements by paint or other protective covering. Surfaces shall be maintained so as to be kept clean and free of flaking, loose, or peeling paint or covering. Those materials whose appearance and maintenance would be enhanced by a natural weathering effect or other natural effects may remain untreated.

(C) All surfaces shall be maintained free of broken glass, loose shingles, crumbling stone or brick, peeling paint, when the peeling consists of at least 33 1/3% of the surface area, or other conditions reflective of deterioration or inadequate maintenance, and not show evidence of weathering, discoloration, ripping, tearing, or other holes or breaks, to the end that the property itself may be preserved safely and fire hazards eliminated, and adjoining properties and the neighborhood protected from blighting influences.

(D) All premises shall be maintained and lawn, hedges, bushes, trees, and other vegetation shall be kept trimmed and from becoming overgrown and unsightly where exposed to public view or where the vegetation may constitute a blighting influence on adjoining property.

(E) All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure, and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.
(Ord. 5-1990, passed 9-16-1991; Am. Ord. 20-2006, passed 12-4-2006) Penalty, see § 159.99

§ 159.16 VIOLATION.

(A) If any property owner violates the provisions of this chapter, the property owner shall be notified in writing of the violation. Notice of the violation shall be written notice and shall include a statement of the nature of the violation, location of Building Commissioner and Town Clerk-Treasurer's office, identification of the violator, and identification of issuing official.

(B) The Building Commissioner shall send a Violation Notice by certified mail or by delivery in person to the property owner found to be in violation of this chapter and that person shall have a maximum of 15 days to complete and return a form letter indicating agreement to Correct the Violation Within 30 Days or to Appeal the Violation.

(C) Upon receipt of a request for an appeal, the Building Commissioner shall notify the appellant in writing of the place and dates to schedule an appeal. The property owner may appeal The Violation, The Compliance Requirements, or The Completion Date.

(D) Upon presentation of convincing evidence, the Building Commissioner may negotiate an adjusted Compliance Schedule commensurate with the evidence presented and in keeping with this chapter.

(E) Upon proof of hardship, a resident-owner may be granted a continuance for those violations requiring the expenditure of unavailable funds provided that the violations do not adversely affect the public health or safety.
(Ord. 5-1990, passed 9-16-1991; Am. Ord. 20-2006, passed 12-4-2006) Penalty, see § 159.99

§ 159.17 TOWN COUNCIL.

(A) The Town Council shall have the authority to grant special variances or relief to any provisions or requirements of this chapter and may prescribe any conditions or requirements deemed necessary to minimize adverse effects upon the community.

(B) The Town Council may develop standards and procedures for the implementation and enforcement of these provisions.
(Ord. 5-1990, passed 9-16-1991; Am. Ord. 20-2006, passed 12-4-2006)

§ 159.18 COMPLAINT AND SUMMONS.

The Building Commissioner may file a complaint and summons in the Town Court to enforce the penalties of this chapter or, through the Town Council, may also request the Town Attorney to bring action on behalf of the town in the Circuit or Superior Courts of Wayne County, Indiana, for mandatory and injunctive relief in the enforcement of and to secure compliance with any order or orders made by

the Building Commissioner or his or her authorized representative, and an action for mandatory or injunctive relief may be joined with the action to recover the penalties provided for in this chapter. Any person adjudged guilty of a violation of this chapter may also be adjudged to pay the costs of prosecution.
(Ord. 5-1990, passed 9-16-1991; Am. Ord. 20-2006, passed 12-4-2006) Penalty, see § 159.99

§ 159.99 PENALTY.

(A) No person, firm, or corporation, whether as owner, lessee, sublessee, or occupant, shall erect, construct, enlarge, alter, repair, move, improve, remove, demolish, equip, use, occupy, or maintain any building or premises, or cause or permit the same to be done, contrary to or in violation of any of the provisions of §§ 159.01 through 159.11 or any order issued by the Building Commissioner. Any person violating those sections of this chapter shall be liable for a penalty of an amount not to excel $2,500 per day as provided by law.

(B) The penalty for violation of §§ 159.12 through 159.18 shall not be less than $25 no more than $2,500. Each and every day the violation continues shall be a separate violation.
(Ord. 8-1975, passed 4-21-1975; Am. Ord. 1-1991, passed 1-1-1991; Am. Ord. 5-1990, passed 9-16-1991; Am Ord. 6-1990, passed 9-16-1991; Am. Ord. 20-2006, passed 12-4-2006)

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TABLE I: ACQUISITION AND DISPOSAL OF REAL PROPERTY

Ord. No.	*Date Passed*	*Description*
1-1963	4-1-1963	Acceptance of l6.83 acres from the Sohio Pipe Line Company.
3-1975	3-3-1975	Authorizes sale of parts of Section 22, Township 17 North, Range 12 East.

TABLE II: ANNEXATIONS

Ord. No.	*Date Passed*	*Description*
5-1969	8-l8-1969	A part of Section 23, Township 17 North, Range 12 East.
6-1969	11-3-1969	A part of Section 23, Township 17 North, Range 12 East.
4-1973	10-1-1973	A part of Section 14, Township 17 North, Range 12 East.
7-1974	10-21-1974	Parts of Section 22, Township 17 North, Range 12 East.
1-1980	1-7-1980	Parts of Sections 14, 15, 22, 23, Township 17 North, Range 12 East, and Lots 1 through 11 in the Allen Addition.

TABLE III: CONTRACTS AND FRANCHISES

Ord. No.	*Date Passed*	*Description*
2-1966	7-5-1966	Hagerstown Natural Gas Company - to maintain and operate a gas works.
2-1968	6-3-1968	Public Service Company of Indiana, Inc. - an agreement for supply of electric service to municipal electric distributing systems.
10-1981	7-20-1981	Clearview Cable TV - to provide a community antenna television system for the town.
4-1987	8-17-1987	An enabling ordinance to facilitate enforcement of a contract between the town and Nettle Creek School Corporation to regulate vehicular and pedestrian traffic.
7-2004	10-4-2004	Ordinance confirming renewal and extension of a cable franchise agreement to construct and operate a cable system.

TABLE IV: VACATIONS

Ord. No.	*Date Passed*	*Description*
1-1969	2-3-1969	Vacating alley extending from Clay St. to Madison St.
3-1972	5-15-1972	Vacating portion of alley running east and west from Petty St. to North Pearl St.
5-1974	4-1-1974	Vacating portion of alley running north and south in Block 58, extending south from south line of Northwood Subdivision.
6-1974	4-1-1974	Vacating a part of Pearl St. and Factory St.
6-1979	6-18-1979	Vacating portion of alley between Lot 6 of Block 2 and Lot 7B of Block 2.
7-1979	6-18-1979	Vacating the whole of Water St.
11-1979	11-5-1979	Vacating portion of alley between Lots 7, 8, 9, 10, and Lots 11, 12, 13, 14 of Block 24.
12-1979	11-5-1979	Vacating portion of Northmarket St. adjoining Lots 11, 12, 13, 14 of Block 24.

TABLE V: REGION NINE DEVELOPMENT COMMISSION

Ord. No.	*Date Passed*	*Description*
3-1974	6-17-1974	Approving agreement for participation in the cooperative operation of Region Nine Development Commission.

TABLE VI: FLOOD CONTROL PROJECT

Ord. No.	*Date Passed*	*Description*
4-1989	7-17-1989	Adopting local Flood Control Project to prevent flooding and to protect the public health and welfare and the town sewage works.

TABLE VII: BONDS

Ord. No.	*Date Passed*	*Description*
3-1994	8-22-1994	Authorizing the issuance of sewage works revenue bonds for the purpose of providing funds to pay the cost of certain additions, extensions, and improvements to the municipal sewage works of the town.

PARALLEL REFERENCES

References to Indiana Code
References to 1963 Code
References to Resolutions
References to Ordinances

REFERENCES TO INDIANA CODE

I.C.	*Code Section*
1-1-1-5	10.04
1-1-1-7	10.12
1-1-1-8	10.06
1-1-4-5	10.05
1-1-5-1	10.11
1-1-6-1	10.08
3-2-9-10	30.05
3-10-6	31.11
3-10-6-2.6	31.11
3-10-7	31.11
3-10-7-34	30.02
3-13-1-5	30.05
3-13-6-1–3-13-6-3	30.05
3-13-9-1	30.05
3-13-9-4	30.06
3-13-11-5	30.05
3-13-11-12	30.05
3-13-11-16	30.05
3-13-11-18	30.05
4-21.5-3-7	153.21
5-1	93.30
5-1-14-14	41.10; 41.12
5-2-1-1 *et seq.*	33.06
5-2-1-1–5-2-1-15	33.06
5-2-8	30.07
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5-4-1	34.55
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5-4-1-9	30.04
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5-10.1-1-1–5-10.1-6-4	35.11
5-10.3-2-1 *et seq.*	35.12
5-14-1.5	34.54
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I.C.	*Code Section*
5-22	35.17; 39.11
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6-1.1-12.1-1 *et seq.*	115.01; 115.03; 150.25
6-1.1-12.1-4.5	115.02
6-1.1-12.1-5.9	115.02
6-1.1-20	93.30
6-1.1-20-3.1(a)	93.30
6-1.1-20-3.5(a)	93.30
6-3.5-7-13.1	41.10
6-8-5-1	93.30
7.1-3-19-1–7.1-3-19-16	113.01
8-22-2-l *et seq.*	36.35; 36.36
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9-13-2-105	70.02
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9-21-1-3.3	76.99
9-21-3-1 *et seq.*	70.15
9-21-4-11	72.06
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9-21-5-6	71.01
9-21-8-32	71.29
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9-21-16-1 *et seq.*	70.10
9-21-17-1	73.01
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9-22-1-13(b)	98.04
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9-22-1-30	98.02; 98.03; 98.05
9-29-4 *et seq.*	70.11

I.C.	*Code Section*
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9-29-11-1	30.07
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22-9-1-4 *et seq.*	97.02
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22-9.5-1 *et seq.*	97.01
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22-9.5-2-9	97.02
22-9.5-2-10 [repealed]	97.02
22-9.5-2-10(b) [repealed]	97.02
22-9.5-2-10(c) [repealed]	97.02
22-9.5-2-11	97.02
22-9.5-2-13	97.02
22-9.5-3 *et seq.*	97.09
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22-9.5-4-8	97.10
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22-12-1-5	153.03
22-12-1-7	153.03
22-12-1-14	153.03
22-12-1-17	153.03
22-12-1-18	153.03
22-12-1-22(b)(12)	153.23
22-12-1-24	153.03
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31-37-1 *et seq.*	131.99
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33-35-1-1	37.01
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33-35-3-1	31.06
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33-36-2-1–33-36-2-3	38.01
33-36-3-1–33-36-3-7	38.01
35-46-1-8	131.02
36-1-2-1–36-1-2-24	10.05
36-1-3-8	70.99
36-1-3-8(a)(10)	10.99; 51.999; 52.99; 53.99; 90.99; 93.99; 95.99; 96.99; 110.99; 111.99; 112.99
36-1-5-4	153.22; 153.23
36-1-6-4	153.19
36-1-6-9	153.21
36-1-8-5	40.03
36-1-8-5.1	40.03
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36-4-6-14	10.17
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36-5-2-1 *et seq.*	30.01
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36-5-2-7	31.01; 32.04

I.C.	*Code Section*
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36-5-2-10	32.01
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36-5-7-6	33.02; 33.04; 33.05
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36-7-4-101 *et seq.*	34.25; 150.17
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36-7-9-4	159.07
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36-7-9-11	159.02; 159.11
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36-9-2-7	94.01
36-9-2-14	50.01; 51.010; 52.08
36-9-2-15	50.01; 51.010; 52.08
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REFERENCES TO 1963 CODE

1963 Code	*2007 Code*
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REFERENCES TO RESOLUTIONS

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1-2011	6-20-2011	31.12
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REFERENCES TO ORDINANCES

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6-1969	11-3-1969	TSO II
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