

# **TOWN OF GENEVA, INDIANA**

## **CODE OF ORDINANCES**

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**GENEVA, INDIANA  
CODE OF ORDINANCES  
TABLE OF CONTENTS**

Chapter

**TITLE I: GENERAL PROVISIONS**

- 10. General Provisions
- 11. Town Boundaries

**TITLE III: ADMINISTRATION**

- 30. Board of Trustees
- 31. Town Officials and Employees
- 32. Departments, Boards and Commissions
- 33. Elections
- 34. Police Reserves; Volunteer Fire Department
- 35. Finance and Taxation
- 36. Ordinance Violations Bureau
- 37. Town Policies

**TITLE V: PUBLIC WORKS**

- 50. Utilities Generally
- 51. Garbage and Rubbish
- 52. Water Service
- 53. Sewer Service
- 54. Stormwater System

**TITLE VII: TRAFFIC CODE**

- 70. General Provisions
- 71. Traffic Regulations
- 72. Parking Regulations
- 73. Traffic Schedules
- 74. Parking Schedules

**Geneva - Table of Contents**

**TITLE IX: GENERAL REGULATIONS**

- 90. Fair Housing
- 91. Fire Prevention
- 92. Animals
- 93. Nuisances
- 94. Reserved
- 95. Trees
- 96. Streets and Sidewalks

**TITLE XI: BUSINESS REGULATIONS**

- 110. General Business Regulations
- 111. Garage Sales

**TITLE XIII: GENERAL OFFENSES**

- 130. General Offenses

**TITLE XV: LAND USAGE**

- 150. Building Code
- 151. Flood Control
- 152. Subdivision Control
- 153. Zoning Code

**TABLE OF SPECIAL ORDINANCES**

Table

- I. Franchises
- II. Agreements
- III. Annexations
- IV. Vacations
- V. Zoning Map Amendments

**PARALLEL REFERENCES**

References to Indiana Code  
References to 1997 Code  
References to Ordinances

**INDEX**



**TITLE I: GENERAL PROVISIONS**

Chapter

**10. GENERAL PROVISIONS**

**11. TOWN BOUNDARIES**



## CHAPTER 10: GENERAL PROVISIONS

### Section

- 10.01 Title of code
- 10.02 Interpretation
- 10.03 Application to future ordinances
- 10.04 Construction of code
- 10.05 Rules of interpretation; definitions
- 10.06 Severability
- 10.07 Reference to other sections
- 10.08 Reference to offices; name designations
- 10.09 Errors and omissions
- 10.10 Reasonable time
- 10.11 Repeal or modification of code section
- 10.12 Limitation periods
- 10.13 Ordinances unaffected
- 10.14 Ordinances which amend or supplement code
- 10.15 Section histories; statutory references
- 10.16 Preservation of penalties, offenses, rights and liabilities
  
- 10.99 General penalty

### § 10.01 TITLE OF CODE.

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

**§ 10.02 INTERPRETATION.**

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

**§ 10.03 APPLICATION TO FUTURE ORDINANCES.**

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

**§ 10.04 CONSTRUCTION OF CODE.**

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

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

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

(D) Any irreconcilable conflict between sections shall be resolved by reference to the dates that the sections were originally enacted. The section most recently enacted supersedes any conflicting section or 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 3 or more persons shall be construed as imputing authority to a majority of the persons, unless otherwise declared in the section giving the authority.

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

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

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

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

**COUNCIL.** The Town Council, Common Council or Board of Trustees.

**COUNTY.** Adams County, Indiana.

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

**MONTH.** One calendar month.

**Geneva - General Provisions**

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

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

**TOWN.** The Town of Geneva, Indiana.

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

**YEAR.** One calendar year, unless otherwise expressly provided.  
(I.C. 1-1-4-5)

**§ 10.06 SEVERABILITY.**

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

(B) 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.

(I.C. 1-1-1-8)

**§ 10.07 REFERENCE TO OTHER SECTIONS.**

Whenever in 1 section reference is made to another section hereof, the reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

**§ 10.08 REFERENCE TO OFFICES; NAME DESIGNATIONS.**

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

(B) *Name designations.* Whenever any ordinance or resolution of the Council refers to any board, bureau, commission, division, department, officer, agency, authority, or instrumentality of any government, and that name designation is incorrectly stated; 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)

(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 1997 and subsequently amended, the previous code section number shall be indicated in the history by “(1997 Code, § \_\_).”

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

All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws. This code does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this code. The liabilities, proceedings, and rights are continued; punishments, penalties, or forfeitures shall be enforced and imposed as if this code had not been enacted. In particular, any agreement granting permission to utilize highway rights-of-way, contracts entered into or franchises granted, the acceptance, establishment, or vacation of any highway, and the election of corporate officers shall remain valid in all respects, as if this code had not been enacted.

**§ 10.99 GENERAL PENALTY.**

Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be subject to a fine not exceeding \$2,500. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

***Statutory reference:***

*Power to prescribe fines up to \$2,500 granted, see I.C. 36-1-3-8(a)(10)*

## CHAPTER 11: TOWN BOUNDARIES

### Section

#### 11.01 Town boundaries

### § 11.01 TOWN BOUNDARIES.

The following is declared and defined as the corporate boundaries of the town:

Commencing at a point on the north line of the southwest quarter of Section 29, Township 25 North, Range 14 East, Adams County, Indiana, said point being located 20.00 feet easterly of the northwest corner of said quarter/ thence easterly on and upon said north line to the southeast corner of a cemetery as recorded in Deed Record 78 on page 132 of the records of the Adams County Recorder; thence northerly on and upon the east line of the cemetery a distance of 379.0 feet; thence easterly parallel to the south line of the northwest quarter of Section 29 to the west line of the southeast quarter of said quarter; thence northerly on and upon the west line to the northwest corner of said southeast quarter; thence easterly on and upon the north line of the southeast quarter to the northeast corner thereof; thence easterly on and upon the north line of the southwest quarter of the northeast quarter of Section 29 to the east right-of-way line of County Road 150W; thence northerly on and upon the right-of-way line and parallel to the west line of the northeast quarter to the north line of Section 29; thence continuing northerly on and upon the right-of-way line to its intersection with the west line of the southeast quarter of Section 20, Township and Range aforesaid; thence northerly on and upon the west line to the south right-of-way line of County Road 950S; thence easterly on and upon the south right-of-way line and parallel to the north line of the southeast quarter to the east line of the southeast quarter; thence easterly parallel to the north line of the southwest quarter of Section 21, Township and Range aforesaid, to the east right-of-way line of the Penn-Central Railroad; thence southwesterly on and upon the east right-of-way line to the southwest corner of the land described in Deed Record 124, page 123 of the records of the Adams County Recorder; thence easterly on and upon the south line of said Deed Record to the southeast corner thereof; thence northerly on and upon the east line of said Deed Record to the south line of P.N. Collin's Addition of the Town of Ceylon; thence easterly on and upon the south line to the east line of a 50.00 foot street as platted in Plat Book 1, page 48; thence southerly on and upon said east line a distance of 1.00 foot to the southwest corner of the land described in Deed Record 113, page 224; thence easterly parallel to the north line of the southwest quarter to the southeast corner a distance of 300.00 feet; thence northerly on and upon the extension of east line of Deed Record 151, page 379 to

the north line; thence easterly on and upon the north line to the centerline of Fourth Street (Mud Pike) as recorded in Plat Book 1, page 44; thence northerly at right angles to the north line a distance of 100.00 feet; thence easterly parallel to the north lines of the southwest and southeast quarters of Section 21 to the west bank of the Wabash River; thence southwesterly on and upon the west bank of the river to its intersection with the south line of Section 21, thence westerly on and upon the south line to the southwest corner of Section 21, thence southerly on and upon the east line of Section 29, Township and Range aforesaid to the southeast corner of C. Haviland's Addition to the town, as recorded in Plat Book 1, page 127, thence westerly on and upon the south line of the addition to a point, the point being located 34.00 feet east and 16.5 feet south of the southeast corner of Lot 193 in the addition to the land described in Deed Record 155, page 339; thence southerly along the east line thereof to the southeast corner of the tract described in the deed; thence westerly along the south line of the real estate described in the deed to the east right-of-way line of the Penn-Central Railroad; thence southwesterly on and upon the east right-of-way line to the north right-of-way line of County Road 1100S; thence westerly on and upon the north right-of-way line to a point located 20.00 feet north of the northwest corner of the east half of the northeast quarter of Section 32, Township and Range aforesaid; thence southerly a distance of 20.00 feet to the corner; thence southerly on and upon the west line of the east half to the center of the Lob Legal Ditch; thence westerly on and upon the center of the Ditch to the east right-of-way line of U.S. Highway 27; thence northwesterly on and upon the east right-of-way line to the south line of the Town of Alexander as recorded in Plat Book 1, page 4; thence westerly on and upon the south line to the southwest corner thereof; thence northerly on and upon the west line of the town to the south line of Section 29, Township and Range aforesaid; thence westerly on and upon the south line to the southwest corner of the southeast quarter of Section 29; thence northerly on and upon the west line of said quarter to a point, said point being located 379.00 feet southerly of the northwest corner of said quarter; thence westerly parallel to the north line of the southwest quarter of the section to the east line of Hardy Addition to the town, said point also being located on the west line of the east half of the quarter; thence southerly on and upon the west line to a point being located 990.0 feet southerly of the north line of the quarter; thence westerly parallel to the north line to the east right-of-way of County Road 200W; thence northerly on and upon the east right-of-way line to the place of commencement.

(1997 Code, § 3.1) (Ord. 1975-2, passed - -)

***Cross reference:***

*Annexations, see T.S.O. III*

**TITLE III: ADMINISTRATION**

Chapter

**30. BOARD OF TRUSTEES**

**31. TOWN OFFICIALS AND EMPLOYEES**

**32. DEPARTMENTS, BOARDS AND COMMISSIONS**

**33. ELECTIONS**

**34. POLICE RESERVES; VOLUNTEER FIRE  
DEPARTMENT**

**35. FINANCE AND TAXATION**

**36. ORDINANCE VIOLATIONS BUREAU**

**37. TOWN POLICIES**



## **CHAPTER 30: BOARD OF TRUSTEES**

### Section

- 30.01 Designation of legislative body and town executive
- 30.02 Regular meetings
- 30.03 Special meetings
- 30.04 President of Board
- 30.05 Clerk-Treasurer
- 30.06 Procedure for passage of ordinances and resolutions
- 30.07 Election of Trustees

### **§ 30.01 DESIGNATION OF LEGISLATIVE BODY AND TOWN EXECUTIVE.**

The Board of Trustees of the town is the town legislative body. The President of the Board of Trustees selected as hereinafter provided is the town executive.  
(1997 Code, § 4.1) (Ord. 1983-3, passed - -)

### **§ 30.02 REGULAR MEETINGS.**

The Board of Trustees of the town shall have their regular meeting on the second Tuesday of each month at the Town Hall.  
(1997 Code, § 4.2) (Ord. 1983-3, passed - -)

### **§ 30.03 SPECIAL MEETINGS.**

The President of the Board of Trustees of the town is authorized to call a special meeting of the Board at any time there is business which in his opinion should be considered by the Board of Trustees before the next regular meeting. The President shall give other members of the Board at least 48 hours notice of a special meeting, provided however, the members may waive notice, which waiver shall be in writing and incorporated in the minutes of the meeting.  
(1997 Code, § 4.3) (Ord. 1983-3, passed - -)

### **§ 30.04 PRESIDENT OF BOARD.**

The Board of Trustees shall select 1 of its members to be the President for a definite term, which may not exceed his term of office as a member of the Board of Trustees.  
(1997 Code, § 4.4) (Ord. 1983-3, passed - -)

**§ 30.05 CLERK-TREASURER.**

The Town Clerk-Treasurer is the Clerk of the Board of Trustees.  
(1997 Code, § 4.5) (Ord. 1983-3, passed - -)

**§ 30.06 PROCEDURE FOR PASSAGE OF ORDINANCES AND RESOLUTIONS.**

(A) *Quorum.* A majority of all the elected members of the Board of Trustees constitutes a quorum.

(B) *Reading of ordinances and resolutions.* Ordinances and resolutions of the Town Board of Trustees are read by the reading of their caption (title) unless 1 or more Trustee members request that the ordinance or resolution be read in its entirety. An ordinance or resolution so requested to be read in its entirety shall be read in its entirety prior to a vote on the same.

(C) *Passage of ordinances and resolutions.*

(1) At introduction, a complete explanation and or presentation shall be given to the Board of Trustees for each ordinance or resolution being introduced.

(2) Ordinances of the Board of Trustees may be passed upon 2 readings and a third reading shall not be required.

(3) Resolutions of the Board of Trustees may be passed upon 1 reading and a second and third reading shall not be required.

(4) In accordance with I.C. 36-4-6-13, as amended, ordinances of the Board of Trustees may be passed on the same day or at the same meeting at which they are introduced upon a 2/3 vote of all of the Town Board's elected members after unanimous consent of all of the members present to consider such an ordinance.

(1997 Code, § 4.6) (Ord. 1983-3, passed - -; Am. Ord. 2014-7, passed 7-8-2014)

**§ 30.07 ELECTION OF TRUSTEES.**

Members of the Board of Trustees shall be elected at large by the voters of the whole town from the districts established in § 33.01.

(1997 Code, § 4.7) (Ord. 1983-3, passed - -; Am. Ord. 2017-07, passed 10-10-2017; Am. Ord. 2018-8, passed 11-13-2018; Am. Ord. 2022-15, passed 12-13-2022)

## CHAPTER 31: OFFICIALS AND EMPLOYEES

### Section

- 31.01 Town Manager
- 31.02 Superintendent of Streets & Maintenance; Certified Water/Wastewater Operator
- 31.03 Personnel policies adopted by reference
- 31.04 Wages and salaries of town personnel

### ***Cross-reference:***

- Drug-free workplace policy, see §§ 37.20 - 37.26*
- Neoptism policy, see § 37.01*

### **§ 31.01 TOWN MANAGER.**

#### *(A) Employment; compensation; qualifications.*

(1) The Council may employ a town executive to be known as the Town Manager. The Town Council shall fix his compensation, benefits and terms of employment, provided only that the duration of his employment shall be at the pleasure of the Council or for a definite tenure not to exceed the term in office of the appointing Council members.

(2) The Town Manager shall be the administrative head of the town government. He shall be employed solely with regard to merit and on the basis of his executive and administrative qualification. No member of the Council shall be employed as a Town Manager.

(3) The Town Manager need not be a resident of Geneva at the time of his appointment, but he may reside outside the town while in office only with the approval of the Town Council.

#### *(B) Powers and duties.*

(1) The Town Manager shall be responsible to the Council for the proper administration of all of the affairs of the town, which the Council has the authority to control, including, but not limited to, those duties and functions set forth in the job description.

(2) Unless a written order or ordinance of the Council directs to the contrary, the Town Manager shall:

(a) Attend the meetings of the Council and recommend such actions as he deems necessary or desirable;

**Geneva - Administration**

(b) Hire town employees to fill positions authorized by the Council in accordance with pay schedule standards and qualifications as are fixed by the Council in ordinances or applicable law. He shall suspend, discharge, remove or transfer any such town employee;

(c) Administer the execution and enforcement of all resolutions, orders and ordinances of the Council and see that all laws of the state required to be enforced through the Council or other town officials subject to the control of the Council are faithfully executed;

(d) Prepare and submit to the Council budget estimates as required from time to time;

(e) Coordinate with other departments of the town, including the Marshal's Office and Fire Department, the budget estimates, as required;

(f) Subject to applicable state laws concerning appropriation, public notices and competitive bidding, he shall execute, on behalf of the town, the contracts for goods, materials, services, construction or improvements authorized by the Council;

(g) Formulate and recommend overall policies regarding area under his administration;

(h) Appoint and remove heads of department with the advice and consent of the Council;

(i) Perform such other legally permissible and appropriate duties and functions as required by the town, state and federal law or as shall be lawfully assigned to him by the Council;

(j) Be accessible to contact by carrying and usage of a radio or cell phone continually.

(C) *Scope of services.* The Town Manager shall devote his full time to his employment. He shall not undertake any activity which would be in conflict with his employment or inimical to the best interests of the town. During the term of his employment, he shall not engage in an other business activity, whether or not such business activity is pursued for gain, profit or other pecuniary advantage, without the express written approval of the Council.

(D) *Termination.* The employment of the Town Manager may be terminated for cause, or without cause if so provided, or in such other manner or for such other reason as is provided for in the agreement of employment. When terminated, the Town Manager will be paid only for hours worked up to time of termination. There will be no termination/severance pay.

(E) *Bond.* The Town Manager shall execute a bond in favor of the town for the faithful and lawful performance of his duties, the cost of the bond shall be paid by the town.

(F) *Absence or disability.* During the temporary absence or disability of the Town Manager, the Council may designate some qualified person to perform the duties of the office. At any time during the absence or disability, the Council may revoke the designation and appoint some other qualified person to perform the duties.

(G) *Benefits.* The Town Manager is entitled to the benefits of full time employees of the town, per ordinance.

(H) *Acceptance of process.* In all actions brought against the town, in addition to other methods of service of process, service of summons may be made on the Town Manager, and he is authorized to receive the service on behalf of the town.

(I) *Limitation by state law.*

(1) Nothing herein is intended to provide greater authority or power to a Town Manager than that which is now authorized by state law.

(2) Nothing herein shall affect any right given by law to the Clerk-Treasurer to select his or her own deputies, assistants and other employees.

(3) Nothing herein shall amend any applicable laws requiring the Council to authorize the issuance of bonds or warrants of the town and requiring execution thereof by the officers of the town. (Ord. 2004-5, passed 9-7-2004)

**§ 31.02 SUPERINTENDENT OF STREETS & MAINTENANCE; CERTIFIED WATER/WASTEWATER OPERATOR.**

(A) These new positions replace current positions of Superintendent of Street, Water and Sewage Departments and the Assistant Superintendent of Street, Water and Sewage Departments, effective January 1, 2003.

(B) The combined wages to be paid for these new positions in 2003 shall not exceed the wages approved by the Town Council of the town, established by Ordinance 2002-3 and adopted by Council on August 22, 2002.

(C) The salaries of laborers of the Street, Water and Sewage Departments will remain as specified in Ordinance 2002-3.

(D) The ordinance set forth in this section shall be in full force and effect from and after its passage and shall be effective January 1, 2003. (Ord. 2003-1, passed 1-14-2003)

**§ 31.03 PERSONNEL POLICIES ADOPTED BY REFERENCE.**

An ordinance establishing the policy of the town with reference to insurance, vacation, sick pay, leave of absence for bereavement, and personal days as to all permanent full-time employees is incorporated herein and adopted by reference.

(Ord. 2004-4, passed 9-7-2004)

**§ 31.04 WAGES AND SALARIES OF TOWN PERSONNEL.**

(A) The salary for the members of the Town Council for each calendar year shall be as determined from time to time.

(B) The salary of the Clerk-Treasurer for each calendar year, including for services rendered the Street Department and Water and Sewage Utilities of the town, shall be as determined from time to time.

(C) The salary of the Town Manager for each calendar year, including for supervisory responsibilities over Wastewater, Street Department, and as Certified Water Operator, shall be as determined from time to time.

(D) The Town Marshal's salary shall be as determined from time to time.

(E) The Deputy Town Marshal's salary shall be as determined from time to time.

(F) Reserve police officers receive a monthly clothing allowance as determined from time to time.

(G) The hourly wage of the Superintendent of Streets & Maintenance shall be as determined from time to time.

(H) The hourly wage of the Certified Water/Wastewater Operator for each calendar year shall be as determined from time to time.

(I) The hourly wage of the Utility Clerk for each calendar year shall be as determined from time to time.

(J) The hourly wage of the Deputy Clerk-Treasurer shall be as determined from time to time.

(K) The hourly wage of full time laborers of the Street Department or Water and Sewage utilities shall be as determined from time to time. The hourly wage of part time laborers of the Street Department of Water and Sewage Utilities shall be as determined from time to time.

(Ord. 2004-2, passed 8-3-2004; Ord. 2004-3, passed 8-3-2004)

## CHAPTER 32: DEPARTMENTS, BOARDS AND COMMISSIONS

### Section

#### *Plan Commission*

- 32.01 Advisory Plan Commission created
- 32.02 Members
- 32.03 Qualification of members

#### *Department of Development*

- 32.20 Department of Development created

#### *Department of Parks and Recreation*

- 32.35 Department created
- 32.36 Members
- 32.37 Appointments
- 32.38 Salary
- 32.39 Duties and powers

#### *Department of Redevelopment; Redevelopment Commission*

- 32.50 Department created
- 32.51 Commission created; Commissioners
- 32.52 Qualifications of Commissioners
- 32.53 Finances

### ***PLAN COMMISSION***

#### **§ 32.01 ADVISORY PLAN COMMISSION CREATED.**

Under and pursuant to I.C. 36-7-4-202 there is created and established in the town an Advisory Plan Commission.  
(1997 Code, § 7.1) (Ord.1983-2, passed - -)

**§ 32.02 MEMBERS.**

The Advisory Plan Commission of the town shall consist of 7 members, 3 of whom shall be persons in the government of the town to be appointed by the Board of Trustees. Four citizen members, no more than 2 of whom shall be of the same political party, shall be appointed by the President of the Board of Trustees of the town. The initial term of 2 members shall be for 3 years and the initial term of 2 members shall be for 4 years, the terms to expire on the first Monday of January following the last year of each term.

(1997 Code, § 7.2) (Ord. 1983-2, passed - -)

**§ 32.03 QUALIFICATIONS OF MEMBERS.**

Each citizen member of the Geneva Advisory Plan Commission shall be appointed because of his knowledge and experience in community affairs, his awareness of social, economic, agricultural and industrial problems of the area and his interest in the development and integration of the area. No citizen member shall hold other elective or appointive office in the town, county or state government and must be a resident of the town.

(1997 Code, § 7.3) (Ord. 1983-2, passed - -)

***DEPARTMENT OF DEVELOPMENT*****§ 32.20 DEPARTMENT OF DEVELOPMENT CREATED.**

There is created a Department of Development for the town which shall be under the control of a Commission which is created and shall be known as the Geneva Economic Development Commission, which Department and Commission shall have the powers granted by the laws of the state and specifically those powers set out and described by I.C. 36-7-12-6.

(Ord. 1875-3, passed - -)

***DEPARTMENT OF PARKS AND RECREATION*****§ 32.35 DEPARTMENT CREATED.**

The Department of Parks and Recreation is created, and the management and supervision thereof shall be assumed by the Parks and Recreation Board of the Town of Geneva. The Parks and Recreation Board shall be composed of a five member Board appointed by the Common Council, for five year staggered

terms, and said Board may, in its discretion, appoint a superintendent and/or other personnel to provide services to the Department, or may, upon the direction of the Common Council, utilize existing town employees for said Department.

(1997 Code, § 5.1) (Ord. 1982-3, passed - -; Am. Ord. 2019-10, passed 10-8-2019; Am. Ord. 2022-5, passed 8-9-2022)

**§ 32.36 MEMBERS.**

The Parks and Recreation Board shall consist of 4 members to be appointed by the Town Board of Trustees on the basis of their interest in and knowledge of parks and recreation and no more than 2 members may be affiliated with the same political party. An additional ex-officio member shall be appointed by the Board of School Trustees of South Adams Community Schools. The ex-officio member shall be appointed on the basis of his interest in and knowledge of parks and recreation and shall have all the rights of regular members, including the right to vote.

(1997 Code, § 5.2) (Ord. 1982-3, passed - -)

**§ 32.37 APPOINTMENTS.**

(A) Initial appointment to the Parks and Recreation Board shall be as follows:

- (1) One member for a term of 1 year;
- (2) One member for a term of 2 years;
- (3) One member for a term of 3 years;
- (4) One member for a term of 4 years;
- (5) The term of the ex-officio member shall be for a term of 4 years.

(B) As a term expires, each new appointment will be for a 4 year term. All terms will expire on the first Monday in January, but a member continues in office until his successor is appointed.

(C) In making initial appointments the appointing authority, in order to provide continuity of experience in programs, shall give special consideration to the appointment of members from previous Parks and Recreation Boards.

(D) If a vacancy on the Board occurs, the appointing authority shall appoint a person to serve for the remainder of the unexpired term.

(1997 Code, § 5.3) (Ord. 1982-3, passed - -)

### **§ 32.38 SALARY.**

The Board of Trustees shall fix the salary of members of the Parks and Recreation Board, said salary to be determined from time to time.

(1997 Code, § 5.4) (Ord. 1982-3, passed - -)

### **§ 32.39 DUTIES AND POWERS.**

The Parks and Recreation Board shall have such duties and powers as are set out by state law.

(1997 Code, § 5.5) (Ord. 1982-3, passed - -)

## ***DEPARTMENT OF REDEVELOPMENT; REDEVELOPMENT COMMISSION***

### **§ 32.50 DEPARTMENT CREATED.**

(A) There is hereby created the Department of Redevelopment of the town (the “Department of Redevelopment”), which shall be entitled to exercise all the rights, powers, privileges and immunities accorded to such department by the Act (I.C. 36-7-14).

(B) Such Department of Redevelopment shall be under the control of a board of 5 voting members and 1 non-voting member to be known as the Town Redevelopment Commission.

(Ord. 2014-9, passed 8-5-2014)

### **§ 32.51 COMMISSION CREATED; COMMISSIONERS.**

(A) There is hereby created a board to be known as the Town Redevelopment Commission. Three of said Commissioners shall be appointed by the President of the Town Council, and 2 shall be appointed by the Town Council. In addition, the Town Council President shall appoint 1 non-voting member from the membership of a school board of a school corporation located wholly or partly within the town. Each Redevelopment Commissioner shall serve for 1 year from the first day of January after his appointment and until his successor is appointed and has qualified, except that the original Commissioners shall serve from the date of their appointment until the first day of January in the second year after their appointment.

If a vacancy occurs, a successor shall be appointed in the same manner as the original Commissioner, and the successor shall serve for the remainder of the vacated term.

(B) Each Redevelopment Commissioner, before beginning his duties, shall take and subscribe an oath of office in the form prescribed by law, to be endorsed on the certificate of his appointment, which shall be promptly filed with the Clerk-Treasurer of the town.

(C) Each Redevelopment Commissioner, before beginning his duties, shall execute a bond payable to the state, with surety to be approved by the Town Council. The bond must be in a penal sum of \$15,000 and must be conditioned on the faithful performance of the duties of his office and the accounting for all monies and property that may come into his hands or under his control. The cost of the bond shall be paid by the Redevelopment District.  
(Ord. 2014-9, passed 8-5-2014)

**§ 32.52 QUALIFICATIONS OF COMMISSIONERS.**

Such Commissioners shall have the qualifications prescribed by the laws of the state as from time to time amended and shall qualify as therein provided; and shall exercise and enjoy the rights and powers and assume the duties and obligations conferred and imposed by said Act, including but not limited to the following qualifications:

(A) A Redevelopment Commissioner must be at least 18 years of age and must be a resident of the town. If a Commissioner ceases to be qualified under this section, he forfeits his office.

(B) No Redevelopment Commissioner of the town shall receive a salary; but such Redevelopment Commissioners are entitled to reimbursement for expenses necessarily incurred in the performance of their duties.

(C) A Redevelopment Commissioner may not have a pecuniary interest in any contract, employment, purchase or sale made under the provisions of this subchapter and the Act. However, any property required for redevelopment purposes in which a Commissioner has a pecuniary interest may be acquired, but only by gift or condemnation. A transaction made in violation of this section is void.  
(Ord. 2014-9, passed 8-5-2014)

**§ 32.53 FINANCES.**

The Clerk-Treasurer of the town charged by law with the performance of duties in respect to the funds and accounts of the town, shall perform the same duties with respect to the funds and accounts of the Department of Redevelopment, except as otherwise provided for in the Act.  
(Ord. 2014-9, passed 8-5-2014)



## CHAPTER 33: ELECTIONS

### Section

#### 33.01 Trustee Districts

### § 33.01 TRUSTEE DISTRICTS.

(A) Pursuant to I.C. 36-4-6-5(h), the legislative body of the Town of Geneva shall be composed of three members elected from the districts established under I.C. 36-4-6-5(b) and two at-large members.

(B) The election process shall continue to permit each voter of the town to vote for two candidates-at-large and one candidate from each of its three council districts. The at-large candidates and the candidate from each district receiving the most votes from the whole town shall be elected to the legislative body.

(C) Under and pursuant to I.C. 36-4-6-5(b), the Town of Geneva, Indiana is hereby divided into three legislative body election districts, each being composed of contiguous territory, being reasonably compact, which do not cross precinct boundary lines except as permitted in I.C. 36-4-6-5(c), 36-4-6-5(d) and 36-4-6-5(m) and which contain, as nearly as is possible, equal population, as follows:

(1) *First district.* The first district shall consist of all that territory lying north of Line Street and west of U.S. Highway 27 (Main Street), all in the Town of Geneva, Indiana; except therefrom the territory described specifically as follows: commencing at the intersection of Line Street and U.S. Highway 27 (Main Street), then extending north on and along the middle of U.S. Highway 27 (Main Street) to Butcher Street; thence west on and along the middle of Butcher Street to Winchester Street; thence south on and along the middle of Winchester Street to Line Street; thence east on and along the middle of Line Street to the commencement point, all in the Town of Geneva, Indiana.

(2) *Second district.* The second district shall consist of all that territory lying north of Line Street and east of U.S. Highway 27 (Main Street), all in the Town of Geneva, Indiana.

(3) *Third district.* The third district shall consist of all that territory lying south of Line Street, all in the Town of Geneva, Indiana. The third district shall also consist of all that territory lying north of Line Street and west of U.S. Highway 27 (Main Street) and within the territory described specifically as follows: commencing at the intersection of Line Street and U.S. Highway 27 (Main Street), then extending north on and along the middle of U. S. Highway 27 (Main Street) to Butcher Street; thence west on and along the middle of Butcher Street to Winchester Street; thence south on and along the middle of Winchester Street to Line Street; thence east on and along the middle of Line Street to the commencement point, all in the Town of Geneva, Indiana.

(1997 Code, §§ 4.8, 4.9, 4.10) (Ord. 1982-4, passed - -; Am. Ord. 2002-4, passed 10-1-2002; Am. Ord. 2017-07, passed 10-10-2017; Am. Ord. 2018-8, passed 11-13-2018; Am. Ord. 2022-15, passed 12-13-2022)

## CHAPTER 34: POLICE RESERVES; VOLUNTEER FIRE DEPARTMENT

### Section

#### *Police Reserves*

- 34.01 Police Reserve Department created
- 34.02 Number of Police Reserves
- 34.03 Name of Department
- 34.04 Benefits
- 34.05 Distinctions between Police Department and Police Reserves
- 34.06 Ratification of actions and proceedings taken by Police Reserves

#### *Volunteer Fire Department*

- 34.20 Charges assessed for services provided to property owners

### ***POLICE RESERVES***

#### **§ 34.01 POLICE RESERVE DEPARTMENT CREATED.**

(A) There is reestablished and recreated a Police Reserve Department of the town.  
(Ord. 1993-1, passed 10-12-1993)

#### **§ 34.02 NUMBER OF POLICE RESERVES.**

The number of Police Reserves shall be any number up to and including the number of 8 reserve officers of the Department.  
(Ord. 1993-1, passed 10-12-1993)

**§ 34.03 NAME OF DEPARTMENT.**

The name of the Department shall be Geneva Police Reserves, Geneva Police Department or any other similar name utilized by the town designating its Police Department and there shall be no distinction as to name between regularly appointed members and reserve members thereof.  
(Ord. 1993-1, passed 10-12-1993)

**§ 34.04 BENEFITS.**

The members of the Police Reserve Department shall be entitled to all benefits conferred by I.C. 36-8-3-20 and any and all similar statutes conferring any benefits upon police reserves.  
(Ord. 1993-1, passed 10-12-1993)

**§ 34.05 DISTINCTIONS BETWEEN POLICE DEPARTMENT AND POLICE RESERVES.**

Other than the name by which the Police Reserves may be known, all other distinctions between the regular Police Department and the Reserve Department shall be and the same are preserved as provided by law.  
(Ord. 1993-1, passed 10-12-1993)

**§ 34.06 RATIFICATION OF ACTIONS AND PROCEEDINGS TAKEN BY POLICE RESERVES.**

The Town Council in passing the ordinance set forth in this subchapter recognizes that the Geneva Police Reserves have been in existence for more than 25 years last past and ratifies, confirms and approves all the actions and proceedings taken by the members of the Geneva Police Reserves at any time heretofore exercised to the extent that it is permitted by law to do so and further ratifies, confirms and approves that all of the existing members of the Geneva Police Reserves were appointed to their respective posts as Geneva Police Reserves prior to June 30, 1993 and each of the members of the Geneva Police Reserves have been acting de facto in that capacity all of whom predate June 30, 1993.  
(Ord. 1993-1, passed 10-12-1993)

***VOLUNTEER FIRE DEPARTMENT*****§ 34.20 CHARGES ASSESSED FOR SERVICES PROVIDED TO PROPERTY OWNERS.**

(A) The Geneva Volunteer Fire Department is authorized and directed to assess and collect a service charge, in an amount not to exceed the Indiana State Fire Marshal's recommended schedule for services,

from the owner of property or responsible party that receives service from the Geneva Volunteer Fire Department, including a charge for extinguishing, containing or cleaning up hazardous materials.

(B) The Geneva Volunteer Fire Department or the Geneva Clerk-Treasurer shall give notice pursuant to I.C. 5-3-1 of the amount of the service charge for each service that the Department provides before the schedule of service charges is initiated and when there is any change in the amount of a service charge.

(C) The Geneva Volunteer Fire Department shall provide a written bill for payment of the service charge to the property owner or responsible party within 30 days after the service was provided and include (if the service was provided for an event that requires a fire incident report) a copy of the fire incident report in the form required by the State Fire Marshal.  
(Ord. 1998-3, passed 3- -1998)



## CHAPTER 35: FINANCE AND TAXATION

### Section

#### *Funds*

- 35.01 Capital Projects Gift Fund
- 35.02 Economic Development Income Tax Fund
- 35.03 Abandoned Vehicle Fund
- 35.04 Cumulative Capital Development Fund
- 35.05 Rainy Day Fund
- 35.06 LOIT Special Distribution Fund
- 35.07 Cumulative Firefighting Building and Equipment Fund
- 35.08 Local Road and Bridge Matching Grant Fund
- 35.09 CARES Act Fund
- 35.10 American Rescue Plan Act Fund
- 35.11 Opioid Fund – Unrestricted
- 35.12 Opioid Fund – Restricted

#### *Policies*

- 35.25 Internal control standards
- 35.26 Materiality threshold
- 35.27 Electronic funds transfers (EFT), automatic clearing house (ACH), and online banking

#### *Fees*

- 35.40 Document, video, and photo reproduction in the Town Marshal's office

#### *Purchasing*

- 35.50 Purchasing agencies and agents
- 35.51 Policy; rules regarding the purchase of supplies and services

***FUNDS*****§ 35.01 CAPITAL PROJECTS GIFT FUND.**

(A) There is established a Town Capital Projects Gift Fund.

(B) All gifts, contributions and bequests to the town which are specifically designated by a donor for the Fund shall be deposited and retained in the Town Capital Projects Gift Fund, a Fund kept separate and apart from all other funds of the town.

(C) The funds accumulated in the Town Capital Projects Gift Fund shall be used, unless otherwise restricted by the nature of the gift, for capital projects, including street construction purposes and water and sewage improvements in new residential subdivisions within the corporate limits of the town or in subdivisions of contiguous areas to the town which have received secondary approvals from the Town Planning Commission and for which annexation is anticipated by the town upon construction of the street and utility improvements.

(D) Persons making requests for funds in the Town Capital Projects Gift Fund shall be required to submit their requests on an approved claim form of the town, and all claims shall be submitted to the Town Board for consideration and approval.

(E) This Fund and the ordinance set forth in this section take effect upon passage and approval of the Town Board.

(Ord. 1990-10, passed 11-13-1990)

**§ 35.02 ECONOMIC DEVELOPMENT INCOME TAX FUND.**

(A) There is established the Town Economic Development Income Tax Fund.

(B) The Clerk-Treasurer is directed to deposit any revenues received from the Adams County economic development income tax into the account.

(C) Moneys deposited in the Fund shall be used only as provided in I.C. 6-3.5-7-13.1.

(Ord. 1994-02, passed 6-14-1994)

**§ 35.03 ABANDONED VEHICLE FUND.**

(A) There is established an Abandoned Vehicle Fund, the same to be administered in accordance with and pursuant to the purposes as contained in I.C. 9-22-1-30 and the provisions of the town's abandoned vehicle ordinance, set forth in Ch. 93.

(B) There is established the following schedule of charges to be paid by the town to a towing contractor as authorized by the town for the removal of the vehicles as follows:

- (1) For the removal and towing of a vehicle: \$50;
- (2) For the storage of said vehicle: \$2 per day with a maximum of \$50 per vehicle.

(C) The following charges payable to the town by a person who owns or holds a lien on a vehicle upon reclaiming possession thereof for towing, storage or removing an abandoned vehicle or parts are fixed as follows:

- (1) For towing and removing an abandoned vehicle or parts: \$100;

(2) For the cost of storing the vehicle a limit not exceeding the value of the vehicle as determined by the sale thereof or by the fair market appraisal of the vehicle in the event the vehicle is reclaimed by a person holding an interest therein: \$2 per day.

(D) All vehicles shall be disposed of by the Indiana Bureau of Motor Vehicles all as provided in any further applicable section of the act nonexisting or as may be hereafter amended.

(E) The ordinance set forth in this section shall be supplemental to all laws, rules and regulations governing the designation, towing and disposal of abandoned vehicles or parts thereof and shall not be construed to be in limitation thereof.

(Ord. 1995-3, passed 6-13-1995)

**§ 35.04 CUMULATIVE CAPITAL DEVELOPMENT FUND.**

(A) There is established a Town Cumulative Capital Development Fund.

(B) An ad valorem property tax levy will be imposed and the revenues from the levy will be retained in the Town Cumulative Capital Development Fund.

(C) The maximum rate of levy will be determined from time to time.

(D) The funds accumulated in the Town Cumulative Capital Development Fund shall be used for all purposes authorized and described in I.C. 36-9-16-2, 36-9-16-3, 36-8-14, 36-9-16.5, 36-9-17, 36-9-26, 36-10-3-21 and 36-10-4-36.

(E) Notwithstanding division (C) of this section, funds accumulated in the Town Cumulative Capital Development fund may be spent for purposes other than the purposes stated in division (C) of this section,

if the purpose is to protect the public health, welfare or safety in an emergency situation which demands immediate action. Money may be spent under the authority of this section only after the Board of Trustees of the town issues a declaration that the public health, welfare or safety is in immediate danger that requires the expenditure of money in the Fund.

(1997 Code, §§ 6.2-6.6) (Ord. 1985-3, passed - -; Am. Ord. 1989-3, passed 6-13-1989; Am. Ord. 1995-01, passed 4-16-1995; Am. Ord. 2001-6, passed 5-2-2001)

### **§ 35.05 RAINY DAY FUND.**

(A) The Rainy Day Fund is established as of April 7, 2009.

(B) The Rainy Day Fund may receive transfers of unused and unencumbered funds under I.C. 36-1-8-5 in respect to funds raised by general or special tax levies.

(1) Whenever the purposes of a general or special tax levy on all taxable property of the town have been fulfilled and an unused and unencumbered balance remains in the fund, the Town Council shall order the balance of that fund transferred to the Rainy Day Fund.

(2) In any fiscal year, the Common Council may transfer not more than 10% of the town's annual budget for the fiscal year, as adopted by I.C. 6-1.1-17, to the Rainy Day Fund.

(C) Supplemental distributions of county option income tax pursuant to I.C. 6-3.5-6-17.3 and supplemental distributions of county economic development income tax pursuant to I.C. 6-3.5-6-17.3 shall be deposited by the Clerk-Treasurer into the Rainy Day Fund.

(D) The Town Council may designate such other sources as it may from time to time determine are appropriate to be deposited or transferred to the Rainy Day Fund.

(E) The purpose of the Rainy Day Fund shall be to provide such funding as may be determined reasonable and necessary by the Town Council for the uses and purposes for which funds from the General Fund, the county option income tax, and the county economic development income tax may otherwise be expended.

(F) The Rainy Day Fund is subject to the same appropriation process as other funds that receive tax money. Before making an appropriation, the Town Council shall make a finding that the proposed use of the Rainy Day Fund is consistent with the intent of the fund as required by I.C. 36-1-8-5.1(b). (Ord. 2009-3, passed 4-7-2009)

**§ 35.06 LOIT SPECIAL DISTRIBUTION FUND.**

(A) A LOIT Special Distribution Fund is hereby established pursuant to Senate Enrolled Act 67 for any other funding source not specifically prohibited by law.

(B) The expenditures from said Fund are restricted to allowable purposes pursuant to state law as follows:

(1) Engineering, land acquisition, construction, resurfacing, maintenance, restoration, or rehabilitation of both local and arterial road and street systems;

(2) The payment of principal and interest on bonds sold primarily to finance road, street or thoroughfare projects;

(3) The purchase, rental, or repair of highway equipment; and

(4) Providing a match for a grant from the local road and bridge matching grant fund under I.C. 8-23-30.

(C) The Fund shall be subject to the same appropriation process as other municipal funds. (Ord. 2016-01, passed 6-7-2016)

**§ 35.07 CUMULATIVE FIREFIGHTING BUILDING AND EQUIPMENT FUND.**

(A) The Cumulative Firefighting Building and Equipment Fund for the Town of Geneva is hereby established, all in accordance with I.C. 36-8-14.

(B) That any tax funds designated for said account shall be used as follows:

(1) For the purchase, construction, renovation, or addition to buildings, or the purchase of land for the Volunteer Fire Department serving said municipality;

(2) For the purchase of firefighting equipment for use of the Volunteer Fire Department serving the municipality, including making the required payments under a lease rental with option to purchase agreement made to acquire the equipment;

(3) For the purchase of police radio equipment; and

(4) For the purchase, construction, renovation, or addition to buildings, or the purchase of land for use of a provider of emergency medical services serving said municipality.

(C) The Board of Trustees hereby levies a tax on all taxable property within the municipal taxing district at the rate of \$0.0333 on each \$100 of assessed valuation of property in said municipal taxing district. As said tax is collected, it shall be deposited in a qualified public depository or depositories and held in a special fund to be known as the “Cumulative Firefighting Building and Equipment Fund”. (Ord. 2018-2, passed 3-13-2018)

### **§ 35.08 LOCAL ROAD AND BRIDGE MATCHING GRANT FUND.**

(A) The Local Road and Bridge Matching Grant Fund for the Town of Geneva is hereby established, all in accordance with the directives of the Indiana State Board of Accounts.

(B) Any money that the town is authorized to use and designates for a local street, road or bridge project as the local match for the Community Crossings Grant, or other similar grants, as well as money received as a special local income tax distribution and money in the Rainy Day Fund that are to be designated as the local match for such grants, shall be transferred into said separate Local Road and Bridge Matching Grant Fund (Fund No. 457). (Ord. 2019-8, passed 9-10-2019)

### **§ 35.09 CARES ACT FUND.**

(A) The COVID CARES Act Fund (Fund No. 150), COVID Public Safety Fund (Fund No. 150312.000), and the COVID Clerk-Treasurer – Other Fund (Fund No. 15002111.240) for the Town of Geneva are hereby established, all in accordance with the Indiana State Board of Accounts.

(B) Any and all moneys that the town receives as a distribution from the CARES Act through the Indiana Finance Authority shall be transferred into said separate COVID CARES Act Fund.

(C) Thereafter, a claim shall be created against the COVID CARES Act Fund for the amount, up to the payroll reimbursement amount, that the town determines shall be receipted into the General Fund. This claim must be supported by the public health and/or public safety payroll costs that have been expensed from the General Fund or other appropriate funds and clearly documented in the records of the town. The money claimed shall be receipted into the General Fund. After the payroll reimbursement amount has been receipted into the General Fund, the normal appropriation procedures shall apply to the expenditure of the reimbursement amount. (Ord. 2020-7, passed 12-8-2020)

### **§ 35.10 AMERICAN RESCUE PLAN ACT FUND.**

(A) The ARP Act Fund (Fund No. 180), the ARP Act Infrastructure Water, Stormwater and Wastewater Revenue Account (Account No. 180990.00), and the ARP Act Infrastructure Water,

Stormwater and Wastewater Appropriation Account (Account No. 180300000.000) for the Town of Geneva are hereby established, all in accordance with the directives of the Indiana State Board of Accounts.

(B) Any and all moneys that the town receives as a distribution from the ARP Act shall be transferred into said separate ARP Act Fund.

(C) Thereafter, a claim shall be created against the ARP Act Fund for such amount or amounts approved by the Board of Trustees for various municipal investments in water, stormwater and wastewater infrastructure projects.

(Ord. 2021-2, passed 6-8-2021)

**§ 35.11 OPIOID FUND – UNRESTRICTED.**

(A) *Fund established.* There is hereby established the Opioid Settlement Fund - Unrestricted (Fund No. 2256), in accordance with the directives of the Indiana State Board of Accounts.

(B) *Sources of funding.* The source of funding includes the unrestricted portion of Opioid Settlement Funds received from the State of Indiana by the town as a participating political subdivision from a national settlement with Johnson and Johnson, AmerisourceBergen, Cardinal Health and McKesson.

(C) *Use of funding.* Expenditures may be made from the Fund by appropriation by the Common Council of the town for any purpose approved by such Town Council.

(D) *Amendments.* This section may be amended from time to time if additional guidance is received from any federal or state agency regarding the funding and/or use of said funds.

(E) *Termination.* This fund shall be a perpetual fund until terminated by future ordinance, and any funds remaining at time of termination shall be returned to General Fund of the town.

(Ord. 2022-13, passed 11-8-2022)

**§ 35.12 OPIOID FUND – RESTRICTED.**

(A) *Fund established.* There is hereby established the Opioid Settlement Fund - Restricted (Fund No. 2257), in accordance with the directives of the Indiana State Board of Accounts.

(B) *Sources of funding.* The source of funding includes the unrestricted portion of Opioid Settlement Funds received from the State of Indiana by the town as a participating political subdivision from a national settlement with Johnson and Johnson, AmerisourceBergen, Cardinal Health and McKesson.

(C) *Use of funding.* Expenditures may be made from the Fund by appropriation by the Common Council of the town for any purpose approved by such Town Council from the core strategies, approved uses and other strategies as set forth in Exhibit E attached to Ord. 2022-14 and incorporated herein by reference.

(D) *Amendments.* This section may be amended from time to time if additional guidance is received from any federal or state agency regarding the funding and/or use of said funds.

(E) *Termination.* This fund shall be a perpetual fund until terminated by future ordinance, and any funds remaining at time of termination shall be returned to General Fund of the town.  
(Ord. 2022-14, passed 11-8-2022)

## ***POLICIES***

### **§ 35.25 INTERNAL CONTROL STANDARDS.**

The Town of Geneva adopts as policy the internal control as set forth by the Indiana State Board of Accounts Uniform Internal Control Standards for Indiana Political Subdivisions Manual as expressly written and published by the Indiana State Board of Accounts in September of 2015, and as amended from time to time. In order to implement these standards, the Clerk-Treasurer shall certify in writing that personnel as defined in statute have received the required training. All officers, elected officials and employees are required to comply with the policy. Employees who fail to comply with this policy are subject to discipline, including but not limited to, termination of their employment.  
(Ord. 2016-02, passed 6-7-2016)

### **§ 35.26 MATERIALITY THRESHOLD.**

(A) It will be the policy of the Clerk-Treasurer to report to the State Board of Accounts any erroneous or irregular variances, losses, shortages, or thefts of cash in excess of \$500. In addition, all erroneous or irregular variances, losses, shortages, or thefts of cash which occur more than one time in a month and which in the aggregate total \$500 or more shall be reported immediately to the State Board of Accounts. Exceptions shall be made for inadvertent clerical errors that are identified timely and promptly corrected with no loss to the Town of Geneva.

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

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

(D) The town shall investigate all erroneous or irregular variances, losses, shortages or thefts, regardless of whether they meet the materiality threshold established by this section. Upon conclusion of each such investigation, the town shall implement procedures designed to prevent the recurrence of such incidents and take appropriate disciplinary action against the employee responsible for the incident. (Ord. 2016-03, passed 6-7-2016)

### **§ 35.27 ELECTRONIC FUNDS TRANSFERS (EFT), AUTOMATIC CLEARING HOUSE (ACH), AND ONLINE BANKING.**

(A) *Electronic funds transfers (EFT), including online transfers.* The Common Council of the Town of Geneva hereby authorizes the use of online transfers for the purpose of transferring funds as electronic funds transfers (EFT).

(B) *Automatic clearing house (ACH) transactions.* The Common Council of the Town of Geneva hereby authorizes the Clerk-Treasurer to utilize automatic clearing house (ACH) transactions including payments for payroll, retirement benefits, utilities, taxes, bonds and payments for any other municipal expense, in the discretion of the Clerk-Treasurer. The Council does further hereby authorize the receipt of funds by the town pursuant to automatic clearing house (ACH).

(C) *Documentation.* The Clerk-Treasurer shall be required to maintain adequate and appropriate documentation of the above-referenced transactions for future audits, as provided by the laws of the State of Indiana. (Ord. 2022-6, passed 8-9-2022)

### ***FEES***

### **§ 35.40 DOCUMENT, VIDEO AND PHOTO REPRODUCTION IN THE TOWN MARSHAL'S OFFICE.**

(A) The office of the Town Marshal shall charge a fee in the sum of \$120 for the reproduction of computer tape, computer discs, microfilm, video recordings, a set of photographs of any one incident, other law enforcement recordings, or similar or analogous record systems.

(B) The office of the Town Marshal shall charge the sum of \$5 for accident reports.

(C) The office of the Town Marshal shall charge for copying of documents the greater of:

(1) \$0.10 per page for copies that are not color copies or \$0.25 per page for color copies (specific changes shall automatically be modified upon the modification of I.C. 5-14-3-8(d)(1); or

(2) The actual cost to the Marshal's office of copying the document.

(D) The office of the Town Marshal shall require the payment of such copying or reproduction fees in advance.

(E) Notwithstanding the aforementioned set charges, pursuant to I.C. 5-14-3-8(f), the office of the Town Marshal shall collect any certification, copying, reproduction, or search fee that is specified by statute or is ordered by a court.

(Ord. 2020-8, passed 12-8-2020)

## *PURCHASING*

### **§ 35.50 PURCHASING AGENCIES AND AGENTS.**

(A) *Purpose.* The purpose of this subchapter is to exercise authority conferred upon the town pursuant to I.C. 5-22-6-2.

(B) *Purchasing agencies.* Pursuant to I.C. 5-22-2-25, the Common Council of the Town of Geneva is hereby established as the purchasing agency for all town departments.

(C) *Purchasing agents.* Pursuant to I.C. 5-22-2-26, the Workforce Manager is hereby established as the purchasing agent for the town.  
(Ord. 2018-01, passed 2-16-2018)

### **§ 35.51 POLICY; RULES REGARDING THE PURCHASE OF SUPPLIES AND SERVICES.**

(A) *Policy.* Pursuant to this subchapter, it is the policy of the town to simplify and expedite the purchase of supplies and services, while at the same time promoting the overall economy and encouraging competition in satisfying the needs of the town.

(B) *Rules for purchases under \$150,000.* For purchases under \$150,000, a purchasing agent is hereby authorized to purchase supplies, as defined in I.C. 5-22-2-38, or to purchase services, as defined in I.C. 5-22-2-30, in accordance with the purchasing requirements identified in Exhibit A attached to Ord. 2018-01. Provided however, when there exists, under emergency conditions, a threat to public health, welfare, or safety, and appropriated funds exist, a purchasing agent may purchase reasonably necessary supplies or services pursuant to I.C. 5-22-10-4(a), notwithstanding the purchasing requirements set forth in Exhibit A of Ord. 2018-01.

(C) *Rules for purchases of \$150,000 or more.* If the purchase of supplies or services, as defined above, is expected by the purchasing agent to be \$150,000 or more, and appropriated funds exist for such purchase, the purchasing agent shall purchase such supplies or services pursuant to competitive bidding following the procedure set forth in I.C. 5-22-7, unless the purchasing agency authorizes an online auction pursuant to I.C. 5-22-7.5 and I.C. 4-13-17-4; unless the purchasing agency authorizes seeking requests for proposals pursuant to I.C. 5-22-9; or unless emergency conditions exist, in which case the purchasing agent is authorized to make a special purchase pursuant to I.C. 5-22-10, if such purchase is reasonably necessary to protect the public health, welfare, or safety.  
(Ord. 2018-01, passed 2-16-2018)



## CHAPTER 36: ORDINANCE VIOLATIONS BUREAU

### Section

- 36.01 Bureau created
- 36.02 Clerk-Treasurer's duties
- 36.03 Schedule of fines

### **§ 36.01 BUREAU CREATED.**

There shall be and is created an Ordinance Violations Bureau for the town and the Town Clerk-Treasurer shall serve as the Violations Clerk of the Bureau.  
(Ord. 1988-7, passed 12-13-1988)

### **§ 36.02 CLERK-TREASURER'S DUTIES.**

The Town Clerk-Treasurer shall accept written appearances, waivers of trial, admissions of violations, and payment of civil penalties of not more than \$25 in ordinance violation cases.  
(Ord. 1988-7, passed 12-13-1988)

### **§ 36.03 SCHEDULE OF FINES.**

(A) The schedule of ordinances of the Geneva Code shall be subject to admission of violation before the Ordinance Violations Bureau created hereby and the Town Clerk-Treasurer as the Violations Clerk shall be authorized to accept the fines and forfeitures for the offenses. The schedule of fines is adopted by reference and incorporated herein.

(B) This chapter shall establish the amount of fine and forfeiture to be paid in the ordinance violation cases and shall be in lieu of any fines or forfeitures payable to the Clerk-Treasurer of the town as provided in any of the ordinance violations and to the extent of any conflict herewith, this chapter shall supersede all fines, forfeitures and penalties due and payable to the Clerk-Treasurer of the town. To the extent of any conflict herewith, all prior ordinances and parts thereof are repealed, provided however, that this

chapter shall deal only with those provisions of town ordinances which prescribe a payment of a fine, penalty or forfeiture to the Clerk-Treasurer of the town and shall in no way affect any ordinance or parts thereof which deal with or prescribe other legal remedies, including actions filed pursuant to the statutes of the state or any other matters not payable through the Violations Bureau created hereby.  
(Ord. 1998-7, passed 12-13-1998)

## CHAPTER 37: TOWN POLICIES

### Section

#### *General Provisions*

- 37.01 Nepotism and conflict of interest in contracting; policy adopted
- 37.02 Town ADA transition plan adopted

#### *Drug-Free Workplace*

- 37.20 Purpose
- 37.21 Policy
- 37.22 Prohibited drugs
- 37.23 Alcohol
- 37.24 Reporting violations
- 37.25 Employee rehabilitation
- 37.26 Testing

### **GENERAL PROVISIONS**

#### **§ 37.01 NEPOTISM AND CONFLICT OF INTEREST IN CONTRACTING; POLICY ADOPTED.**

(A) The Town of Geneva finds that it is necessary and desirous to adopt a policy of conduct with regard to nepotism in the employment with the town and in contracting with the town in order to continue to be able to provide local government services to its residents and to comply with the new laws effective July 1, 2012 known as I.C. 36-1-20.2 and I.C. 36-1-21, respectively.

(B) On July 1, 2012, the town shall have a nepotism and a contracting with a unit policy that complies with the minimum requirements of I.C. 36-1-20.2 (hereinafter “Nepotism Policy”) and I.C. 36-1-21 (hereinafter “Contracting with a Unit by a Relative Policy”) and implementation will begin.

(C) The Town Nepotism Policy is hereby established effective July 1, 2012 by adopting the minimum requirements provisions of I.C. 36-1-20.2, and including all future supplements and amendments thereto which become law from time to time, and making them a part hereof as if fully set out herein. In addition a copy of I.C. 36-1-20.2 Nepotism in effect on July 1 is attached to Ordinance 2012-5.

(D) The Town Contracting with a Unit by a Relative Policy is hereby established effective July 1, 2012 by adopting the minimum requirements provisions of I.C. 36-1-21, and including all future supplements and amendments thereto which become law from time to time, and making them a part hereof as if fully set out herein. In addition a copy of the I.C. 36-1-21 Contracting with a Unit by a Relative in effect on July 1 is attached to Ordinance 2012-5.

(E) The town finds that both I.C. 36-1-20.2 and I.C. 36-1-21 specifically allow a unit to adopt requirements that are “more stringent or detailed” and that more detailed are necessary.

(F) The town further finds that a single member of the legislative body cannot act for the body to make work assignments, compensation, grievances, advancement or a performance evaluation without prior authority of a majority of the body and therefore without such authority by the majority he will not be in the direct line of supervision. (See I.C. 36-4-6-11, I.C. 36-5-2-9.4).

(G) The town finds that a single member of governing bodies with authority over employees in the town cannot act for the governing body to make work assignments, compensation, grievances, advancement or a performance evaluation without prior authority of a majority of the body, when a statute provides that a majority is needed to act, and therefore, without such authority by the majority the single member will not be in the direct line of supervision.

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

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

(J) Failure to abide by or cooperate with the implementation, compliance and certifications connected with the Contracting with Unit by a Relative Policy is a violation and may result in the discipline, including termination, of an employee or a curative action. An elected or appointed official of the town who fails to abide by or cooperate with the implementation, with the compliance and with mandated certifications of either the Nepotism Policy or the Contracting with Unit by a Relative Policy may be subject to action allowed by law.

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

- (a) Posting a copy of this section in its entirety in at least 1 of the locations in the town where it posts employer posters or other notices to its employees;
- (b) Providing a copy of this section to its employees and elected and appointed officials;
- (c) Providing or posting a notice of the adoption of this section; or
- (d) Any such other action or actions that would communicate the polices established by this section to its employees and elected and appointed officials.

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

(L) A copy of the provisions of I.C. 36-1-20.2 and I.C. 36-1-21 effective July 1, 2012 are attached to Ordinance 2012-5 and incorporated herein by reference.

(M) Two copies of I.C. 36-1-20.2 and I.C. 36-1-21, and as supplemented or amended, are on file in the office of the Town Clerk or Clerk-Treasurer for public inspection as may be required by I.C. 36-1-5-4.

(Ord. 2012-5, passed 6-5-2012)

**§ 37.02 TOWN ADA TRANSITION PLAN ADOPTED.**

The Town ADA Transition Plan adopted by Ordinance 2013-8, as it may be amended from time to time, is hereby adopted by reference and incorporated in this code as fully as if set out at length herein. (Ord. 2013-8, passed 11-5-2013)

***DRUG-FREE WORKPLACE***

**§ 37.20 PURPOSE.**

The town makes a commitment to provide employees a safe working environment, to ensure that employees, equipment and operating practices comply with health and safety standards, and to maintain public confidence in the town and its employees. Since the town values each employee, the town offers employees assistance in dealing with alcohol and drug abuse problems.

(Ord. 2010-7, passed 6-8-2010)

**§ 37.21 POLICY.**

(A) The town requires all employees to report for work in a condition that allows them to perform their duties in a safe and efficient manner. Employees will not be permitted to work under the influence of alcohol or with prohibited drugs in their systems thereby affecting job performance.

(B) Violation of any provision of this subchapter will be considered just cause for disciplinary action up to and including discharge, even for a first offense. In addition, refusal to adhere to any part of the policy may be considered an act of insubordination and also may lead to disciplinary action up to and including discharge.

(C) This subchapter and related procedures may be modified by the town at any time in order to comply with any applicable federal, state or local laws or to better serve the needs of the town. (Ord. 2010-7, passed 6-8-2010)

**§ 37.22 PROHIBITED DRUGS.**

(A) *Definition.* **PROHIBITED DRUGS** are defined as illegal substances, including controlled substances as defined in the Controlled Substance Act (21 U.S.C. § 8120 and the Code of Federal Regulations (21 C.F.R. §§ 1308.11 - 1308.15) and prescription controlled substance which have not been prescribed by a licensed physician or dentist for specific treatment purposes for the employee. Abuse of prescription or over-the-counter drugs will also be treated as a substance abuse problem under this subchapter.

(B) This subchapter prohibits the illegal use, sale, transfer, distribution, possession or unlawful manufacture of narcotics, drugs or other controlled substances while on the job or on town premises (including vehicles used for town business). These include but are not limited to marijuana, cocaine, crack, PCP, heroin, LSD, amphetamines, hallucinogens and barbiturates. Any illegal substances found on such premises will be turned over to the State Police and may lead to criminal prosecution. (Ord. 2010-7, passed 6-8-2010)

**§ 37.23 ALCOHOL.**

(A) The use of alcohol on the job or on town premises is prohibited, unless such use is non-abusive and is part of an authorized official event held off town premises. The use of alcohol in vehicles used for town business is strictly prohibited.

(B) Alcohol possession applies to all open or unsealed alcoholic beverage containers. Such containers are not allowed on the job or on town premises, unless their possession is part of an authorized official event. Possession of such containers in vehicles used for town business is never authorized.

(Ord. 2010-7, passed 6-8-2010)

**§ 37.24 REPORTING VIOLATIONS.**

(A) Employees must, as a condition of employment, abide by the terms of this subchapter and report any conviction to the town under a criminal drug statute for violations occurring on or off town premises when conducting town business. Report of a conviction must be made to the town within 5 business days after the conviction. The town will then notify the appropriate contracting officer within 10 days after receiving notice from either the employee or from another source. (These requirements are mandated by the Drug-Free Workplace Act of 1988.)

(B) An employee who is involved with off the job illegal drug activity may be considered in violation of this subchapter. In determining whether disciplinary action will be imposed for this activity, the town will consider the circumstance of each incident, including but not limited to any adverse effect the employee's actions may have on its customers, other employees, the public or the town's reputation and image.

(C) Any questions regarding the reporting of violations should be directed to the Clerk-Treasurer. (Ord. 2010-7, passed 6-8-2010)

**§ 37.25 EMPLOYEE REHABILITATION.**

(A) Health maintenance is primarily a personal responsibility and it is the individual's responsibility to correct unsatisfactory job performance or behavioral problems caused by alcohol or drug abuse. In an effort to assist employees, the town will provide various means for employees and their family members to remain aware of the dangers of substance abuse in the workplace and to overcome drug and alcohol related problems.

(B) Employees with a personal, alcohol or drug related problem are encouraged to volunteer to participate in a approved rehabilitation program upon referral from the Employee and Family Assistance Program, before work performance becomes affected.

(C) Participation in a rehabilitation program will not be considered a barrier to not a cause for disciplinary action. Employees will not be disciplined merely because of participation in a rehabilitation program or excused from the disciplinary consequences of conduct which is in violation of this subchapter or any other town policies or job requirements.

(D) Any employee identified through a town investigation as having a substance abuse problem also may not avoid disciplinary action by requesting to participate in an approved rehabilitation program.

(E) Circumstances in each case will be evaluated to determine the course of action to be taken (i.e., whether the employee will be offered the opportunity to participate in a rehabilitation program and/or will be subject to discipline.)  
(Ord. 2010-7, passed 6-8-2010)

**§ 37.26 TESTING.**

(A) The town will not ask employees to submit to random alcohol or drug tests.

(B) Alcohol or drug tests may be required for employees in the following circumstances:

(1) When unsatisfactory job performance or other employee behavior is reasonably indicative of substance abuse;

(2) During and after participation in a drug or alcohol rehabilitation program for a reasonable period of time as determined by the town; or

(3) When required by law.

(C) If a supervisor identifies an employee with a behavior pattern and/or job performance reasonably indicative of substance abuse, the supervisor (with the concurrence of the next level of supervision) may recommend that the employee have a fitness for duty examination by a physician designated by the town. The physician will determine whether a fitness for duty examination is necessary and whether alcohol or drug tests will be required.

(D) Pre-employment drug testing is part of the pre-employment physical. The method of testing will be determined by the town. Applicants who test positive for prohibited drugs in their systems will not be offered employment. Any questions regarding reapplication opportunities should be directed to the Clerk-Treasurer.

(Ord. 2010-7, passed 6-8-2010)

**TITLE V: PUBLIC WORKS**

Chapter

**50. UTILITIES GENERALLY**

**51. GARBAGE AND RUBBISH**

**52. WATER SERVICE**

**53. SEWER SERVICE**

**54. STORMWATER SYSTEM**



## CHAPTER 50: UTILITIES GENERALLY

### Section

- 50.01 Utility deposit for water service
- 50.02 Refund of deposit
- 50.03 Rental properties and property being purchased on contract; responsibility
- 50.04 Water meters
- 50.05 Due date for utility charges
- 50.06 Dishonored checks
- 50.07 Tampering with meters
- 50.08 Shutoff; charges
- 50.09 Delinquent payment; disconnect notice
- 50.10 Scheduled disconnection; charges
- 50.11 Reconnection fee
- 50.12 Disputes over bills
- 50.13 Inability to pay
- 50.14 Utility service changeover
- 50.15 Trash pickup service; discontinuance; containers
- 50.16 Sprinkler credit
- 50.17 Sales tax on water
- 50.18 Water leak; wastewater credit

### **§ 50.01 UTILITY DEPOSIT FOR WATER SERVICE.**

A \$50 utility deposit must be paid prior to the initiation of water service. Any previous unpaid charges due by the applying individual must be paid before service will begin. Nonpayment of utility deposit may be cause for disconnection of water service.  
(Ord. 2011-6, passed 2-7-2012)

### **§ 50.02 REFUND OF DEPOSIT.**

The deposit will be refunded at the end of service if the utility bill is paid in full. If there is a balance due at the end of service the deposit will be first used to satisfy outstanding charges before any refund.  
(Ord. 2011-6, passed 2-7-2012)

**§ 50.03 RENTAL PROPERTIES AND PROPERTY BEING PURCHASED ON CONTRACT; RESPONSIBILITY.**

On rental properties and property being purchased on contract, the property owners are responsible and liable for the payment of utility bills for service rendered to the customers of Geneva Municipal Utility System, not including the utility deposit which will be applied to past due utility bills once service is discontinued. Property owners should furnish, in writing, to the Clerk-Treasurer, any address changes pertaining to themselves or former renter. This will assist sending notices and collecting delinquent accounts. Duplicate notice of delinquency and disconnect letters will be sent to the owner if different than the occupant and ownership interest and current address are on file with the Clerk-Treasurer as outlined in § 50.09.

(Ord. 2011-6, passed 2-7-2012)

**§ 50.04 WATER METERS.**

Water meters will be read during the third week of each month. If weather conditions warrant estimation of meter reading, the estimates will be calculated on the average of no more than the last 6 months of usage. Utility bills are to be sent by the tenth day of each month or the next working day thereafter.

(Ord. 2011-6, passed 2-7-2012)

**§ 50.05 DUE DATE FOR UTILITY CHARGES.**

All charges for utilities will be due on the twenty-fifth of each month or the next working day thereafter. A drop box is provided for customer use outside of normal business hours. All the charges as of the twenty-sixth of each month will be assessed a penalty of 10% for sewage, trash, storm water, and the first \$3 of water. The balance of water will be assessed at 3%.

(Ord. 2011-6, passed 2-7-2012)

**§ 50.06 DISHONORED CHECKS.**

Payments by check, which are dishonored by the bank, will be treated as nonpayment and penalties will apply and water services will be disconnected pursuant to the procedures herein. In addition to all penalties provided herein, a bad check charge of \$20 will be assessed for each bad check.

(Ord. 2011-6, passed 2-7-2012)

**§ 50.07 TAMPERING WITH METERS.**

Any owner or user tampering with meters to restore water service other than an authorized town employee will be subject to a penalty of \$50 plus costs of any repair as well as any water and sewage charges.

(Ord. 2011-6, passed 2-7-2012)

**§ 50.08 SHUTOFF; CHARGES.**

When water has been shut off there is no minimum water charge applied to account. The owner, including landlords, will still be charged the minimum billing amount for sewage and storm water during the period of time the water is shut off for any property connected to town utilities. No charge for emergency water shutoff/turn on to allow plumbing work to be performed. Minimums may be waived for up to 1 year in the event of a fire or other calamity to a property.

(Ord. 2011-6, passed 2-7-2012)

**§ 50.09 DELINQUENT PAYMENT; DISCONNECT NOTICE.**

If the monthly bill is not paid by the due date penalties will be applied and a delinquent letter will be sent by first class mail advising the amount owed and allowing 8 days from the date this notice is mailed before additional charges are applied. If the bill is not paid by the due date of the delinquent letter, a disconnect notice will be sent by first class mail advising the amount owed and allowing 8 days from the date this notice is mailed to pay amount past due. There will be a \$5 charge plus tax for the disconnect notice. If the bill has not been paid by the due date on the disconnect letter a hang-up notice will be posted on the user's address location advising disconnect in 48 hours from the time of posting. There is a \$25 charge for a hang-up notice on a property. This charge can be waived 1 time in a 12-month period. If bill is not paid by the end of 48 hours posting water service will be disconnected.

(Ord. 2011-6, passed 2-7-2012; Am. Ord. 2013-13, passed 11-5-2013)

**§ 50.10 SCHEDULED DISCONNECTION; CHARGES.**

In the event that the town does not disconnect water service as outlined in § 50.09, the property owner will be financially responsible only to the time of the scheduled disconnect less applied deposit.

(Ord. 2011-6, passed 2-7-2012)

**§ 50.11 RECONNECTION FEE.**

Following disconnection of water service for nonpayment, a reconnect fee of \$40 must be paid in addition to the past due amount before service will be restored.

(Ord. 2011-6, passed 2-7-2012)

**§ 50.12 DISPUTES OVER BILLS.**

In the event that there is a dispute concerning the amount of said bill, the customer of the utility shall notify the Clerk-Treasurer in writing of said dispute and shall be entitled to a hearing before the Clerk-Treasurer within 30 days. Disconnect proceedings shall be withheld until said dispute is resolved.

(Ord. 2011-6, passed 2-7-2012)

**§ 50.13 INABILITY TO PAY.**

(A) If a customer of the utility is unable to pay a bill for services rendered which is unusually large due to at least 1 of the following:

- (1) Incorrect meter reading;
- (2) Incorrect application of the rate schedule;
- (3) Incorrect function of the meter;
- (4) Due to an unresolved dispute pursuant to § 50.12; or
- (5) Unavoidable financial hardship; then

(B) The said situation shall be reported to the Clerk-Treasurer and service shall not be disconnected if the customer:

- (1) Pays a reasonable portion (not less than \$20, or 1/10 of the unpaid bill, whichever is less);
- (2) Agrees to pay the remainder of the outstanding bill within 3 months;
- (3) Agrees to pay all undisputed future bills for service as they become due; and
- (4) Has not breached any similar agreement with the utility made pursuant to this rule within the past 12 months.

(Ord. 2011-6, passed 2-7-2012)

**§ 50.14 UTILITY SERVICE CHANGEOVER.**

For final reading completed during a month the last billing will be the next month. There are no partial month prorated billings.

(Ord. 2013-13, passed 11-5-2013)

**§ 50.15 TRASH PICKUP SERVICE; DISCONTINUANCE; CONTAINERS.**

Trash pickup service in town may be discontinued by request of property owner of a vacant property. Outside of town trash container(s) must be removed by town to remove sanitation charge from bill. Containers are property of provider, possession by resident constitutes use. Additional containers requested must be for a 6-month period.

(Ord. 2013-13, passed 11-5-2013)

**§ 50.16 SPRINKLER CREDIT.**

The town will calculate the bill for wastewater using a 3-month water use average for the bills sent in July, August, September and October.

(Ord. 2013-13, passed 11-5-2013)

**§ 50.17 SALES TAX ON WATER.**

Indiana state sales tax will be collected on the water portion of the utility bill.

(Ord. 2013-13, passed 11-5-2013)

**§ 50.18 WATER LEAK; WASTEWATER CREDIT.**

In the event of a water leak Clerk-Treasurer may reduce the wastewater portion of the utility bill if the water did not go into the sanitary sewer system.

(Ord. 2013-13, passed 11-5-2013)



## CHAPTER 51: GARBAGE AND RUBBISH

### Section

- 51.01 Collection schedule
- 51.02 Required receptacles
- 51.03 Collection procedure and requirements
- 51.04 Garbage and rubbish fees
- 51.05 Limit on amount of garbage, trash and refuse to be collected by the town
- 51.06 Disposal of solid waste at town compost lot

### § 51.01 COLLECTION SCHEDULE.

Garbage and rubbish collection shall be made in accordance with a weekly schedule determined and promulgated by the Board of Trustees of the town.  
(1997 Code, § 20.1) (Ord. 1985-2, passed - -)

### § 51.02 REQUIRED RECEPTACLES.

All garbage and rubbish in the town shall be placed in closed, watertight, sanitary receptacles of plastic or metal material. The receptacles shall always be kept in a clean, sanitary condition and shall never exceed 30 gallons in capacity or weigh more than 60 pounds when filled.  
(1997 Code, § 20.2) (Ord. 1985-2, passed - -)

### § 51.03 COLLECTION PROCEDURE AND REQUIREMENTS.

Collections of garbage, rubbish and household rubbish in the town shall be made as follows.

(A) *Business and industrial.* Except as otherwise provided, there shall be no collection of any garbage, rubbish, household rubbish or any other waste or residue of any kind, character or description from any commercial, business, or industrial establishment.

(B) *Residential.*

(1) The town or a contractor retained by the town shall collect garbage and rubbish from each residence or residential household, apartment, apartment building or apartment complex, regardless of the number of dwelling units in the apartment building or complex located within the town on a weekly schedule. All garbage and rubbish shall be placed in receptacles as described heretofore in this chapter,

and the receptacles shall be placed within 5 feet of the traveled portion of a street or alley to be traveled by the collection trucks. No garbage or rubbish shall be placed on any public sidewalks. On corner lots, garbage and rubbish is to be placed within 5 feet of the curb closest to the street or alley to be traveled by collection trucks. All receptacles shall be placed for collection no earlier than 6:00 p.m. on the day preceding collection day and shall be removed from public view within 24 hours.

(2) The town or a contractor retained by the town shall collect household rubbish from residences and apartments at times indicated by the town and the household rubbish so to be collected shall be placed at the time and location designated for placement of garbage and rubbish.

(3) Household rubbish shall be collected on days designated by the Town Council and household rubbish shall be placed within 5 feet of the curb of adequate streets no earlier than 6:00 p.m. on the day preceding the collection day.

(C) *Mobile home court.* The town or a contractor retained by the town shall collect garbage, rubbish and household rubbish from mobile home residences located within mobile home courts on a weekly schedule, under the following circumstances:

(1) The mobile home court owner shall provide adequate streets, approved by the Board of Trustees of the town, for ingress and egress to all mobile homes requiring service. The street shall accommodate the truck making the collection and shall allow for pick-up at the curb.

(2) The mobile home court owner shall submit written authorization to the Board of Trustees of the town permitting the town or a contractor retained by the town to enter the premises of the court and the mobile home court owner shall agree to indemnify the town from any resulting damage except that caused by the negligence of its employees.

(3) Garbage and rubbish shall be placed in receptacles heretofore described in this chapter and shall be placed within 5 feet of the curb of adequate streets no earlier than 6:00 p.m. on the day preceding the collection day and shall be removed from public view within 24 hours.

(4) Household rubbish shall be collected on days designated by the Board of Trustees of the town, and household rubbish shall be placed within 5 feet of the curb of adequate street no earlier than 6:00 p.m. on the day preceding the collection day.

(D) *Restaurants, businesses and commercial establishments.* The town or contractor retained by the town shall collect garbage only from all restaurants and businesses and other commercial establishments located within the town on a weekly basis under the following circumstances:

(1) Each such establishment is limited to 4 30-gallon containers with a 60 pound limit per container. This limit of 4 containers shall be known as a commercial unit;

(2) Garbage only shall be collected; rubbish, household rubbish, liquids (whether contained or not) and other commercial refuse, residue and wastes shall not be collected;

(3) All receptacles shall be placed within 5 feet of the curb line or alley no earlier than 6:00 a.m. on the collection day and shall be removed from public view within 24 hours. (1997 Code, § 20.3) (Ord. 1982-5, passed - -; Am. Ord. 1989-10, passed 10-10-1989)

**§ 51.04 GARBAGE AND RUBBISH FEES.**

(A) There is imposed upon each owner, tenant or occupant of residential or commercial property in the town to whom garbage collection, trash pickup and refuse collection is made available by the town, directly or through any person, firm or corporation with which the town may contract for furnishing of such service, a service charge or user fee for furnishing of the service and for the collection, pickup and removal of garbage, trash and refuse, according to a schedule incorporated into this section and adopted by reference, which schedule shall be amended from time to time.

(B) User or service charges as specified above shall be added to the user's water and sewage bill and shall be payable as are bills for water and sewage services rendered. The user fee or service charge shall be due and payable along with the monthly water and sewage bill as levied by the town and shall be subject to the late charges and collection procedures as contained in I.C. 36-9-30-1 *et seq.*

(C) In the event any recipient of garbage and refuse collection service is not a user of municipal water service and does not therefore receive a water or sewage bill, the recipient will be billed directly for the availability of the service and the bill will be payable on the same basis as are bills for town water and sewage services. In the event that charges are for a multifamily or apartment dwelling or a mobile home or trailer court, the billing shall be to the same entity as the water and sewage service billing.

(D) All funds collected pursuant to this chapter shall be kept in an account separate and apart from other revenues and shall be used exclusively for the payment of garbage, trash and refuse collection services. In the event the fund so collected shall be insufficient to pay for garbage, trash and refuse collection service, then the balance due thereon shall be due and payable from the General Fund of the town.

(E) In the event any business, commercial or institutional user of the garbage, refuse and trash collection service of the town shall cause the town to incur additional charges over and above the customary and usual charges heretofore set out herein, then in that event, the business, commercial or institutional establishment shall be responsible for any additional costs in addition to the scheduled rates established hereinabove, due and payable upon billing by the town. (Ord. 1989-11, passed 10-10-1989)

**§ 51.05 LIMIT ON AMOUNT OF GARBAGE, TRASH AND REFUSE TO BE COLLECTED BY TOWN.**

(A) There is imposed upon each owner, tenant or occupant of residential or commercial property in the town, and upon each customer, person, firm or corporation served by the town, whether the same

be commercial, business or individual, a limit of 5 bags of garbage, trash or refuse to be picked up by the town pursuant to this chapter.

(B) The five bag limit hereby imposed shall be limited to 5 30-gallon bags or 5 30-gallon containers, each with a 60 pound limit per container or its equivalent in volume and weight. No amount of trash, refuse, or garbage shall exceed this equivalent limit of volume and weight. (Ord. 1990-6, passed 8-26-1990)

#### **§ 51.06 DISPOSAL OF SOLID WASTE AT TOWN COMPOST LOT.**

(A) *Purpose.* The purpose of this section is to regulate the disposition of solid waste by citizens of the town at the town compost lot located at the south end of Hale Street within said town. It is also the purpose of this section to prevent non-citizens of the town from disposing of solid waste at said location and to prevent citizens of the town from wrongfully disposing of solid waste at said location.

(B) *Citizens' privilege.* The town shall provide dumpsters (containers approximately four cubic yards in size) in a number in the discretion of the town, said dumpsters to be located at the town compost lot. Citizens of the town shall have the privilege of using said dumpsters for personal use so long as any solid waste that is disposed of at said site is fully deposited into the dumpsters located at said site. It shall be considered as a violation of this section if an individual disposes of solid waste outside of a dumpster. If all dumpsters are full, then no additional waste shall be disposed of at said location. This privilege is for the benefit of private citizens of the town, and the disposal of solid waste at said location by non-citizens or contractors shall be considered as a violation of this section.

(C) *Items of waste prohibited.* Individuals shall be forbidden from disposing in or outside of said dumpsters any of the following items of waste at the town compost lot: paints, stains, varnish and thinner, mercury containing devices, waste oil, oil filters, automotive fluids, explosives, fireworks, gasoline, syringes and lancets, medical waste, pool chemicals, propane cylinders, computers and accessories, phones, televisions, lead acid and rechargeable batteries, siding/roofing materials, tires, grass clippings, leaves and limbs, and any other items not accepted by the Adams County Solid Waste District. Disposal of any of the aforementioned prohibited items shall be considered as a violation of this section.

(D) *Removal of items by individuals.* Once items are deposited into said dumpsters, individuals shall be forbidden from removing any disposed items so deposited from said dumpsters for any reason, and any removal or relocation of such items so deposited shall be a violation of this section.

(E) *Violations and penalty.* Any individual who is found by the Town of Geneva Marshal's office to have been in violation of this section, shall be punished by a fine of not less than the sum of \$500, plus the costs to the town for the removal of said items in order to cure said violation. (Ord. 2022-2, passed 5-10-2022)

## CHAPTER 52: WATER SERVICE

### Section

- 52.01 Water usage; customer responsibility; billing and procedures
- 52.02 Deposit
- 52.03 Metered rates
- 52.04 Minimum monthly charge
- 52.05 Fire protection
- 52.06 Other water services
- 52.07 Irrigation meters and charges; sprinkling credit; filling swimming pools
- 52.08 Automatic sprinklers
- 52.09 Connection charge
- 52.10 Non-sufficient funds; charges and procedure
- 52.11 Billing cycle, delinquency, disconnection, and hearing
- 52.12 Tampering with or obstructing meters
- 52.13 Reconnection charge
- 52.14 Review of connection and reconnection charges
- 52.15 Water loss audit
- 52.16 Procedures for removal of lead lines
- 52.17 Cross connection control

### **§ 52.01 WATER USAGE; CUSTOMER RESPONSIBILITY; BILLING AND PROCEDURES.**

(A) There shall be and hereby are established for the use of and the service rendered by the waterworks system of the Town of Geneva, procedures, rates and charges wherein the users of the utilities of each and every lot, parcel of real estate, or building that is connected to the waterworks system shall be responsible for payment thereof. All rates, charges, and other fees for services rendered by the Town Water Utility for use by a person occupying the property other than the owner are payable by the person occupying the property if the account or other customer or billing records maintained by the town for the property indicate that: (1) the property is occupied by someone other than the owner; and (2) the person occupying the property is responsible for paying the rates, charges and fees assessed for the services rendered by the Town Water Utility with respect to the property. Rates, charges, and fees assessed for serviced rendered by the Town Water Utility with respect to property occupied by someone other than the owner of the property do not constitute a lien against said property.

(B) The following rates and charges shall be based upon the amount of water supplied during each monthly billing period.

(Ord. 2020-2, passed 6-9-2020)

**§ 52.02 DEPOSIT.**

(A) Upon applying for Water Utility service from the town for a residence, an applicant, whether an owner, tenant or contract purchaser, shall pay to the Clerk-Treasurer a deposit in the sum of \$200, which sum shall be utilized by the town to ensure payment by the person occupying the property of the rates, charges and fees assessed for the services rendered by the Town Water Utility with respect to the property.

(B) The town shall maintain a record of each applicant or customer making a deposit that includes the following:

- (1) The name of the customer;
- (2) The current address of the customer, so long as said customer maintains an active account with the utility in his or her name;
- (3) The name of the owner or manager of the property;
- (4) The current address of the property;
- (5) The amount of deposit;
- (6) The date the deposit was made; and
- (7) A record of each transaction affecting said deposit.

(C) Each customer shall be provided with a receipt from the town at the time the deposit is paid. The town shall provide a reasonable method by which a customer who is unable to locate the receipt may establish that he or she is entitled to a refund of said deposit.

(D) If a customer pays the deposit by check and the check is returned for insufficient funds, then the customer shall be assessed the returned check fee set forth under state law or any subsequent statute which addresses returned check fees.

(E) Any deposit will be refunded promptly upon successful termination of utility services between the customer and the town. The procedure following a customer request for termination of service is as follows:

- (1) The town shall require payment of any past due balance currently invoiced and owed for said Water Utility.

(2) The town may apply or otherwise credit all or part of said deposit to the final invoicing for unpaid rates, charges and fees assessed to the Water Utility customer. The use of all or part of said deposit toward said unpaid rates, charges and fees shall not prohibit the town from taking further actions under §§ 52.10 through 52.13 herein.

(3) Any portion of the deposit remaining after the credit set forth in division (E)(2) above shall be forwarded to the customer. Water Utility deposits shall only be released to a third party upon written agreement between the owner of the deposit and the third party being presented to the town.

(F) *Unclaimed deposits.* Any deposit made by the applicant, customer or any other person to the town for the Water Utility (less any lawful deductions therefrom), or any sum the town is ordered to refund for Utility service that has remained unclaimed for seven years after the Utility has made diligent effort to locate the person who made such deposit, shall be presumed abandoned and shall be transferred to the office of the Indiana Attorney General pursuant to I.C. 32-34-1. (Ord. 2020-2, passed 6-9-2020)

**§ 52.03 METERED RATES.**

The following rates are hereby established:

<i>Usage Per Month</i>	<i>Charge Per 1,000 Gallons</i>			
	<i>Phase I (Effective 1/1/2024)</i>	<i>Phase II (Effective 1/1/2025)</i>	<i>Phase III (Effective 1/1/2026)</i>	<i>Phase IV (Effective 1/1/2027)</i>
First 3,333 gallons	\$8.82	\$9.17	\$9.45	\$9.73
Next 6,667 gallons	\$7.49	\$7.79	\$8.02	\$8.26
Next 4,000 gallons	\$6.76	\$7.03	\$7.24	\$7.46
Next 19,000 gallons	\$6.01	\$6.25	\$6.44	\$6.63
Next 33,000 gallons	\$5.25	\$5.46	\$5.63	\$5.79
Over 66,000 gallons	\$4.50	\$4.68	\$4.82	\$4.97

(Ord. 2020-2, passed 6-9-2020; Am. Ord. 2023-11, passed 8-8-2023)

**§ 52.04 MINIMUM MONTHLY CHARGE.**

All water customers of the Town of Geneva who have a meter connected to the town's Water Utility shall be charged a minimum monthly charge as set forth below. The minimum charge is in recognition that customers who are connected to town services receive a benefit of the capability to use said services, and such customers shall as such be responsible to contribute to the cost of the improvement and maintenance of the Water Utility infrastructure and fixed costs of labor, operating costs, and administrative expenses. If a customer desires to no longer receive the minimum monthly charge, the customer may contact the town to remove the meter at such property at no cost to the customer. If a property owner desires for the meter to be reinstalled after it has been removed, the town will reinstall the meter at such location a charge of \$375.

<i>Meter Size</i>	<i>Phase I</i>	<i>Phase II</i>	<i>Phase III</i>	<i>Phase IV</i>
5/8 - 3/4-inch	\$29.39	\$30.57	\$31.49	\$32.43
1-inch	\$49.93	\$51.92	\$53.48	\$55.09
1-1/2-inch	\$99.77	\$103.76	\$106.87	\$110.08
2-inch	\$174.67	\$181.66	\$187.11	\$192.72
3-inch	\$374.32	\$389.29	\$400.97	\$413
4-inch	\$623.89	\$648.84	\$668.31	\$688.36
6-inch	\$1,373.11	\$1,428.03	\$1,470.87	\$1,515

(Ord. 2020-2, passed 6-9-2020; Am. Ord. 2023-11, passed 8-8-2023)

**§ 52.05 FIRE PROTECTION.**

The following rates are established:

	<i>Phase I</i>	<i>Phase II</i>	<i>Phase III</i>	<i>Phase IV</i>
Hydrant rental (per annum)	\$462.91	\$481.43	\$495.87	\$510.75
Sprinkler connection (per annum):				
6-inch	\$1,237.54	\$1,287.04	\$1,325.65	\$1,365.42
8-inch	\$1,650.04	\$1,716.04	\$1,767.53	\$1,820.55

(Ord. 2020-2, passed 6-9-2020; Am. Ord. 2023-11, passed 8-8-2023)

**§ 52.06 OTHER WATER SERVICES.**

The following rates are established:

	<i>Phase I</i>	<i>Phase II</i>	<i>Phase III</i>	<i>Phase IV</i>
Public drinking fountain (per fountain/per annum)	\$544.48	\$566.26	\$583.25	\$600.75
Bulk water (up to 3,000 gallons)	\$198.83	\$206.78	\$212.98	\$219.37
Hydrant bulk water:				
Flat charge	\$33.13	\$34.46	\$35.49	\$36.56
Plus: rate per 1,000 gallons	\$7.06	\$7.34	\$7.56	\$7.79
<i>Other fees</i>				
Check valve	\$575	\$575	\$575	\$575

(Ord. 2020-2, passed 6-9-2020; Am. Ord. 2023-11, passed 8-8-2023)

**§ 52.07 IRRIGATION METERS AND CHARGES; SPRINKLING CREDIT; FILLING SWIMMING POOLS.**

At the request of a customer, the town may install a second meter for the sole purpose of irrigation of lawns, landscaping and planting beds. The town shall provide a meter at the cost to the town plus 10% of such cost. The regular meter charge pursuant to §§ 52.02 and 52.03 shall be charged for the use of water through an irrigation meter, but there shall be no sewage charge levied thereon. For the billing months of July through October, for customers who sprinkle their lawns, but do not have a dedicated irrigation system, if the customer contacts the town and requests a sprinkling credit prior to the use of water for sprinkling purposes, the town will credit the customer's account by calculating the wastewater charge during such months at the three month average (mean) wastewater billing during the previous months of January, February and March. For customers who intend to fill a swimming pool, if the customer contacts the town and requests a credit prior to the use of water to fill said pool, the town will credit the customer's account by calculating the wastewater charge during the month in which the pool is filled at the three month average (mean) wastewater billing during the previous months of January, February and March.

(Ord. 2020-2, passed 6-9-2020; Am. Ord. 2023-11, passed 8-8-2023)

**§ 52.08 AUTOMATIC SPRINKLERS.**

The following rates are established:

<i>Rate Per Year</i>				
<i>Connection Size</i>	<i>Phase I</i>	<i>Phase II</i>	<i>Phase III</i>	<i>Phase IV</i>
2-inch connection	\$23.92	\$24.88	\$25.62	\$26.39
3-inch connection	\$53.82	\$55.97	\$57.65	\$59.38
4-inch connection	\$95.68	\$99.51	\$102.49	\$105.57
6-inch connection	\$334.88	\$348.28	\$358.72	\$369.49
8-inch connection	\$382.72	\$398.03	\$409.97	\$422.27
10-inch connection	\$598	\$621.92	\$640.58	\$659.79
12-inch connection	\$861.12	\$895.56	\$922.43	\$950.10

(Ord. 2020-2, passed 6-9-2020; Am. Ord. 2023-11, passed 8-8-2023)

**§ 52.09 CONNECTION CHARGE.**

The following rates are established:

<i>Tap Size</i>	<i>Charge</i>
5/8 inch to 1 inch tap	\$525
Larger than 1 inch tap	Actual cost of labor, material and equipment, but not less than \$525
The town shall also be reimbursed for all boring costs regardless of the size of the tap.	

(Ord. 2020-2, passed 6-9-2020; Am. Ord. 2023-11, passed 8-8-2023)

**§ 52.10 NON-SUFFICIENT FUNDS; CHARGES AND PROCEDURE.**

If a check for payment on an account is returned for non-sufficient funds or an automated clearing house (ACH) payment on an account is reversed for non-sufficient funds, the town will charge an additional \$40 NSF fee to that account. The town shall post a notice upon the property of the account

that the bill shall be paid in full with the NSF fee within three days of the posting of said notice, and if the account is not so paid, the town shall disconnect service to said property. If an account paid by ACH has two or more NSF reversal of funds, the town shall discontinue acceptance of ACH payments on that account.

(Ord. 2020-2, passed 6-9-2020)

#### **§ 52.11 BILLING CYCLE, DELINQUENCY, DISCONNECTION, AND HEARING.**

(A) *Usage period.* The usage period is the month or any part of the month during which water service is provided or is available to be provided to a customer of the Utility or the month or part of the month that a customer's property is physically connected to the town's water system.

(B) *Reading date.* The reading date shall be the first work day of the month, on which date the Town of Geneva shall read the meter at each customer's property.

(C) *Billing date.* The billing date upon which monthly water bills are sent to customers shall be the tenth day of the month in which the water meter is read, or if such date is on a weekend or legal holiday, then the first business day thereafter.

(D) *Due date.* The due date shall be the twenty-fifth day of the month in which the water bill is sent. Each monthly bill will state the date the bill is due and the date after which the bill is considered delinquent and delinquent fees will be added. The total bill shall be due and payable without penalty by the close of business (4:00 p.m.) no later than the twenty-fifth day of the month in which the billing is sent. However, if the twenty-fifth day of the month is on a Saturday, Sunday or legal holiday, then the due date shall be on 4:00 p.m. on the first business day after such weekend or holiday.

(E) *Delinquent date.* The delinquent date shall be on and after 4:01 p.m. on the twenty-fifth day of the month. However, if the twenty-fifth day of the month is on a Saturday, Sunday or legal holiday, then the delinquent date shall be on and after 4:01 p.m. on the first business day after such weekend or holiday.

(F) *Penalties.* A penalty of 10% of the unpaid bill for sewage, trash, storm water and the first \$3 of water charges shall be assessed as of the delinquent date, and the water charges in excess of \$3 shall be assessed a penalty of 3%.

(G) *Delinquent letter.* If a monthly bill remains unpaid as of the delinquent date, then a delinquent letter shall be sent by regular U.S. Mail to the customer and owner stating that the delinquent amount, with penalties, shall be paid on or before 4:00 p.m. on the seventh day after such delinquent letter is sent. However, if the delinquent letter due date is on a Saturday, Sunday or legal holiday, then the delinquent letter due date shall be on 4:00 p.m. on the first business day after such weekend or holiday.

(H) *Water service disconnection (hang up notice)*. If a monthly bill, with penalty, remains unpaid at 4:01 p.m. on the delinquent letter due date, then the town shall post upon the property upon which service was billed a disconnect notice along with an updated bill, including penalty, and said notice shall state that if the bill is not paid on or before the close of business (4:01 p.m.) two days after the notice is posted, the town shall disconnect water service or otherwise turn off such service without further notice. However, if the second day after the posting of the notice falls on a Friday, Saturday, Sunday or legal holiday, then the town shall disconnect water service or otherwise turn off such service without further notice after 4:01 p.m. on the first business day after such weekend or holiday. All water service subject to disconnection shall be disconnected by the town Utility personnel. There shall be a charge of \$25 added to the account upon the posting of the hang up disconnection notice. Any customer water service that is disconnected for non-payment can only be reconnected after full payment is received plus the reconnection fee as set forth in § 52.13.

(I) *Clerk-Treasurer as Hearing Officer on application for extension on disconnection of service*. A person owing an unpaid water bill may appeal in writing to the Clerk-Treasurer for an extension of the date when water service would be subject to discontinuation, setting forth in detail the extraordinary hardship or other unavoidable circumstances whereby the delinquent bill cannot be paid within the allowed period. The Clerk-Treasurer, acting as the Hearing Officer for the extension request, may grant or deny such request, in whole or in part. The Hearing Officer may require partial payment of the delinquent bill in return for granting an extension.

(J) *Appeal of Hearing Officer's denial of disconnection extension*. A person owing an unpaid water bill may appeal the determination of the Clerk-Treasurer acting as Hearing Officer in division (I) above. The appeal shall be in writing within 24 hours after receipt of the notice of determination by the Hearing Officer, said appeal being to an Appeal Board composed of the Board of Trustees President, the Clerk-Treasurer and Workforce Manager. The written appeal request shall set forth in the detail: the (1) extraordinary hardship or other unavoidable circumstances whereby the delinquent bill cannot be fully paid within the allowed period; (2) the specific relief requested; and (3) the reason(s) that the person owing an unpaid water bill believes that the adverse determination of the Clerk-Treasurer acting as Hearing Officer was arbitrary or capricious. The Appeal Board shall hold a hearing on said appeal within ten business days of the filing of the appeal. The appellant shall be given at least 48 hours prior notice of the hearing. Any contemplated discontinuation of water service shall be deferred pending the determination of the appeal by the Appeal Board. The Appeal Board in its appeal determination may: (1) deny the appeal; or (2) grant the appeal in whole or in part; and (3) may require partial payment of the delinquent bill in return for granting an extension. Upon denial of the appeal, the delinquent user shall be given 48 hours notice of the appeal denial prior to the discontinuation of service.

(K) *Application of payments when payment is less than total billing*. When a utility payment is received by the town from a customer, and said payment is less than the amount billed, the customer's payment shall be applied as follows:

(1) The payment shall be applied first to the water charges on said account until said water charges are fully paid, and then to any water taxes, penalties and other charges for the water portion of the account.

(2) The payment shall then be applied to the sanitation charges on said account until said sanitation charges are fully paid.

(3) The payment shall then be applied to the storm water charges on said account until said storm water charges are fully paid.

(4) The payment shall be applied to the sewage charges on said account until said sewage charges are fully paid, and then to any sewage penalties and other charges for the sewage portion of the account.

(5) Any funds remaining in the customer's payment after the aforementioned charges, taxes and penalties have been paid in full shall be applied toward to the next month's account billing.

(L) *Application of payments when payment is more than total billing.* When a utility payment is received by the town from a customer, and said payment is more than the amount billed, the customer's payment shall be credited to the customer's water account.

(M) *Disputed utility bills.* A customer may request an in-person conference regarding any dispute over a disputed utility bill or other service matter before the Town Council, or its designee, to hear such matters. All such matters will be resolved in accordance with I.C. 8-1-2-103 and I.C. 8-1.5-3.5, the written policies of the Town of Geneva and the judgment of the Board of Trustees of the Town of Geneva.

(Ord. 2020-2, passed 6-9-2020)

**§ 52.12 TAMPERING WITH OR OBSTRUCTING METERS.**

Any customer or owner who tampers with or obstructs a water meter, or allows a water meter to be tampered with or obstructed, without authorization of the town, will be subject to a charge of \$50 per occurrence, plus the costs of any repairs, plus the normal invoicing for the water, sewer and other charges for the use thereof, and shall further be subject to criminal prosecution therefor.

(Ord. 2020-2, passed 6-9-2020)

**§ 52.13 RECONNECTION CHARGE.**

Any person, firm, corporation, partnership or association who shall hereafter request a reconnection into the waterworks system of the town shall pay a reconnection charge in the amount of \$40 prior to reconnection into the waterworks system.

(Ord. 2020-2, passed 6-9-2020)

**§ 52.14 REVIEW OF CONNECTION AND RECONNECTION CHARGES.**

Due to increase of costs pertaining to tap and reconnection fees, a review of §§ 52.09 and 52.13 shall be made every three years from the date of passage of this section to determine whether or not the fees remain appropriate or are insufficient and in need of amendment due to increased costs.  
(Ord. 2020-2, passed 6-9-2020)

**§ 52.15 WATER LOSS AUDIT.**

The town will inspect and test the meters and stand pipes of an industrial customer every three years in order to ascertain whether the industrial customer has a leak in its system.  
(Ord. 2020-2, passed 6-9-2020)

**§ 52.16 PROCEDURES FOR REMOVAL OF LEAD LINES.**

In the event that a water user desires to have lead service lines replaced, the Town Water Department will first verify whether the service has not yet been replaced by digging at the curb shut off and physically examining both sides of the shut off. The user is responsible replacing any lead service lines on the user's side of the shut off, and the town will replace any lead service line between the shut off and the main. If a replacement is deemed necessary, then the user shall replace the user's side, and then upon the town's satisfactory inspection of the user's replacement of the line, the town shall then replace its line between the shut off and the main.  
(Ord. 2020-2, passed 6-9-2020)

**§ 52.17 CROSS CONNECTION CONTROL.**

(A) 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.

(B) 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 utilities and by the Indiana Department of Environmental Management in accordance with 327 I.A.C. 8-10.

(C) It shall be the duty of the Town Water Utility to cause inspections to be made of all properties served by the public water system where cross connections with the public water system are deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the Town Water Utility.

(D) Upon presentation of credentials, the representative of the Town Water Utility shall have the right to request entry at any reasonable time to examine any property served by a connection to the public water system of the 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.

(E) The Town Water Utility is hereby authorized and directed to discontinue water service to any property wherein any connection in violation of this section 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 section.

(F) If it is deemed by the Town Water Utility 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.

(G) Pursuant to 327 I.A.C. 8-4, the following consumers shall be designated as cross connection hazards, and shall install and maintain a reduced-pressure-principle 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. Said presumed cross connection hazards are as follows:

- (1) Aircraft and missile manufacturing plants;
- (2) Automotive plants, including those plants that manufacture motorcycles, automobiles, trucks, recreational vehicles, and construction and agricultural equipment;
- (3) Beverage bottling plants, including dairies and breweries;
- (4) Canneries, packing houses, and reduction plants;

**Geneva - Public Works**

- (5) Car washes;
- (6) Chemical, biological, and radiological laboratories, including those in high schools, trade schools, colleges, universities, and research institutions;
- (7) Hospitals, clinics, medical buildings, autopsy facilities, morgues, other medical facilities, and mortuaries;
- (8) Metal and plastic manufacturing, fabricating, cleaning, plating, and processing facilities;
- (9) Plants manufacturing paper and paper products;
- (10) Plants manufacturing, refining, compounding, or processing fertilizer, film, herbicides, natural or synthetic rubber, pesticides, petroleum or petroleum products, pharmaceuticals, radiological materials, or any chemical that could be a contaminant to the public water supply;
- (11) Commercial facilities that use herbicides, pesticides, fertilizers, or any chemical that could be a contaminant to the public water supply;
- (12) Plants processing, blending, or refining animal, vegetable, or mineral oils;
- (13) Commercial laundries and dye works, excluding coin-operated laundromats;
- (14) Sewage, storm water, and industrial waste treatment plants and pumping stations;
- (15) Waterfront facilities, including piers, docks, marinas, and shipyards;
- (16) Industrial facilities that recycle water; and
- (17) Restricted or classified facilities (federal government defense or military installations), or other facilities closed to the supplier of water or to the Commissioner.  
(Ord. 2020-2, passed 6-9-2020)

## CHAPTER 53: SEWER SERVICE

### Section

#### *General Provisions*

- 53.01 Purpose
- 53.02 Administration
- 53.03 Abbreviations
- 53.04 Definitions
- 53.05 Confidential information
- 53.06 Rates and charges

#### *General Sewer Use Requirements*

- 53.15 Prohibited discharge standards
- 53.16 Local limits
- 53.17 Right of revision
- 53.18 Dilution

#### *Sewage Charges*

- 53.20 Sewer usage; customer responsibility; billing and procedures
- 53.21 Billing cycle; delinquency
- 53.22 Sewage bill adjustments
- 53.23 Irrigation meters and charges; sprinkling credit; filling swimming pools; sewage
- 53.24 Reconnection charge
- 53.25 Tampering with or obstructing meters

#### *Pretreatment of Wastewater*

- 53.30 Pretreatment facilities
- 53.31 Additional pretreatment measures
- 53.32 Hauled wastewater
- 53.33 Reports of potential problems
- 53.34 Pretreatment charges

**Geneva - Public Works*****Compliance Monitoring***

- 53.45 Right of entry; inspection and sampling
- 53.46 Search warrants

***Administrative Enforcement Remedies***

- 53.60 Notification of violation
- 53.61 Compliance order
- 53.62 Cease and desist order
- 53.63 Administrative fines and fees
- 53.64 Water supply severance
- 53.65 Enforcement guide/enforcement response guide
- 53.66 Consent orders
- 53.67 Show cause hearing
- 53.68 Emergency suspensions
  
- 53.99 Penalties

***GENERAL PROVISIONS*****§ 53.01 PURPOSE.**

(A) This chapter sets forth uniform requirements for users of the Publicly Owned Treatment Works (POTW) for the Town of Geneva to comply with all applicable state and federal laws, including the Clean Water Act (33 U.S.C. §§ 1251 *et seq.*) and the General Pretreatment Regulations (Title 40 C.F.R. part 403).

(B) This chapter shall apply to all users of the POTW. The chapter provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; and provides for setting fees for the equitable distribution of costs resulting from the program established herein.  
(Ord. 2004-1, passed 6-7-2005)

**§ 53.02 ADMINISTRATION.**

Except as otherwise provided herein, the Superintendent/Certified Operator (Supt/CO) shall administer, implement, and enforce the provisions of this chapter. Any powers granted to, or duties imposed upon, the Supt/CO may be delegated by the Supt/CO to other Geneva personnel.  
(Ord. 2004-1, passed 6-7-2005)

**§ 53.03 ABBREVIATIONS.**

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

***BOD.*** Biochemical Oxygen Demand.

***CA.*** Controlling Authority.



**CBOD.** Carbonaceous Biochemical Oxygen Demand.

**CFR.** Code of Federal Regulations.

**COD.** Chemical Oxygen Demand.

**EPA.** U.S. Environmental Protection Agency.

**GPD.** Gallons per day.

**IDEM.** Indiana Department of Environmental Management.

**mg/l.** Milligrams per liter.

**NPDES.** National Pollution Discharge Elimination System.

**NH<sub>3</sub>N.** Ammonia Nitrogen.

**O&G.** Oil and Grease.

**POTW.** Publicly Owned Treatment Works.

**RCRA.** Resource Conservation and Recovery Act.

**SIC.** Standard Industrial Classification.

**TSS.** Total Suspended Solids.

**U.S.C.** United State Code.

(Ord. 2004-1, passed 6-7-2005)

#### § 53.04 DEFINITIONS.

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

**ACT** or **THE ACT.** The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §§ 1251 *et seq.*

**BIOCHEMICAL OXYGEN DEMAND** or **BOD.** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for 5 days at 20°C, usually expressed as a concentration (e.g., mg/l).

**CARBONEOUS BIOCHEMICAL OXYGEN DEMAND** or **CBOD**. The quantity of oxygen utilized in the biochemical oxygen oxidation of organic matter under standard laboratory procedures for 5 days at 20°C, usually expressed as a concentration (e.g., mg/l).

**CATEGORICAL PRETREATMENT STANDARD** or **CATEGORICAL STANDARD**. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with § 307(b) and (c) of the Act (33 U.S.C. § 1317) which apply to a specific category of the users and which appear in Title 40 C.F.R. Chapter I, Subchapter N, Parts 405-471.

**GENEVA**. The Town of Geneva or the Board of Trustees of Geneva.

**INSTANTANEOUS MAXIMUM ALLOWABLE DISCHARGE LIMIT**. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sample event.

**INTERFERENCE**. A discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment process or operations or its sludge processed, use or disposal and therefore, is a cause of a violation of Geneva's NPDES permit or the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued, or any more stringent state or local regulations: § 405 or the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6901 *et seq.*; any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act, 42 U.S.C. §§ 7401 *et seq.*; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act, 33 U.S.C. §§ 1401 *et seq.*

**MEDICAL WASTE**. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

**NEW SOURCE.**

(1) Any building, structure, facility or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under § 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(a) The building, structure, facility or installation is constructed at a site at which no other source is located; or

(b) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(c) The production or wastewater generating process of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria hereof but otherwise alters, replaces or adds to existing process or production equipment.

(3) Construction of a new source as defined under this division has commenced if the owner or operator has:

(a) Begun, or caused to begin, as part of a continuous onsite construction program:

1. Any placement, assembly or installation of facilities or equipment;
2. Significant site preparation work including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement; or
3. Assembly or installation of new source facilities or equipment.

(b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this division.

***NON-CONTACT COOLING WATER.*** Water used for cooling that does not come into direct contact with raw materials, intermediate product, waste product or finished product.

***PASS THROUGH.*** A discharge that exits the POTW into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violations of any requirement of Geneva's NPDES permit, including an increase in the magnitude or duration of a violation.

***PERSON.*** Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, state and local governmental entities.

***pH.*** A measure of the acidity or alkalinity of a solution, expressed in standard units.

**POLLUTANTS.** Dredged spoil, solid waste, incinerator residue, filter residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater, e.g, pH, temperature, TSS, turbidity, color, CBOD, COD, toxicity, or odor.

**PRETREATMENT.** The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of, introducing such pollutants into the POTW. The reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

**PRETREATMENT REQUIREMENTS.** A substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

**PRETREATMENT STANDARDS or STANDARDS.** Prohibited discharge standards, categorical pretreatment standards and local limits.

**PROHIBITED DISCHARGE STANDARDS or PROHIBITED DISCHARGES.** Absolute prohibitions against the discharge of certain substances.

**PUBLICLY OWNED TREATMENT WORKS or POTW.** A “treatment works” as defined by § 212 of the Act (33 U.S.C. § 1291) that is owned by Geneva. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances that convey wastewater to the treatment plant.

**SEPTIC TANK WASTE.** Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

**SEWAGE.** Human excrement and gray water (household showers, dishwashing operations and the like).

**SIGNIFICANT NON COMPLIANCE (SNC).** Instances of noncompliance are industrial user violations.

**SLUG LOAD or SLUG.** Any discharge at a flow rate or concentration that could cause a violation of the prohibited discharge standards in § 153.15.

**STORM WATER.** Water resulting from rain, melting or melted snow hail, or sleet.

**SUPERINTENDENT.** The person designated by Geneva to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this chapter, or a duly authorized representative.

**SUSPENDED SOLIDS.** The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or liquid, and that is removable by laboratory filtering.

**USER or INDUSTRIAL USER.** A source of indirect discharge.

**WASTEWATER.** Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

**WASTEWATER TREATMENT PLANT or TREATMENT PLANT.** That portion of the POTW that is designed to provide treatment of municipal sewage and industrial waste.  
(Ord. 2004-1, passed 6-7-2005)

### § 53.05 CONFIDENTIAL INFORMATION.

(A) Information and data on a user obtained from reports, surveys and from the Supt/CO's inspection and sampling activities shall be available to the public without restrictions, unless the user specifically requests, and is able to demonstrate to the satisfaction of the Supt/CO that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report that might disclose trade secret processes must not be made available for inspection by the public, but must be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment programs, and in enforcement proceedings involving the person furnishing the report.

(B) Wastewater constituents and characteristics and other "effluent data" as defined by Title 40 C.F.R. § 2.302 will not be recognized as confidential information and will be available to the public with restriction.  
(Ord. 2004-1, passed 6-7-2005)

### § 53.06 RATES AND CHARGES.

The sewage rates and charges shall be based on the quantity of water used on or in the property or premises subject to such rates and charges, as the same is measured by the water meter in use, plus a base charge based on the size of the water meter installed, except as herein otherwise provided. For the purpose of billing and collecting the charges for sewage services, the water meters shall be read monthly and the users shall be billed each month (or periods equaling a month). The water usage schedule on which the amount of said rates and charges shall be determined shall be as follows (rates and charges for customers outside corporate town boundaries are approximately 14.9% higher than rates and charges for customers inside corporate town boundaries):

## Geneva - Public Works

(A) *Treatment rate (per 1,000 gallons).*

	<b>2024</b>	<b>2025</b>	<b>2026</b>
Inside town limits	\$6.89	\$7.85	\$9.11
Outside town limits	\$7.92	\$9.02	\$10.47

(B) *Base rate (per month).*(1) *Inside town limits.*

<b>Meter Size</b>	<b>Minimum Monthly Charge</b>		
	<b>2024</b>	<b>2025</b>	<b>2026</b>
5/8-inch	\$23.08	\$26.31	\$30.52
3/4-inch	\$23.08	\$26.31	\$30.52
1-inch	\$54.83	\$62.51	\$72.51
1-1/2-inch	\$124.85	\$142.33	\$165.10
2-inch	\$213.57	\$243.47	\$282.42
3-inch	\$489.09	\$557.56	\$646.77
4-inch	\$870.27	\$992.11	\$1,150.85
6-inch	\$1,950.40	\$2,223.46	\$2,579.21

(2) *Outside town limits.*

<b>Meter Size</b>	<b>Minimum Monthly Charge</b>		
	<b>2024</b>	<b>2025</b>	<b>2026</b>
5/8-inch	\$26.52	\$30.23	\$35.07
3/4-inch	\$26.52	\$30.23	\$35.07
1-inch	\$63	\$71.82	\$83.31
1-1/2-inch	\$143.45	\$163.54	\$189.70
2-inch	\$245.39	\$279.75	\$324.51
3-inch	\$561.96	\$640.64	\$743.14
4-inch	\$999.94	\$1,139.93	\$1,322.32
6-inch	\$2,241.01	\$2,554.75	\$2,963.51

(3) *Non-metered user (per month).*

<i>User (6,000 gallons assumed flow)</i>	<i>Minimum Monthly Charge</i>		
	<i>2024</i>	<i>2025</i>	<i>2026</i>
Inside town limits	\$64.45	\$73.44	\$85.19
Outside town limits	\$74.05	\$84.38	\$97.88

(Ord. 2006-2, passed 5-23-2006; Am. Ord. 2009-13, passed 12-8-2009; Am. Ord. 2013-11, passed 11-5-2013; Am. Ord. 2017-06, passed 11-14-2017; Am. Ord. 2023-12, passed 8-8-2023; Am. Ord. 2024-1, passed 2-13-2024)

**Cross-reference:**

*For billing procedures and detailed information on sewage charges, see §§ 53.20 et seq.*

**GENERAL SEWER USE REQUIREMENTS**

**§ 53.15 PROHIBITED DISCHARGE STANDARDS.**

(A) *General prohibitions.* No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater that causes pass through or interference. These general prohibitions apply to all users of the POTW.

(B) *Specific prohibitions.* No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

(1) Pollutants that create a fire or explosive hazard in the POTW, including but not limited to, waste streams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in Title 40 C.F.R. § 261.21;

(2) Wastewater having a pH less than 6.0 or more than 9.0, or otherwise could cause corrosive structural damage to the POTW or equipment;

(3) Solid or viscous substances in amounts that could cause obstruction of flow in the POTW resulting in interference;

(4) Pollutants, including oxygen-demanding pollutant (CBOD and the like) released in a discharge at a flow rate and/ or pollutants concentration which, either singly or by interaction with other pollutants, could cause interference with the POTW;

**Geneva - Public Works**

(5) Wastewater having a temperature greater than 104°F (40°C), which will inhibit biological activity in the treatment plant resulting in interference or damage to the POTW;

(6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that could cause interference or pass through;

(7) Pollutants that result in the presence of toxic gases, vapor, or fumes within the POTW in a quantity that may cause acute worker health and safety problems as defined in the Occupational Safety and Health Act, 29 U.S.C. §§ 660 *et seq.*;

(8) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to quality or life, or to prevent entry into the sewers for maintenance or repair;

(9) Wastewater which imparts color that cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently impart color to the treatment plant's effluent, thereby violating Geneva's NPDES permit;

(10) Wastewater containing any radioactive waste or isotopes except in compliance with applicable state and federal regulations;

(11) Trucked or hauled pollutants are prohibited;

(12) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by Supt/CO;

(13) Sludge's, screenings, or other residues from the pretreatment of industrial wastes;

(14) Medical waste, except as specifically authorized by the POTW in a wastewater discharge permit;

(15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;

(16) Detergents, surface-active agents or other substances that may cause excessive foaming in the POTW.

(Ord. 2004-1, passed 6-7-2005)

### § 53.16 LOCAL LIMITS.

(A) The following pollutants are established to protect against pass-through and interference. No person shall discharge wastewater containing in excess of the following instantaneous maximum allowable discharge limits.

<i>Contaminant</i>	<i>Concentration mg/l</i>
Benzene	Prohibited*
CBOD	220
Cadmium	0.69
Chromium	2.77
Copper	1.30**
Lead	0.69
Nickel	3.98
Oil and grease	5.0***
Total suspended solids	200
Zinc	2.61
Ammonia nitrogen	50.0

(B) The above limits apply at the point where the wastewater is discharged to the sanitary collection system. If an industry has a pretreatment permit issued by IDEM, the sample point for compliance with the local limits will be consistent with the current industrial permit. Samples will either be grab or composite as in the industry's permit. Concentration for metals will be for "total" metal. Test procedures will be that from methods approved in references listed in the Geneva NPDES Permit.

(C) The list of contaminants above may be reviewed and revised from time to time to add or remove contaminants and adjust concentrations as determined necessary by the Geneva Town Council to best protect the POTW from upset, operational difficulties, and NPDES permit violations.

(D) BOD, TSS and ammonia nitrogen limits were set from design limits for the treatment plant.

\*Benzene Use prohibited in the sample USEPA SUO used as a reference to upgrade this SUO.

\*\*Copper has been previously found in the sludge in sufficient levels to prevent land application and low level is felt to be advisable to protect the POTW.

\*\*\*Oil and grease limits were set at a level that the POTW could discharge O&G if a limit was imposed.

(Ord. 2004-1, passed 6-7-2005)

**§ 53.17 RIGHT OF REVISION.**

Geneva reserves the right to establish more stringent standards or requirements on discharges to the POTW.

(Ord. 2004-1, passed 6-7-2005)

**§ 53.18 DILUTION.**

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement.

(Ord. 2004-1, passed 6-7-2005)

***SEWAGE CHARGES*****§ 53.20 SEWER USAGE; CUSTOMER RESPONSIBILITY; BILLING AND PROCEDURES.**

There shall be and hereby are established for the use of and the service rendered by the sewage utility of the Town of Geneva, procedures, rates and charges wherein the owners of each and every lot, parcel of real estate, or building that is connected to the sewer system shall be primarily responsible for payment thereof. Tenants and conditional sale contract purchasers may accept the responsibility for payment thereof by lease or contract with the owner. However, as the town is not a party to such a lease or contract, the owner shall remain primarily responsible for payment to the town of any and all charges for the sewage utility. The town will send monthly sewer bills to the address on file with the town. If a customer does not have home mail delivery or a post office box, then it is the customer's responsibility to pick up the monthly water bill at the Town Hall. The rates and charges listed in § 53.06 shall be based upon the amount of water supplied during each monthly billing period:

(A) There shall be a sewage tap charge of the cost of labor, material and equipment for connection, but with a minimum of \$500.

(B) The sewage rates and charges can be found in § 53.06.  
(Ord. 2019-2, passed 4-9-2019)

***Cross-reference:***

*Specific sewage rates and charges, see § 53.06*

**§ 53.21 BILLING CYCLE; DELINQUENCY.**

(A) *Usage period.* The usage period is the month or any part of the month during which sewer service is provided or is available to be provided to a customer of the Utility or the month or part of the month that a customer's property is physically connected to the town's water system.

(B) *Reading date.* The reading date shall be the first work day of the month, on which date the town shall read the water meter at each customer's property.

(C) *Billing date.* The billing date upon which monthly sewer bills are sent to customers shall be the tenth day of the month in which the water meter is read, or if such date is on a weekend or legal holiday, then the first business day thereafter. The sewer bill shall be separately itemized on the same billing as the water bill.

(D) *Due date.* The due date shall be the twenty-fifth day of the month in which the sewage bill is sent. Each monthly bill will state the date the bill is due and the date after which the bill is considered delinquent and delinquent fees will be added. The total bill shall be due and payable without penalty by the close of business (4:00 p.m.) no later than the twenty-fifth day of the month in which the billing is sent. However, if the twenty-fifth day of the month is on a Saturday, Sunday or legal holiday, then the due date shall be on 4:00 p.m. on the first business day after such weekend or holiday.

(E) *Delinquent date.* The delinquent date shall be on and after 4:01 p.m. on the twenty-fifth day of the month. However, if the twenty-fifth day of the month is on a Saturday, Sunday or legal holiday, then the delinquent date shall be on and after 4:01 p.m. on the first business day after such weekend or holiday.

(F) *Penalties.* A penalty of 10% of the unpaid bill for sewage, trash, storm water and the first \$3 of water charges shall be assessed as of the delinquent date.

(G) *Delinquent letter.* If a monthly bill remains unpaid as of the delinquent date, then a delinquent letter shall be sent by regular U.S. Mail to the customer stating that the delinquent amount, with penalties, shall be paid on or before 4:00 p.m. on the seventh day after such delinquent letter is sent. However, if the delinquent letter due date is on a Saturday, Sunday or legal holiday, then the delinquent letter due date shall be on 4:00 p.m. on the first business day after such weekend or holiday.

(H) *Water service disconnection (hang up notice).* Since the sewage rates and charges are based on the quantity of water used on or in the property or premises as the same is measured by the water meter in use, plus a base charge based on the size of the water meter installed, if a monthly bill, with penalty, remains unpaid at 4:01 p.m. on the delinquent letter due date, then the town shall post upon the property upon which service was billed a disconnect notice along with an updated bill, including penalty, and said notice shall state that if the bill is not paid on or before the close of business (4:01 p.m.) two days after the notice is posted, the town shall disconnect water service or otherwise turn off the water service

without further notice. However, if the second day after the posting of the notice falls on a Friday, Saturday, Sunday or legal holiday, then the town shall disconnect water service or otherwise turn off such service without further notice after 4:01 p.m. on the first business day after such weekend or holiday. There shall be a charge of \$25 added to the account upon the posting of the hang up disconnection notice. All water service subject to disconnection shall be disconnected by the town utility personnel. Any customer water service that is disconnected for non-payment can only be reconnected after full payment is received plus the reconnection fee as set forth in § 53.24.

(I) *Filing of sewage lien.* When unpaid sewage charges and penalties amount to \$300 or more, and no later than 20 days after the charges and penalties become 90 days delinquent, the town shall send, by first class mail or by certified mail, return receipt requested, to the customer and owner a pre-lien letter pursuant to I.C. 36-9-23-32, giving 14 days for said account to be paid current in order to prevent a sewage lien being filed, and if said account is not paid current, then a lien shall be filed with the Recorder of Adams County in the next month of April or October, whichever is earlier.  
(Ord. 2019-2, passed 4-9-2019)

**§ 53.22 SEWAGE BILL ADJUSTMENTS.**

A customer may apply to the town for adjustment for an unusually high sewage bill caused by leaks in water lines or equipment on the customer's property that the customer could not reasonably have known about with normal diligence as approved by I.C. 8-1.5-3.5-4. The reason for providing a method for reducing these bills is to relieve possible unforeseen financial hardship on residents and businesses caused by lack of maintenance or a change in activity at the residence or business.

(A) Adjustments to sewer bills may be considered when all of the following procedures and conditions are met:

(1) Water use volume for the billing period is 200% of the previous 12 months' average usage history, or the previous full billing period if no history exists.

(2) If the cause of the unusually high bill is unknown, upon request by the customer or owner, the town will reread or data log the meter in order to ascertain whether data was properly recorded for the billing in question.

(3) If the cause of the unusually high bill is found to be a leak, the customer must provide documentation that the leak has been repaired, showing bills for materials required for the repair or documentation from a licensed plumber.

(4) The customer's account shall not be delinquent (with only the current period's usage billing owed). An approved payment plan agreed upon by customer and the town does not constitute a delinquency.

(B) If all of the procedures and conditions in division (A) are met, then the town will give the customer a one time leak adjustment on the customer's highest bill by adjusting the sewage use charges to the average of the previous three months. However, the town shall not grant to a customer more than one adjustment within a 12 month period.

(Ord. 2019-2, passed 4-9-2019)

**§ 53.23 IRRIGATION METERS AND CHARGES; SPRINKLING CREDIT; FILLING SWIMMING POOLS; SEWAGE.**

At the request of a customer, the town may install a second meter for the sole purpose of irrigation of lawns, landscaping and planting beds. The town shall provide a meter at the cost to the town plus 10% of such cost. The regular meter charge pursuant to §§ 52.02 and 52.03 shall be charged for the use of

water through an irrigation meter, but there shall be no sewage charge levied thereon. For the billing months of July through October, for customers who sprinkle their lawns, but do not have a dedicated irrigation system, if the customer contacts the town and requests a sprinkling credit prior to the use of water for sprinkling purposes, the town will credit the customer's account by calculating the wastewater charge during such months at the three month average (mean) wastewater billing during the previous months of January, February and March. For customers who intend to fill a swimming pool, if the customer contacts the town and requests a credit prior to the use of water to fill said pool, the town will credit the customer's account by calculating the wastewater charge during the month in which the pool is filled at the three month average (mean) wastewater billing during the previous months of January, February and March.

(Ord. 2019-2, passed 4-9-2019)

#### **§ 53.24 RECONNECTION CHARGE.**

Any person, firm, corporation, partnership or association who shall hereafter request a reconnection into the sanitary sewer system of the town shall pay a reconnection charge in the amount of \$40 prior to reconnection into the sanitary sewer system.

(Ord. 2019-2, passed 4-9-2019)

#### **§ 53.25 TAMPERING WITH OR OBSTRUCTING METERS.**

Any customer or owner who tampers with or obstructs a water meter, or allows a water meter to be tampered with or obstructed, without authorization of the town, will be subject to a charge of \$50 per occurrence, plus the costs of any repairs, plus the normal invoicing for the water, sewer and other charges for the use thereof, and shall further be subject to criminal prosecution therefor.

(Ord. 2019-2, passed 4-9-2019)

### ***PRETREATMENT OF WASTEWATER***

#### **§ 53.30 PRETREATMENT FACILITIES.**

Users must provide wastewater treatment as necessary to comply with all categorical pretreatment standards, local limits and the prohibitions set out in § 153.15 within the time limitations specified by U.S. EPA, the state or, by Town Council. Any facilities necessary for compliance shall be provided and maintained at the user's expense.

(Ord. 2004-1, passed 6-7-2005)

**§ 53.31 ADDITIONAL PRETREATMENT MEASURES.**

(A) Whenever deemed necessary, the Geneva Town Council may require users to restrict their discharge during peak flow periods, designate that certain wastewaters be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this ordinance.

(B) The Geneva Town Council may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow control facility to ensure equalization of flow.

(C) Grease, oil, and sand interceptors must be provided when, in the opinion of the Supt/CO, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors will not be required for residential users. All interception units must be of a type and capacity approved by the Supt/CO and must be located so as to be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.

(D) Users with the potential to discharge flammable substance may be required to install and maintain an approved combustible gas detection meter.  
(Ord. 2004-1, passed 6-7-2005)

**§ 53.32 HAULED WASTEWATER.**

Hauled wastewater is prohibited from discharge to the POTW.  
(Ord. 2004-1, passed 6-7-2005)

**§ 53.33 REPORTS OF POTENTIAL PROBLEMS.**

(A) In the case of any discharge, including, but not limited to, accidental discharges, or a slug load, that may cause potential problems for the POTW, the user shall immediately notify the Supt/CO of the incident. This notification must include the location of the discharge, type of waste, concentration and volume, if known, and corrective action taken by the user.

(B) Notification shall be within 2 hours of becoming aware of the discharge. The Supt/CO is to be allowed the opportunity to be on the site of the discharge.  
(Ord. 2004-1, passed 6-7-2005)

**§ 53.34 PRETREATMENT CHARGES.**

Geneva may adopt reasonable fees for reimbursement of costs of setting up and operating Geneva's Pretreatment Surveillance Program, which may include:

(A) Fees for monitoring, inspection, and surveillance procedures including the cost of collecting and analyzing a user's discharge, and receiving monitoring reports submitted by users;

(B) Fees for reviewing and responding to accidental discharge procedures and construction;

(C) Fees for filing appeals; and

(D) Other fees as Geneva may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this chapter and are separate from all other fees, fines, and penalties chargeable by the Town Council.

(Ord. 2004-1, passed 6-7-2005)

***COMPLIANCE MONITORING*****§ 53.45 RIGHT OF ENTRY; INSPECTION AND SAMPLING.**

(A) The Supt/CO shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this chapter and any wastewater discharge permit or order issued hereunder.

(B) Users shall allow the Superintendent ready access to all parts of the premises for the purposes of inspection, sampling, records examination and coping, and the performance of any additional duties.

(1) Where a user has security measures in force that require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Supt/CO will be permitted to enter without delay for the purpose of performing specific responsibilities.

(2) The Supt/CO shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

(3) The Supt/CO may require the user to install monitoring equipment as necessary to comply with the requirements of this chapter. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user, at their expense. All devices used to measure wastewater flow and quality shall be calibrated annually to ensure their accuracy.

(4) Any temporary or permanent obstruction to the safe and easy access of the facility to be inspected and/or sampled must be promptly removed by the user at the written or verbal request of the Supt/CO and shall not be replaced. The costs of clearing such access shall be born by the user.

(5) Unreasonable delays in allowing the Supt/CO access to the user's premises is a violation of this chapter.

(6) The Town Council reserves the right to accept or deny any new or increased discharge from any indirect discharger.

(7) The town can immediately halt or prevent any discharges of pollutants to the POTW which reasonably appears to present an imminent endangerment to the health or welfare of the public, the environment, and/or which threatens to disrupt the normal operation of the POTW.

(8) Indirect dischargers are required to comply with all applicable pretreatment standards and requirements.

(9) The Town Council reserves the right to impose fees, if necessary, to offset costs incurred for administrating the pretreatment program requirements, as established in Part III of the NPDES Permit IN #0039357.

(10) Sampling and testing techniques will be followed in accordance with the town's NPDES permit.  
(Ord. 2004-1, passed 6-7-2005)

**§ 53.46 SEARCH WARRANTS.**

If the Supt/CO has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Town of Geneva designed to verify compliance with this chapter or order issued hereunder, or to protect the overall public health safety and welfare of the community, then the Supt/CO may seek issuance of a search warrant from the Adams County Circuit Court, Adams County, Indiana.  
(Ord. 2004-1, passed 6-7-2005)

***ADMINISTRATIVE ENFORCEMENT REMEDIES***

**§ 53.60 NOTIFICATION OF VIOLATION.**

(A) When the Town Council finds that a user has violated, or continues to violate, any provision of this chapter or order issued hereunder, the Town Council may serve upon that user a written notice of

violation. Within 2 days of the receipt of this notice, the user shall submit to the Supt/CO, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific actions.

(B) Submission of this plan in no way relieves the user of liability for any violation occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the Town Council to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(Ord. 2004-1, passed 6-7-2005)

### **§ 53.61 COMPLIANCE ORDER.**

When the Town Council finds that a user has violated, or continues to violate, any provision of this chapter, or order issued hereunder, the Council may issue an order to the user responsible for the discharge directing that the user comes into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be disconnected. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking other action against the user.

(Ord. 2004-1, passed 6-7-2005)

### **§ 53.62 CEASE AND DESIST ORDER.**

(A) When the Town Council finds that a user has violated, or continues to violate, any provision of this chapter, or order issued hereunder, or that the user's past violations are likely to reoccur, the Town Council may issue an order to the user directing it to cease and desist all such violations and directing the user to:

(1) Immediately comply with all requirements; and

(2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(B) Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking other action against the user.

(Ord. 2004-1, passed 6-7-2005)

### **§ 53.63 ADMINISTRATIVE FINES AND FEES.**

(A) When the Town Council finds that a user has violated, or continues to violate any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Council may fine such user in an amount not to exceed \$1,000 per day per violation.

(B) Unpaid charges, fines, and penalties shall, after 30 calendar days, be assessed an additional penalty of 10% of the unpaid balance, and interest shall accrue thereafter at a rate of an amount equal to the then existing statutory rate for judgments in the Indiana Code per month. A lien against the user's property will be sought for unpaid charges, fines, and penalties.

(C) Users desiring to dispute such fines shall file a written request to the Council to reconsider the fine along with full payment of the fine amount within 15 days of being notified of the fine. The Council may convene a hearing on the matter. In the event the user's appeal is successful, payment, together with any interest accruing thereto, shall be returned to the user. The Council may add the cost of preparing administrative enforcement actions, such as notices and orders, to the fine.

(D) Fees shall be imposed if necessary to offset the cost incurred by the town of Geneva for administration of the pretreatment program requirements.

(1) The town is required to implement and enforce this chapter.

(2) Monitoring discharge of industrial users; once per calendar quarter and analyze the discharge of each SIU for all parameters contained in the Industrial Wastewater Pretreatment (IWP) permit issued by the CA, with a exception of Total Toxic Organic's (TTO's) which shall be sampled and analyzed no less than once per calendar year.

(3) The town shall utilize the sample type for each parameter (e.g. 24-hour composite or grab) as specified in the IWP Permit issued by the CA.

(4) The town shall collect samples at the sample location specified in the IWP permit issued by the CA.

(5) The town shall utilize the analytical methods contained in the IWP permit issued by the CA.

(6) The purpose of the sampling and analysis is:

(a) Achieve and/or maintain compliance with the requirements of NPDES Permit No. IN 0039357.

(b) Determine compliance with the requirements of this chapter.

(c) Records shall be maintained at the POTW of all sampling and analytical data.

(7) The Town of Geneva shall no less than annually inspect each SIU.

(8) The inspection form shall be similar to that used by IDEM and include the evaluation of the following:

**Geneva - Public Works**

- (a) Compliance with the IWP permit;
- (b) Pretreatment systems;
- (c) Spill reporting and response procedures;
- (d) Sampling location; and
- (e) Disposal of sludge and other wastestreams.

(9) The Town of Geneva shall for each inspection conducted maintain at the POTW copies of all inspection report forms, for the past three years and the current year.

(10) The file maintained at the POTW for each SIU shall contain but not be limited to;

(a) A copy of the IWP permit issued by the CA;

(b) Information and data pertaining to and resulting from the sampling and analysis required. Such information shall include at a minimum:

1. Date, exact place and time of sampling or measurement;
2. Name of the person(s) who performed the sampling or measurement;
3. Sample type utilized;
4. Date(s) and time(s) analysis performed;
5. Analytical techniques or methods used; and
6. Copies of all inspection reports required.

(c) Copies of inspection report required.

(d) Copies of all documents (including correspondence and discharge monitoring reports) related to the SIU and/or the IWP permit issued by the CA.

(11) Records of the POTW shall be maintained by the town in a secure location that is accessible by IDEM or the US EPA during regular business hours. The period of records retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the industrial user or the operation of the pretreatment program or when requested by IDEM or the US EPA.

(Ord. 2004-1, passed 6-7-2005)

**§ 53.64 WATER SUPPLY SEVERANCE.**

Whenever a user has violated or continues to violate any provision of this chapter, or order issued hereunder, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated to the Town Council its ability to comply.  
(Ord. 2004-1, passed 6-7-2005)

**§ 53.65 ENFORCEMENT GUIDE/ENFORCEMENT RESPONSE GUIDE.**

Refer to Enforcement Guide/Enforcement Response Guide of the Town of Geneva.  
(Ord. 2004-1, passed 6-7-2005)

**§ 53.66 CONSENT ORDERS.**

The Superintendent may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to this section and shall be judicially enforceable.  
(Ord. 2004-1, passed 6-7-2005)

**§ 53.67 SHOW CAUSE HEARING.**

The Superintendent may order a user which has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Superintendent and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least 14 days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.  
(Ord. 2004-1, passed 6-7-2005)

**§ 53.68 EMERGENCY SUSPENSIONS.**

(A) The Supt/CO may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge that reasonably appears

to present or cause an imminent or substantial endangerment to the health or welfare or any person. The Supt/OC may also immediately suspend the user's discharge, after formal notice to the user, if the discharge could threaten to interfere with operation of the POTW, or which presents, or may present, an endangerment to the environment.

(B) Any person notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of the user's failure to immediately comply voluntarily with the suspension order, the Supt/CO may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Town Council may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Supt/CO that the period of endangerment has passed. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measurements taken to prevent any future occurrence, to the Town Council prior to the date of any show cause or termination hearing under this chapter.

(C) Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.  
(Ord. 2004-1, passed 6-7-2005)

### **§ 53.99 PENALTIES.**

(A) (1) When the Town Council finds that the user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Town Council may petition the Adams Circuit Court through Geneva's Attorney for the issuance of a temporary or permanent injunction as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this chapter or activities of the user. The Town Council may also seek such action as appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunction relief, shall not be a bar against, or a prerequisite for taking any other action against the user.

(2) (a) A user has violated or continues to violate any provision of this chapter, or order issued hereunder, or any other requirement shall be liable to Geneva for a maximum civil penalty of \$2,500 per violation per day.

(b) The Town of Geneva may recover reasonable fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, the additional cost incurred by Geneva to treat the discharge, and the cost of any actual damages incurred by Geneva.

(c) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including the extent of harm caused by violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any factors as justice requires.

(d) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any action against a user. Such a penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

(3) The remedies provided for in this chapter are not exclusive. The Town Council may take any, or any combination of these actions against a noncompliance user.

(B) (1) (a) For the purposed of this division, *UPSET* means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An *UPSET* does not include noncompliance to the extent causes by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) An upset shall constitute an affirmative defense to an action brought for noncompliance, with categorical pretreatment standards if the requirements hereof are met.

(c) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

1. An upset occurred and the user can identify the cause(s) of the upset;
2. The facility was at the time being operated in a prudent and work-like manner and incompliance with applicable operation and maintenance procedures;

3. The user must submit immediately the following information to the Supt/CO on becoming aware of the upset and, if this information is provided orally, a written submission must be provided within 2 days:

- a. A description of the indirect discharge and cause of noncompliance;
- b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
- c. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(d) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

## Geneva - Public Works

(e) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(f) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

(2) A user shall have an affirmative defense to an enforcement action brought against it or noncompliance with the general prohibitions of § 53.15 or the specific prohibitions in § 53.16, if it can be proven that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

(a) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to and during the pass-through or interference; or

(b) No local limits exist, but the discharge did not change substantially in nature or constituents from the user's prior discharge when Geneva was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(C) (1) For the purpose of this section;

***BYPASS.*** The intentional diversion of wastewater from any portion of a user's treatment facility.

***SEVERE PROPERTY DAMAGE.*** Substantial damage to property, damage to the treatment facilities, which causes them to become inoperable, or substantial and permanent loss of natural resources, which can reasonably be expected to occur in the absence of a bypass. ***SEVERE PROPERTY DAMAGE*** does not mean economic loss caused by delay in production.

(2) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is also for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of divisions (C)(3) and (4).

(3) (a) If a user knows in advance of the need to bypass, it shall submit prior notice to the Supt/CO, at least 10 days before the date of the bypass, if possible.

(b) A user shall submit oral notice to the Supt/CO of an unanticipated bypass that exceeds applicable pretreatment standards immediately from the time it becomes aware of the bypass. A written submission shall also be provided within 2 days of the time the user becomes aware of the bypass. The

written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and if the bypass has not been corrected, the anticipated time it is expected to continue; and steps take or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Town Council may waive the written report on a case-by-case basis if the oral report has been received immediately.

(4) (a) Bypass is prohibited, and the Town Council may take enforcement action against a user for bypass, unless:

1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
3. The user submitted notices as required under division (C)(3) of this section.

(b) The Town Council may approve an anticipated bypass, after considering its adverse effects, if the Supt/CO determines that it will meet the 3 conditions listed in division (C)(4)(a) of this section.

(Ord. 2004-1, passed 6-7-2005)



## CHAPTER 54: STORMWATER SYSTEM

### Section

- 54.01 Definitions
- 54.02 User charges
- 54.03 Rates and fees established
- 54.04 Storm water quantity
- 54.05 Adjusting of rates and charges
- 54.06 Billing and collection
- 54.07 Annual study
- 54.08 Enforcement
- 54.09 Special rate contracts
- 54.10 Appeals
- 54.11 Mandatory charge
- 54.12 Property affected
- 54.13 Inspections
- 54.14 Violations
- 54.15 Stormwater tap-in fee
  
- 54.99 Penalty

### § 54.01 DEFINITIONS.

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

***BOD*** or ***BIOCHEMICAL OXYGEN DEMAND***. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for 5 days at 20°C, usually expressed as a concentration (for example, mg/l).

***COMMERCIAL STORM WATER SURCHARGE***. An additional charge, which is billed to commercial users for treating storm water in excess of “normal residential storm water discharge”.

***COUNCIL***. The Town Council of the Town of Geneva, Adams County, Indiana, or any duly authorized officials acting on its behalf.

***DEBT SERVICE COSTS***. The average annual principal and interest payments on all outstanding revenue bonds or other long-term capital debt.

**ERU (EQUIVALENT RESIDENTIAL UNIT).** One **ERU** shall be equivalent to 2800 square feet of impervious material for each residential user. Unless otherwise noted, each residential user shall have 1 **ERU** per residential structure unless otherwise indicated.

**IMPERVIOUS MATERIAL.** Material that prohibits the direct passage or penetration of precipitation directly into the soil or ground and shall include gravel. Said material shall be manmade and placed so that precipitation shall be diverted or collected rather than direct passage to the ground. Ponds or retention pools designed for collection of storm water shall not be included in this definition.

**INDUSTRIAL WASTES.** The wastewater discharges from industrial, trade or business processes as distinct from employee wastes or wastes from sanitary conveniences.

**MAY.** Is permissive.

**NPDES. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM) PERMIT.** As defined in the Sewer Use Ordinance.

**NORMAL RESIDENTIAL STORM WATER DISCHARGE.** For the purpose of determining surcharges, storm water that is normal for a residential user or building.

**OPERATION AND MAINTENANCE COSTS.** Include all costs, direct and indirect, necessary to provide adequate storm water collection, transportation and management on a continuing basis and produce discharges to receiving waters that conform with all related federal, state and local requirements. (These costs shall include replacement.)

**OTHER SERVICE CHARGES.** Tap charges, connection charges, area charges, and other identifiable charges, other than user charges, debt service charges and excessive strength surcharges.

**PERSON.** Any and all persons, natural or artificial, including any individual, firm, company, municipal or private corporation, association, society, institution, enterprise, governmental agency or other entity.

**REPLACEMENT COSTS.** The expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the storm water system to maintain the capacity and performance for which such system was designed and constructed.

**SHALL.** Is mandatory.

**STORM WATER.** Water which is received by the town and its residents from precipitation that occurs as a result of climatic changes and storm events.

**STORM WATER SEWAGE SYSTEM.** The entire storm water collection and discharge system for the town as set forth in this chapter.

**TOWN.** The Town of Geneva, Adams County, Indiana acting by and through the Town Council.

**USER CLASS.** The division of storm water customers by source, function, characteristics, and process or discharge similarities (residential, commercial, industrial, institutional, and governmental in User Charge System).

(1) **RESIDENTIAL USER.** A user of the storm water system whose premises or building is used primarily as a single-family residence for one or more persons. **RESIDENTIAL USER** category will also include the following:

(a) **MULTI-FAMILY RESIDENTIAL USER.** A user of the storm water system whose premises or building is used as a multi-family residence.

(b) **MOBILE HOME PARK USER.** An area on which 2 mobile homes, other than mobile homes on permanent foundations, are harbored on temporary supports for the purpose of being occupied as principal residences.

(c) **NON RESIDENTIAL USER.** Any user of a structure that is not a single family residence and include any residence that also conducts a home based business.

(2) **COMMERCIAL USER.** Any establishment involved in a commercial enterprise, business or service, based on a determination by the town.

(3) **INDUSTRIAL USER.** Any manufacturing or processing facility.

(4) **INSTITUTIONAL USER.** Any establishment involved in a social, charitable or religious function, based on a determination by the town.

(5) **GOVERNMENTAL USER.** Any federal, state or local governmental user of the storm water system.

(6) **SCHOOL USER.** Any establishment with an educational function, based on a determination by the town.

**WASTEWATER FACILITIES.** The structures, equipment and processes required to collect, carry away and treat domestic and commercial wastes and dispose of the effluent. (Ord. 2006-3, passed 5-23-2006)

## § 54.02 USER CHARGES.

(A) Every person whose premises are served by the storm water system shall be charged for services provided. These charges are established for each user class as defined, in order that the storm water system shall recover, from each user and user class, revenue which is proportional to its use in terms of volume and load. User charges are levied to defray the cost of operation and maintenance (including replacement) of the storm drain system. User charges shall be uniform in magnitude within a user class.

(B) User charges are subject to the rules and regulations adopted by federal and state agencies. Replacement costs, which are recovered through the system of user charges, shall be based upon the expected service life of the storm water system appurtenances.

(C) The various classes of users of the storm drainage system for the purposes of this chapter shall be as follows:

(1) Class 1- Residential, Non-Residential, Multi-family Residential, Mobile Home Park, Institutional and Governmental

(2) Class 2- Commercial (Less than 10,000 square feet)

(3) Class 3- School

(4) Class 4- Industrial:

(a) Small: Under 100,000 sq. ft.

(b) Medium: 100,000 to 300,000 sq. ft.

(c) Large: Over 300,000 sq. ft.

(Ord. 2006-3, passed 5-23-2006)

### **§ 54.03 RATES AND FEES ESTABLISHED.**

For the use of and the service rendered by the storm water system, rates and charges shall be collected from the owners of each and every lot, parcel of real estate or building that is connected with the town storm water system or otherwise discharges liquids, either directly or indirectly, into the storm water system of the town. Such rates and charges include user charges, debt service costs, excessive strength surcharges and other service charges, which rates and charges shall be payable as hereinafter provided and shall be in an amount determinable as follows:

(A) There is hereby established a monthly storm water utility fee to be charged to all owners of real estate within the corporate limits of the Town of Geneva, Indiana, for the use of and services provided by the storm water utility of the town.

<i>Charges Per Month:</i>	<i>2018 (effective 1/1/2018)</i>	<i>2019 (effective 1/1/2019)</i>	<i>2020 (effective 1/1/2020)</i>	<i>2021 (effective 1/1/2021)</i>	<i>2022 (effective 1/1/2022)</i>
Class I - Residential	\$3.18	\$3.37	\$3.57	\$3.78	\$4.01
Class II - Commercial	\$6.89	\$7.30	\$7.74	\$8.20	\$8.69
Class III - School	\$10.60	\$11.24	\$11.91	\$12.62	\$13.38
Class IV - Industrial					
Small	\$10.60	\$11.24	\$11.91	\$12.62	\$13.38
Medium	\$31.80	\$33.71	\$35.73	\$37.87	\$40.14
Large	\$84.80	\$89.89	\$95.28	\$101	\$107.06

*(B) Inspection and connection fees.*

(1) The inspection fee shall be \$5 for a final inspection of any and all connections to the storm water system.

(2) The connection fee for any and all connections prior to the initial connection period shall be at no charge to the user.

(3) The connection fee for any and all connections after the initial connection period shall be assessed a fee of \$100 for each connection.

(Ord. 2006-3, passed 5-23-2006; Am. Ord. 2009-14, passed 12-8-2009; Am. Ord. 2013-9, passed 11-5-2013; Am. Ord. 2017-04, passed 11-14-2017)

**§ 54.04 STORM WATER QUANTITY.**

(A) The quantity of storm water discharged into the storm water system and obtained from sources other than the utility that serves the town shall be determined by the town in such manner as the town shall reasonably elect, and the storm water service shall be billed at the above appropriate rates, except as is hereinafter provided in this section.

(B) In the event a lot, parcel of real estate or building discharges sanitary sewage, industrial wastes, water or other liquids into the town storm water system, either directly or indirectly, or is otherwise not acceptable to the town storm water system, then the user shall be assessed any and all costs, fines, penalties, attorney fees and any other expense associated with the improper discharge into the storm water system.

(Ord. 2006-3, passed 5-23-2006)

**§ 54.05 ADJUSTING OF RATES AND CHARGES.**

In order that the rates and charges may be justly and equitably adjusted to the service rendered to users, the town shall base its charges only on the square feet of impervious area as well as the costs for operation and maintenance of the storm water system.

(Ord. 2006-3, passed 5-23-2006)

**§ 54.06 BILLING AND COLLECTION.**

Such rates and charges shall be prepared, billed and collected by the town in the manner provided by law and ordinance.

(A) The rates and charges for all users shall be prepared and billed monthly.

(B) The rates and charges for all users shall be billed to and paid by the owner of the property.

(C) As is provided by statute, all rates and charges not paid when due are hereby declared to be delinquent and a penalty of 10% of the amount of the rates or charges shall thereupon attach thereto. The time at which such rates shall be paid is now fixed at 15 days after the date of mailing of the bill.

(D) In the event that it is necessary to institute any proceedings to collect any past due amount, then the owner of the property shall be responsible for all collection costs, fees, reasonable attorney fees, court costs or other expenses incurred by the town.

(E) Delinquent storm water fees and penalties shall constitute a lien against the real property against which the user fees have been imposed. Such liens shall be certified to the Adams County Auditor and collected as provided in I.C. 36-9-23-32.

(Ord. 2006-3, passed 5-23-2006)

**§ 54.07 ANNUAL STUDY.**

(A) In order that the rates and charges for storm water services may be in proportion to the cost of providing services to the various users or user classes, the town shall cause a study to be made within one year, following the date on which this chapter goes into effect and at least annually thereafter. Such study shall include, but not be limited to, an analysis of the costs associated with the collecting, controlling and discharging of the storm water volume and delivery flow characteristics attributed to the various users or user classes, the financial position of the storm water utility and the adequacy of its revenue to provide reasonable funds for the operation and maintenance, replacements, debt service requirements and capital improvements to the storm water systems. The town shall adjust its rates and charges to reflect the results of the study.

(B) Thereafter, on an annual basis, within a reasonable period of time following the normal accounting period, the town shall cause a similar study to be made for the purpose of reviewing the

proportionality of the rates and charges for storm sewage services on a continuing basis. Said studies shall be conducted by officers or employees of the town, or by a firm of certified public accountants, or a firm of consulting engineers, which firms shall have experience in such studies, or by such combination of officers, employees, certified public accountants, or engineers as the town shall determine to be best under the circumstances. The town shall, upon completion of said study, revise and adjust rates and charges, as necessary in accordance therewith in order to maintain the proportionality and sufficiency of the rates.

(Ord. 2006-3, passed 5-23-2006)

**§ 54.08 ENFORCEMENT.**

(A) The town shall make and enforce such laws and regulations as may be deemed necessary for the safe, economical and efficient management of the town's storm water system, and storm water conveyance system, for the construction and use of storm water and for the regulation, collection, rebating and refunding of such rates and charges.

(B) The town is hereby authorized to prohibit dumping of wastes into the town's storm water system which, in its discretion, are deemed harmful to the operation of the storm water system works of the town.

(Ord. 2006-3, passed 5-23-2006)

**§ 54.09 SPECIAL RATE CONTRACTS.**

The Town Council is hereby further authorized to enter into special rate contracts with customers of the storm water system where clearly definable cost to the storm water system can be determined, and such rate shall be limited to such costs.

(Ord. 2006-3, passed 5-23-2006)

**§ 54.10 APPEALS.**

The rules and regulations promulgated by the town, after approval of the Town Council, shall, among other things, provide for an appeal procedure whereby a user shall have the right to appeal a decision concerning user charges of the Town Council and may be appealed to a court of competent jurisdiction under the appeal procedures provided for in the Indiana Administrative Adjudication Act.

(Ord. 2006-3, passed 5-23-2006)

**§ 54.11 MANDATORY CHARGE.**

The Council shall not grant free service or use of the storm water system to any person, group or entity. It is not necessary for an area or parcel of real estate to be annexed to the town to receive storm water system services.

(Ord. 2006-3, passed 5-23-2006)

**§ 54.12 PROPERTY AFFECTED.**

Each improved lot, parcel or user shall be obligated to use the storm water system. Each improved lot, parcel or user may connect any pump, downspout or other storm water collection device in a manner that shall not permit any water other than rainfall or other precipitation to be placed in the system.

(Ord. 2006-3, passed 5-23-2006)

**§ 54.13 INSPECTIONS.**

Any and all connections to the storm water system shall be inspected by the town prior to their use. All connections to the storm water system shall be assessed an inspection fee as set forth in this chapter and completed no more than 90 days after substantial completion and notification by the town.

(Ord. 2006-3, passed 5-23-2006)

**§ 54.14 VIOLATIONS.**

It shall be unlawful for any person, firm or entity to place any waste material, oil, sludge, paint, varnish or any other substance other than storm water into the storm water collection system. The town may enforce this chapter by injunction.

(Ord. 2006-3, passed 5-23-2006)

**§ 54.15 STORM WATER TAP-IN FEE.**

The town may charge a fee for each initial connection to the storm water system made by any property owner or other person. Said fee shall be designated as a "storm water tap-in fee" and shall be in addition to any cost for service, work or materials to connect with the town's storm water system.

(Ord. 2006-3, passed 5-23-2006)

**§ 54.99 PENALTY.**

Any person that shall violate this chapter may be fined in an amount not to exceed \$2,500 per violation. Each day that a violation exists shall be considered to be a separate violation. In the event that

the town shall be required to enforce this chapter by seeking redress in the Circuit Court, the person, firm or entity to which the enforcement action is directed shall pay all costs associated with the enforcement action, including but not limited to reasonable attorney fees, court costs, witness fees or other costs.

(Ord. 2006-3, passed 5-23-2006)



**TITLE VII: TRAFFIC CODE**

Chapter

**70. GENERAL PROVISIONS**

**71. TRAFFIC REGULATIONS**

**72. PARKING REGULATIONS**

**73. TRAFFIC SCHEDULES**

**74. PARKING SCHEDULES**



## CHAPTER 70: GENERAL PROVISIONS

### Section

- 70.01 Vehicle inspection
- 70.02 Snow emergency

### § 70.01 VEHICLE INSPECTION.

(A) A fee is established in the amount of \$5 per vehicle for the inspection by law enforcement officers of the Geneva Police Department for the inspection of certificates of title for motor vehicle and the certification of the correct VIN number as required by law.

(B) The officer shall issue a receipt for each fee collected to the person or firm paying the fee imposed hereby. Each fee collected shall be promptly remitted to the Clerk-Treasurer of the town. The Clerk-Treasurer shall issue an official receipt for remittance specifying on the receipt the number of general receipts and the amount for each.

(C) The Clerk-Treasurer shall receipt the fees to a fund and the fund shall be deposited in a special fund hereby established to be known as “Special Vehicle Inspection Fund”.

(D) All fees deposited into the fund shall be used for the acquisition of equipment for the Police Department and for the training of police officers and personnel of the Police Department. The fiscal body of the town must appropriate the money collected from the inspection fees only for law enforcement purposes. All disbursements from the funds shall be on the recommendation of the Chief of Police with the approval of the Board of Trustees.

(1997 Code, Ch. 24; Ord. 1985-2, passed - -; Am. Ord. 1988-2, passed 5-10-1988)

### § 70.02 SNOW EMERGENCIES.

(A) It is declared to be in the best interest of the citizens of the town and the public safety of the town to regulate and restrict the parking of vehicles of the public streets during a snow emergency.

(B) A snow emergency is declared to be a period of time prior to a forecast by the United States Weather Bureau during and after snowfall, during which vehicular traffic is expected to be hazardous or

congested due to the elements and during which period of time the parking of vehicles could hinder, delay and obstruct the safe flow of traffic and the proper cleaning, clearing and making safe of certain heavily traveled public streets in the town.

(C) A snow emergency shall commence by order, determination and proclamation of the Board of Trustees of the town, either before, during or after a snowfall when in their sound judgment and discretion the circumstances warrant the determination of such an emergency for the public safety of the town. The snow emergency shall continue in effect until the Board of Trustees of the town determines that an emergency no longer exists and accordingly by determination and proclamation terminates the emergency.

(D) No owner, driver or operator of any vehicle shall park or stop the same or permit the same to be parked or to stand at any time during the period of any snow emergency on any of the streets so proclaimed by the Board of Trustees to be snow routes. Signs indicating that a street or portion thereof is being cleaned shall be posted immediately before the cleaning of the street and shall be removed after the cleaning of the street is finished.

(E) (1) Any person, firm or corporation violating the provisions of this chapter shall, upon conviction thereof, be fined in any sum not exceeding \$100. In lieu of any such conviction and fine by any person, firm or corporation to whom a uniform traffic ticket or notice of violation is issued for a violation of this section may, within 24 hours after the ticket or notice of violation is issued, pay the sum of \$10 to the Clerk-Treasurer of the town for the benefit of the General Fund of the town, and the payments shall bar any further prosecution on account of the violation for which the uniform traffic ticket or notice of violation is issued, non-payment of such sum will subject the person, firm or corporation to prosecution for violation of this section and upon conviction thereof to the fine hereinabove provided.

(2) In addition to the foregoing, any police officer, upon discovering any vehicle parked or stopped in violation of this section, may remove the vehicle or cause the same to be removed to a place where the vehicle shall be impounded and retained. Any vehicle so towed away and impounded for illegal parking shall be restored to the owner or operator of the vehicle upon payment of a fee of \$25 within 24 hours after the time the vehicle was removed, plus 24 hours or fraction thereof and in addition must pay the cost of towing the vehicle away from the place where it was illegally parked.

(1997 Code, Ch. 26) (Ord. 1978-1, passed - -)

***Cross-reference:***

*Snow routes designated, see Ch. 74, Sch. V(A)*

*Snow routes; removal of vehicles, see Ch. 74, Sch. V(B)*

## CHAPTER 71: TRAFFIC REGULATIONS

### Section

#### *General Regulations*

- 71.01 Use of engine compression brakes prohibited

#### *Golf Carts and Off-Road Vehicles*

- 71.20 Definitions  
71.21 Purpose  
71.22 Operation of golf cart or off-road vehicle  
71.23 Operator  
71.24 Equipment  
71.25 Occupancy of golf cart or off-road vehicle  
71.26 Financial responsibility  
71.27 Registration  
71.28 Registration fee  
71.29 Town's right to restrict operation on designated town streets and alleys  
71.30 Exempt vehicles  
71.31 Reciprocity
- 71.99 Penalty

#### **GENERAL REGULATIONS**

##### **§ 71.01 USE OF ENGINE COMPRESSION BRAKES PROHIBITED.**

(A) No person shall drive or operate a vehicle exceeding 5,000 pounds in gross weight within the corporate limits of the town using engine compression brakes or an engine retarder system to stop or slow down the vehicle if the system causes the vehicle's motor to race in such a manner as to cause the exhaust system to emit a loud, cracking, backfiring, or chattering noise unusual to its normal operation. The practice is sometimes commonly known as "Jake braking."

(B) The prohibition shall be designated by appropriate signs placed at or near the town limits of Geneva, Indiana, on U.S. 27.  
(I.C. 9-20-1-3(c)(2))

(C) Any person, firm or corporation violating this section shall be fined for each violation any sum not exceeding \$500.  
(Ord. 2003-7, passed 12-2-2003)

### ***GOLF CARTS AND OFF-ROAD VEHICLES***

#### **§ 71.20 DEFINITIONS.**

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

***DRIVER'S LICENSE.*** A valid license to operate a motor vehicle issued by the State of Indiana or any other state.

***FINANCIAL RESPONSIBILITY.*** Liability insurance coverage on a golf cart and off-road vehicle in an amount not less than required by Indiana law for motor vehicles operated on public highways in the State of Indiana.

***GOLF CART.*** A four wheeled vehicle originally and specifically designed and intended to transport one or more individuals and golf clubs for the purpose of playing golf on a golf course.

***HIGHWAY.*** The entire width between the boundary lines of a U.S. Highway under the jurisdiction and control of the State of Indiana and/or the United States federal government, including (Main Street) U.S. 27 and (Line Street) State Road 116.

***MUNICIPAL BOUNDARY.*** The existing corporate limits of the Town of Geneva and future annexations thereto.

***OFF-ROAD VEHICLE.*** A motor driven vehicle capable of cross country travel without the benefit of a road or trail, on or immediately over land, water, snow, ice, marsh, swampland or other natural terrain. It includes, but is not limited to, a multi-wheel drive or low pressure tire vehicle, amphibious machine, ground effect air cushion vehicle, or other means of transportation deriving power from a source other than muscle or wind. It does not include a farm vehicle being used for farming; a vehicle used for military or law enforcement purposes; a construction, mining, or other industrial related vehicle used in performance of its common function; a snowmobile; a golf cart; a registered aircraft; or any other vehicle

properly registered by the Indiana Bureau of Motor Vehicles, and any watercraft which is registered pursuant to Indiana Statutes.

**OPERATE.** To ride in or on and to exercise any physical control over the function or movement of a golf cart or off-road vehicle.

**OPERATOR OF GOLF CART.** Any person who holds a valid license to operate a motor vehicle issued by the State of Indiana or another state, or any person at least 16 years and 180 days of age who holds an identification card issued by the Bureau of Motor Vehicles, including a photo exempt identification card.

**OPERATOR OF OFF-ROAD VEHICLE.** Any person who holds a valid license to operate a motor vehicle issued by the State of Indiana or another state.

**STREET.** The entire width between the boundary lines of any street, alley, park or parking area under the jurisdiction and control of the Town of Geneva when any part thereof is open to the use of the public for purposes of vehicular travel.

**TOWN.** The Town of Geneva, Indiana.  
(Ord. 2014-4, passed 7-8-2014; Am. Ord. 2014-4A, passed 8-5-2014; Am. Ord. 2017-03, passed 8--2017; Am. Ord. 2023-9, passed 7-11-2023)

**§ 71.21 PURPOSE.**

The purpose of this subchapter is:

(A) To authorize persons holding a valid Indiana motor vehicle driver's license (or a valid motor vehicle license from another state), or any person at least 16 years and 180 days of age who holds an identification card issued by the Bureau of Motor Vehicles, including a photo exempt identification card, to operate golf carts registered with the Town of Geneva Marshal's office over and upon the town's streets and alleys;

(B) To authorize persons holding a valid Indiana motor vehicle driver's license (or a valid motor vehicle license from another state) to operate off-road vehicles registered with the Indiana Bureau of Motor Vehicles and the Town of Geneva Marshal's office over and upon the town's streets and alleys;

(C) To establish rules and regulations for the operation of golf carts and off-road vehicles over and upon the town's streets and alleys; and

(D) To promote the safety of persons and property, responsible enjoyment in and connected with the use and operation of golf carts and off-road vehicles, and understanding consistent with the rights of all citizens of the Town of Geneva.

(Ord. 2014-4, passed 7-8-2014; Am. Ord. 2014-4A, passed 8-5-2014; Am. Ord. 2017-03, passed 8--2017; Am. Ord. 2023-9, passed 7-11-2023)

**§ 71.22 OPERATION OF GOLF CART OR OFF-ROAD VEHICLE.**

The operation of a golf cart or off-road vehicle on and along the streets and alleys within the municipal boundary of the town is hereby authorized only so long as the golf cart or off-road vehicle is registered, operated, insured and equipped as hereinafter required. Failure to register, operate, insure and equip a golf cart or off-road vehicle as required herein shall constitute a violation of this subchapter and any subsequent codification of this subchapter. Violations shall be punishable by fines, costs and penalties as hereinafter set forth. The operation of a golf cart or off-road vehicle over and upon the streets and alleys of the town shall be solely for the purpose of reaching a predetermined destination. The operation of a golf cart or off-road vehicle in the Town of Geneva shall be subject to the following additional restrictions on such operation:

(A) A golf cart or off-road vehicle may be operated on and along Indiana State Road 116 within the municipal boundary. However, no golf cart or off-road vehicle may be operated on any other highway (U.S. 27), as defined herein, except for the purpose of crossing a highway, perpendicularly, at an intersection within a town street.

(B) An operator of a golf cart or off-road vehicle must operate said golf cart or off-road vehicle at a rate of speed which is not greater than is reasonable and proper, having due regard for the conditions then existing, shall obey posted speed limits and may not operate said golf cart or off-road vehicle in excess of 30 mph. An operator of a golf cart or off-road vehicle shall abide by all traffic laws and signs governing the operation of motor vehicles in the town and as set forth in the Indiana Code.

(C) Golf carts and off-road vehicles shall be operated as close to the right edge of the street or alley as possible, and may not impede the flow of normal traffic.

(D) No golf cart or off-road vehicle may be operated or parked on town sidewalks.

(E) Headlights and tail lights shall be lighted between sunset and sunrise.

(F) No golf cart or off-road vehicle shall be operated on the frozen surface of public waters within 100 feet of an individual not in or upon a vehicle.

(G) No gas powered golf cart or off-road vehicle shall be operated unless the vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke.

(H) Any and all operators and riders of an off-road vehicle who are under the age of 18 years shall wear helmets at all times while said off-road vehicle is in operation.

(I) No golf cart or off-road vehicle shall be operated on any private property without the consent of the property owner.

(J) No operator shall operate a golf cart or off-road vehicle while transporting on or in the golf cart or off-road vehicle a firearm unless the firearm is unloaded and securely encased or equipped with and made inoperative by a manufactured key locked trigger housing mechanism.

(K) No operator shall operate a golf cart or off-road vehicle while a bow is present in or on the vehicle if the nock of an arrow is in position on the string of the bow.

(Ord. 2014-4, passed 7-8-2014; Am. Ord. 2014-4A, passed 8-5-2014; Am. Ord. 2017-03, passed 8--2017; Am. Ord. 2023-9, passed 7-11-2023) Penalty, see § 71.99

### § 71.23 OPERATOR.

Only a person who holds a valid license to operate a motor vehicle issued by the State of Indiana or another state, or any person at least 16 years and 180 days of age who holds an identification card issued by the Bureau of Motor Vehicles, including a photo exempt identification card, shall be authorized to operate a golf cart on a town street or alley, which license or identification must be in possession of the operator while operating the golf cart. Only a person who holds a valid license to operate a motor vehicle issued by the State of Indiana or another state shall be authorized to operate an off-road vehicle on a town street or alley, which license must be in possession of the operator while operating the off-road vehicle. Authorization or permission by the golf cart or off-road vehicle owner to a person who does not qualify to operate a golf cart or off-road vehicle on a town street or alley pursuant to this section shall constitute a violation of this section. Operators of golf carts or off-road vehicles shall obey all federal, state and local laws, regulations and ordinances governing passenger motor vehicles, including but not limited to laws, regulations and ordinances pertaining to licensing of operators and traffic regulation.

(Ord. 2014-4, passed 7-8-2014; Am. Ord. 2014-4A, passed 8-5-2014; Am. Ord. 2017-03, passed 8--2017; Am. Ord. 2023-9, passed 7-11-2023) Penalty, see § 71.99

### § 71.24 EQUIPMENT.

(A) Off-road vehicles shall be equipped with the minimum safety equipment as set forth in I.C. 14-16-1 *et seq.* in order to be registered and operated on town streets and alleys. Unless otherwise exempted herein, all golf carts shall be equipped with the following minimum safety equipment in order to be registered and operated on town streets and alleys:

- (1) Factory seating for all occupants;
- (2) A rear view mirror;
- (3) Head lights;
- (4) Tail lights;

- (5) Brake lights;
- (6) Turn signals (front and back); and
- (7) A slow moving vehicle sign attached to the rear of the golf cart.

(B) All safety equipment shall be maintained in good operating order. Lights shall be used when time of day or weather conditions necessitate such use in order for the golf cart or off-road vehicle to be visible from a distance of at least 500 feet. Failure to equip, maintain and use such equipment as required herein shall constitute a violation of this subchapter.

(Ord. 2014-4, passed 7-8-2014; Am. Ord. 2014-4A, passed 8-5-2014; Am. Ord. 2017-03, passed 8--2017; Am. Ord. 2023-9, passed 7-11-2023) Penalty, see § 71.99

### **§ 71.25 OCCUPANCY OF GOLF CART OR OFF-ROAD VEHICLE.**

Maximum occupancy of a golf cart or off-road vehicle in use on a town street or alley shall be limited to the number of factory manufactured seats installed on the golf cart or off-road vehicle. When in motion, all occupants must be seated, one to a manufactured seat. Occupants shall keep all parts of their body within the perimeter of the golf cart or off-road vehicle while the golf cart or off-road vehicle is being operated. Failure by the operator of a golf cart or off-road vehicle on a town street or alley to ensure compliance with the provisions of this section shall constitute a violation of this section by the operator.

(Ord. 2014-4, passed 7-8-2014; Am. Ord. 2014-4A, passed 8-5-2014; Am. Ord. 2017-03, passed 8--2017; Am. Ord. 2023-9, passed 7-11-2023) Penalty, see § 71.99

### **§ 71.26 FINANCIAL RESPONSIBILITY.**

At all times during the operation of a golf cart or off-road vehicle on town streets, proof of financial responsibility covering the golf cart or off-road vehicle and its operation shall be kept in or on the golf cart or off-road vehicle. Failure to keep such proof of financial responsibility in or upon the golf cart shall constitute a violation of this section by the owner of the golf cart or off-road vehicle. Failure to produce proof of financial responsibility, when requested by a law enforcement officer, shall constitute a violation of this section by the operator.

(Ord. 2014-4, passed 7-8-2014; Am. Ord. 2014-4A, passed 8-5-2014; Am. Ord. 2017-03, passed 8--2017; Am. Ord. 2023-9, passed 7-11-2023) Penalty, see § 71.99

### **§ 71.27 REGISTRATION.**

Unless otherwise exempted herein, no golf cart or off-road vehicle may be operated on a town street or alley until the golf cart or off-road vehicle is registered with the Town of Geneva Police Department.

In addition, an off-road vehicle shall not be operated on a town street or alley unless it is duly registered with the Indiana Bureau of Motor Vehicles and meets all of the standards, requirements, and regulations set forth in I.C. 14-16-1 *et seq.* The Town of Geneva Police Department shall register all golf carts or off-road vehicles to be operated on town streets and alleys in the name of the owner upon the owner applying for such registration, upon the owner providing proof of financial responsibility covering the golf cart or off-road vehicle, upon an inspection of the golf cart or off-road vehicle by the Police Department which confirms that the golf cart or off-road vehicle is equipped as required by this subchapter and/or Indiana statute, and upon the owner signing an acknowledgment that he or she received and read a copy of this subchapter. The registration of a golf cart or off-road vehicle shall be effective as of the date of registration and shall expire on December 31 of the year of registration. Upon being registered, a registration sticker for the current calendar year shall be issued by the town, which sticker shall be affixed to the left side of the rear of the golf cart or off-road vehicle as proof of registration.

(Ord. 2014-4, passed 7-8-2014; Am. Ord. 2014-4A, passed 8-5-2014; Am. Ord. 2017-03, passed 8--2017; Am. Ord. 2023-9, passed 7-11-2023) Penalty, see § 71.99

**§ 71.28 REGISTRATION FEE.**

Unless otherwise exempted herein, the owner of a golf cart shall pay a registration fee of \$10 to the Town of Geneva Police Department at the time of registration of a golf cart. The registration fee may hereafter be amended from time to time by resolution adopted by the Common Council of the town. All registration fees shall be deposited in the Town of Geneva General Fund.

(Ord. 2014-4, passed 7-8-2014; Am. Ord. 2014-4A, passed 8-5-2014; Am. Ord. 2017-03, passed 8--2017; Am. Ord. 2023-9, passed 7-11-2023)

**§ 71.29 TOWN'S RIGHT TO RESTRICT OPERATION ON DESIGNATED TOWN STREETS AND ALLEYS.**

The Common Council of the town may restrict golf cart and off-road vehicular traffic on town streets, alleys, parks or parking areas by designating such streets, alleys or areas as unsuitable for golf cart or off-road vehicular traffic and by posting signs on such designated streets, alleys or areas. It shall be a violation of this subchapter to operate a golf cart or off-road vehicle on a street, alley or area so designated and posted.

(Ord. 2014-4, passed 7-8-2014; Am. Ord. 2014-4A, passed 8-5-2014; Am. Ord. 2017-03, passed 8--2017; Am. Ord. 2023-9, passed 7-11-2023) Penalty, see § 71.99

**§ 71.30 EXEMPT VEHICLES.**

The town's Board of Public Works and Safety and/or the Common Council of the town may exempt public safety personnel and/or the use of golf carts or off-road vehicles during special events from

compliance with this subchapter, provided that any operator of a golf cart or off-road vehicle so exempted must have a valid driver's license and must have provided proof of financial responsibility for an exempted golf cart or off-road vehicle.

(Ord. 2014-4, passed 7-8-2014; Am. Ord. 2014-4A, passed 8-5-2014; Am. Ord. 2017-03, passed 8--2017; Am. Ord. 2023-9, passed 7-11-2023)

### **§ 71.31 RECIPROCITY.**

By this subchapter, the Town of Geneva grants reciprocity to the citizens of the City of Decatur, the City of Berne, and the Town of Monroe to operate their golf cart and/or ORV within the Town of Geneva. Prior to the utilization of a golf cart or ORV that is registered in one of the aforementioned municipalities (other than the City of Berne), the owner of said golf cart or ORV shall submit his or her golf cart or ORV to the Town of Geneva Marshal's office for inspection. Said golf cart or ORV shall comply in all respects with the requirements that the town has imposed in this subchapter before permission to operate the same shall be granted by the issuance of a certificate permitting the operation of such golf cart or ORV without the procurement of an additional registration fee. Owners of golf carts registered in the City of Berne shall not be required to have such golf carts inspected by the Town of Geneva Marshal's office, and may operate said golf carts with the City of Berne registration only without receiving a separate Town of Geneva registration. Residents of the Town of Geneva shall procure their registration through the Town of Geneva, and shall not procure a registration from another city or town in order to operate the golf cart or ORV within the Town of Geneva. Anyone operating a golf cart or ORV within the Town of Geneva utilizing a registration other than that issued by the Town of Geneva shall be subject to the penalties set forth in § 71.99 in the same manner and to the same extent as that imposed upon all residents of the Town of Geneva procuring a registration to operate a golf cart or ORV within the town.

(Ord. 2014-4, passed 7-8-2014; Am. Ord. 2014-4A, passed 8-5-2014; Am. Ord. 2017-03, passed 8--2017; Am. Ord. 2023-9, passed 7-11-2023) Penalty, see § 71.99

### **§ 71.99 PENALTY.**

(A) Violation of any provision of this chapter for which no other penalty is specified shall be subject to a penalty as provided in § 10.99.

(B) Any violation of §§ 71.20 through 71.31, after its adoption and publication as required by law, shall constitute a Class C infraction. Multiple violations may be cited as separate offenses. Each time of an offense shall constitute a new and separate offense. Each violation shall carry a minimum fine of \$50, not to exceed a fine of \$1,000, the maximum penalty allowed by law. In addition to civil penalties imposed herein, a person cited for violation of §§ 71.20 through 71.31 shall be responsible for all court costs. Payment of fine and costs imposed shall be made to the Clerk-Treasurer of the Town of Geneva.

In the event an operator or owner of a registered golf cart or off-road vehicle is cited a second time in a calendar year for a violation(s) of §§ 71.20 through 71.31, unrelated to the first offense, in addition to the imposition of a fine and court costs, the registration of the golf cart or off-road vehicle operated at the time of the second offense shall be revoked by the Town Police Department if such golf cart or off-road vehicle was being operated at the time of the first citation. The golf cart or off-road vehicle may be impounded by the law enforcement officer. In the event of impoundment, the golf cart or off-road vehicle shall not be released until the basis of the violation has been corrected and all towing and impoundment fees incurred as a result of the impoundment of the golf cart or off-road vehicle have been paid by the owner or operator of the golf cart or off-road vehicle.

(Ord. 2014-4, passed 7-8-2014; Am. Ord. 2014-4A, passed 8-5-2014; Am. Ord. 2017-03, passed 8--2017; Am. Ord. 2023-9, passed 7-11-2023)



## CHAPTER 72: PARKING REGULATIONS

### Section

72.01 Parking and assemblies on walkways, driveways and parking areas

72.99 Penalty

### **§ 72.01 PARKING AND ASSEMBLIES ON WALKWAYS, DRIVEWAYS AND PARKING AREAS.**

(A) It shall be unlawful to intentionally block entrances or exits to any parking area adjacent to any business building in any manner unless by direction of the owner or manager of the public, business or church building, whereby doing so, causes any difficulty in entering or exiting the premises or adjacent drive or parking area, except for the purpose of repairs by municipal authorities or private contractors engaged by owners.

(B) It shall be unlawful for any person to drive a motor vehicle through any parking area or driveways of any public, business or church building without attempting to park the vehicle.

(C) It shall be unlawful for any person to leave an unoccupied motor vehicle upon a walkway, driveway or parking area of a building, business or church building and leave the premises to go elsewhere without the knowledge and consent of the owner, manager or person in charge of the premises, if the premises are as posted by the owner or manager.

(D) It shall be unlawful for any person to enter upon a walkway, driveway or parking area of a public building, business building or church building unless the individual entering the premises does so for the purpose of conducting business or does so with the knowledge and consent of the owner, manager or person in charge of the premises, if the premises are so posted by the owner or manager.

(E) To come under the provisions of this section, the owner or manager of public, business or church premises shall be required to post notices in a conspicuous location, by 1 or more signs displaying the fact that the premises are protected by the terms of this section.

(F) It shall be the duty of the owner or manager of the public, business and church premises to sign an agreement with the Common Council that the owner or manager shall post notices as described in this section and that the owner or manager shall cooperate to prosecute any person charged with violation of this chapter.

(G) After the above agreement is filed, the town shall design and furnish, for a fee determined by the Common Council, a sign to the owner or owners to be posted.

(H) The above agreement must be signed and filed in the office of the Clerk-Treasurer and the sign must have been posted in conspicuous places on the property covered by this section.

(I) It shall be unlawful for anyone, other than the owner or one designated by the owner, to remove, deface or tamper with a sign posting notice pursuant to this section.  
(Ord. 2005-2, passed 4-4-2005) Penalty, see § 72.99

#### **§ 72.99 PENALTY.**

Any person who shall violate any provision of § 72.01 shall be fined \$25, which will be credited to the Local Law Fund. The fee will be payable at the office of the Town Marshal or the Clerk-Treasurer.  
(Ord. 2005-2, passed 4-4-2005)

## CHAPTER 73: TRAFFIC SCHEDULES

### Schedule

- I. Right-of-way at intersections
- II. Truck traffic
- III. Speed limits
- IV. Restricted use alleys

### **SCHEDULE I. RIGHT-OF-WAY AT INTERSECTIONS.**

(A) It is declared unlawful and violation of this chapter for any person, firm or corporation to operate or cause to be operated any vehicle into and upon the intersection when stop in the color red or when the red color appears on the traffic signal.

(B) It is declared unlawful and a violation of this schedule for any person, firm or corporation to directly or indirectly interfere with or interrupt the traffic in or upon the intersections.

(C) All traffic must come to a complete stop prior to entering the intersections and when vehicles approach either of the intersections in different directions and arrive at the intersections at the same time, the vehicle on the right shall have the right-of-way.

(D) It is prohibited, declared unlawful and a violation of this schedule for any person, firm or corporation to operate or to cause to be operated any vehicle into and upon 4-way stop intersections and 3-way stop intersections without first bringing the vehicle to a complete stop and looking both to the left and to the right before proceeding into or upon the intersection. It is prohibited, declared unlawful and a violation of this schedule for any person, firm or corporation to operate or to cause to be operated any vehicle into and upon the aforesaid 3-way stop intersection without first bringing the vehicle to a complete stop and looking both to the left and to the right before proceeding in or upon the intersection and/or preferential street.

(E) It is prohibited, declared unlawful and a violation of this schedule for any person, firm or corporation to operate or to cause to be operated any vehicle into and upon a preferential street and/or intersection without first bringing the vehicle to a complete stop and looking both to the left and to the right before proceeding in or upon a preferential street and/or intersection.

## Geneva - Traffic Code

(F) The following are declared stop intersections and stop traffic signals shall be placed at the intersections which shall conform to the signal equipment and signal equipment location specification currently in use by the State Highway Commission:

<i>Stop Intersections</i>	
<i>Traffic on:</i>	<i>Shall stop for:</i>
Bittersweet Lane	S.R. 116
Bristol Street	Winchester Road
Butcher Street	Main Street/U.S. Highway 27
Clark Street	Butcher Street
Clark Street	Harrison Street
Clark Street	Lincoln Street
College Street	Butcher Street
College Street	Harrison Street
College Street	Lincoln Street
Decatur Street	Line Street
Decatur Street	Sixth Street
East Lake Street	Winchester Road
Fifth Street	Main Street/U.S. Highway 27
Fourth Street	Main Street/U.S. Highway 27
Hale Street	Line Street
High Street	U.S. Highway 27
High Street	Line Street
Holly Lane	S.R. 116
Kosuth Street	Main Street/U.S. Highway 27
Mill Street	Line Street
Palmer Street	S.R. 116

Palmer Street	Shackley Street
Pyle Street	U.S. Highway 27
Railroad Street	Line Street
Rainbow Drive	U.S. Highway 27
Richfield Road	Bristol Street
Ringold Street	Main Street/U.S. Highway 27
Shackley Street	Main Street/U.S. Highway 27
Sixth Street	Main Street/U.S. Highway 27
Sixth Street	Hale Street
Sixth Street	Mill Street
Wabash Valley Drive	South Drive
Washington Street	U.S. Highway 27
Washington Street	Butcher Street
Washington Street	Line Street
Winchester Road	S.R. 116

(G) Three-way stop intersections:

<i>3-Way Stop Intersections</i>	
Pyle Street	Railroad Street
Spring Street	Winchester Road
Williams Street	Fifth Street

(H) Four-way stop intersections:

<i>4-Way Stop Intersections</i>	
Butcher Street	High Street
Butcher Street	Washington Street
Pyle Street	High Street

**Geneva - Traffic Code**

Pyle Street	Washington Street
Shackley Street	Mill Street
Shackley Street	Decatur Street

(I) All traffic shall come to a full stop before entering or crossing the preferential street.

<i>Preferential Streets</i>	
Railroad Street	With Bradford Street
Railroad Street	With Butcher Street
Shackley Street	From U.S. Highway 27 east to and including Railroad Street
Winchester Road	With Spring Street
Winchester Road	With Lincoln Street
Winchester Road	With Butcher Street

(J) Vehicles proceeding on Decatur Street at its intersection with Sixth Street and north on Railroad Street to its termination shall yield the right-of-way to traffic at the intersection of Decatur Street with Sixth Street and at the intersection of Railroad Street at its northern termination.

(K) Yield intersections:

<i>Yield Intersections</i>	
<i>Traffic on:</i>	<i>Shall yield to:</i>
Cherry Lane	Holly Lane
Cherry Lane	Bittersweet Lane
Fourth Street	Williams Street
North Drive	Rainbow Road
South Drive	Rainbow Road
West Lake Street	West Shore Drive

(L) Any person, firm or corporation violating any portion of this schedule shall, upon conviction, be subject to a fine of \$60. If said person, firm or corporation wishes to admit to the violation for which said person, firm or corporation has received a citation and further wishes to avoid appearing in court, said person, firm or corporation may pay said fine, plus court costs and fees to the Adams County Clerk prior to the date in which said person, firm or corporation is set to appear in court regarding the citation. (1997 Code, Ch. 10) (Ord. passed 9-4-1947; Ord. passed 8-25-1952; Ord. 1972-7, passed - -; Ord. 1973-2, passed - -; Ord. 1973-8, passed - -; Ord. 1988-4, passed 7-11-1988; Ord. 1997-06, passed 9-2-1997; Ord. 1998-5, passed 6-2-1998; Ord. 1998-6, passed 6-2-1998; Ord. 2006-7, passed 11-14-2006; Ord. 2010-16, passed 12-7-2010; Ord. 2015-2, passed 5-5-2015; Ord. 2021-3, passed 7-13-2021)



**SCHEDULE II. TRUCK TRAFFIC.**

(A) (1) For the purpose of this schedule, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

*TRUCK.* Any vehicle having a capacity to transport property weighing 1 ton or more.

*VEHICLE.* Any device in, upon or by which any person or property is or may be transported from time to time upon a public highway.

(2) The Board of Trustees shall hereafter from time to time by resolution duly spread of record designate streets or highways in the town as streets upon which there shall be “no through truck traffic,” and appropriate signs shall be erected along the streets so designated giving notice thereof.

(3) When the signs are so erected, it is declared unlawful and a violation of this schedule for any person, firm or corporation to operate a truck upon a street or highway in the town so designated as “no through truck traffic” unless the truck shall in the course of business of the owner have a destination in the town and an address of the street or streets.

(4) Any person, firm or corporation who violates the provisions of this schedule may within 48 hours of the time the notice of violation is given to the person, firm or corporation pay a penalty in the sum of \$25 in full satisfaction to the Clerk-Treasurer of the town or to the Town Marshal.

(B) (1) When signs so designating the streets as “no through truck traffic” streets have been erected, it is declared unlawful and a violation of this schedule for any person, firm or corporation to operate a truck on those streets or portions thereof unless the truck shall have an origin or destination at a residence or place of business situated along the portions of the streets on which there shall be “no through truck traffic.”

(2) College Street and Clark Streets extending north to south from Lincoln Street to Butcher Street in the town are determined and designated to be portions of streets in the town upon which there shall be “no through truck traffic” and appropriate signs shall be erected along the streets so designated giving notice thereof.

(3) Any person, firm or corporation violating the provisions of this division (B) shall, upon conviction thereof, be fined in any sum not exceeding \$100. In lieu of any such conviction and fine, any person, firm or corporation to whom a uniform traffic ticket or notice of violation is issued for a violation of this division may, within 24 hours after the ticket or notice of violation is issued, pay the sum of \$10 to the Clerk-Treasurer of the town, for the benefit of the General Fund of the town, and the payments shall bar any further prosecution on account of the violation for which the uniform traffic ticket or notice

of violation is issued. Failure to pay the sum to the Clerk-Treasurer within 24 hours after the ticket or notice of violation is issued will subject the person, firm or corporation to prosecution for violation of this division and upon conviction to the fine hereinabove provided.

(1997 Code, Ch. 12) (Ord. 1973-1, passed - -; Ord. 1980, passed - -)

**SCHEDULE III. SPEED LIMITS.**

(A) *Fines.*

(1) Any person, firm or corporation that violates the following specific sections of this code shall, upon conviction, be guilty of a Class C infraction and shall be subject to penalties and fines as set out herein:

- (a) Speeding in a designated speed zone between 1 and 10 miles per hour over the speed limit - \$30 fine.
- (b) Speeding in a designated speed zone between 11 and 15 miles per hour over the speed limit - \$45 fine.
- (c) Speeding in a designated speed zone between 16 and 24 miles per hour over the speed limit - \$60 fine.
- (d) Speeding in a designated speed zone 25 miles per hour and above over the speed limit - \$75 fine.

(2) If said person, firm or corporation wishes to admit to the violation for which said person, firm or corporation has received a citation and further wishes to avoid appearing in court, said person, firm or corporation may pay said fine, plus court costs and fees to the Adams County Clerk prior to the date in which said person, firm or corporation is set to appear in court regarding the citation.

(B) *Fifteen miles per hour.* There is created as the maximum speed limit of 15 miles per hour on the following streets located within the town as follows:

- (1) Bristol Drive;
- (2) Richfield Lane;
- (3) Harrison Street;
- (4) Bittersweet Lane;
- (5) Holly Lane;
- (6) Cherry Lane;
- (7) Sixth Street between Hale Street and Mill Street;

- (8) Mill Street;
- (9) Short Street;
- (10) Palmer Street; and
- (11) Shackley Street west of Main Street/U.S. 27.

(C) *Twenty miles per hour.* There shall be and is created as the maximum speed limit of 20 miles per hour on the following streets located within the town as follows:

- (1) Hale Street;
- (2) Lincoln Street;
- (3) Sixth Street between Short Street and Main Street/U.S. 27;
- (4) Butcher Street between Main Street/U.S. 27 and Winchester Road;
- (5) North Drive and South Drive located in Rainbow Lake Subdivision; and
- (6) East Shore Drive and East Lake Road located in Lake of the Woods Subdivision.

(D) *Thirty miles per hour.* There shall be and is created a maximum speed limit of 30 miles per hour on the following streets located within the town as follows:

- (1) Winchester Road;
- (2) Butcher Street east of Main Street/U.S. 27;
- (3) Spring Street;
- (4) Railroad Street; and
- (5) All other streets located in the town.

(Ord. 1989-9, passed 9-12-1989; Ord. 2015-1, passed 5-5-2015)

**SCHEDULE IV. RESTRICTED USE ALLEYS.**

(A) The platted alley that lies between Studebaker 6th Addition Lot 410 and Studebaker 7th Addition Lot 411 shall heretofore no longer be open to traffic and use of the public, but shall be restricted in use by vehicles and personnel specifically authorized by the town.

(B) Street signs designating the use of the alley for authorized personnel and vehicles only as described in division (A) of this schedule shall be erected at each end of said alley, clearly displaying that the use of said alley is restricted to authorized personnel and vehicles only.

(C) The penalty for violation of this schedule shall be according to § 72.99 of this traffic code, which traffic code is now in effect as an ordinance of the town.  
(Ord. 2010-6, passed 7-6-2010)



## CHAPTER 74: PARKING SCHEDULES

### Schedule

- I. Handicap/disabled parking
- II. Prohibited parking
- III. Two hour parking
- IV. [Reserved]
- V. Snow routes; removal of vehicles

### **SCHEDULE I. HANDICAP/DISABLED PARKING.**

(A) Only vehicles with an approved handicap/disabled parking sign, properly displayed, or handicap license plate shall be allowed to park in the parking area designated for handicapped/disabled.

<i>Street or Alley</i>	<i>Location</i>	<i>Direction</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Line Street	The parking space in front of 404 E. Line Street, and immediately to the west of the post office short term (5 minute) parking zone	East	2018-7	10-9-2018
Line Street	The first parking space to the east of High Street	West	2018-7	10-9-2018
Decatur Street	The first diagonal parking space south of Line Street	Northeast	2018-7	10-9-2018

(B) Any person who violates this schedule shall, upon conviction, be fined any sum not less than \$50 nor more than \$100.

(C) In lieu of such conviction and fine, any person to whom a uniform traffic ticket or notice of violation is issued for a violation of this schedule may, within 72 hours after such ticket or notice of violation is issued, pay the sum of \$10 to the Clerk-Treasurer of the town for the benefit of the General Fund of the town, and such payment shall bar any further prosecution on account of the violation for which such uniform traffic ticket or notice of violation is issued. Failure to pay such sum to the Clerk-Treasurer within 72 hours after such ticket or notice of violation is issued will subject such person(s) to prosecution for violation of this schedule and upon conviction to the fine hereinabove provided. (Ord. 2004-6, passed 10-5-2004; Ord. 2007-9, passed 10-30-2007; Ord. 2018-7, passed 10-9-2018)



**SCHEDULE II. PROHIBITED PARKING.**

(A) (1) It shall be unlawful for any vehicles of over 20 feet in length to park on the south side of Line Street between the intersection of Washington Street and the Pennsylvania Railroad right-of-way in the town.

(2) It shall be unlawful for any vehicle to park on the west side of Railroad Street between the first alley north of Line Street and Line Street in the town.

(3) It shall be unlawful to park a vehicle across any yellow line on Line Street.

(4) Any person violating any of the provisions of this division shall, upon conviction thereof, be fined in an amount not to exceed \$25.

(B) (1) It is prohibited and a violation of this division for any person, firm or corporation to park any vehicle, or cause to be parked any vehicle, in or upon the following described areas situated in the town: on the south side of Harrison Street in the town.

(2) Any person, firm or corporation violating the provisions of this division shall upon conviction be fined any sum not to exceed \$50.

(C) (1) It is prohibited and a violation of this division for any person, firm or corporation to park any vehicle, or cause to be parked any vehicle, in or upon the following described areas situated in the town:

(a) On the west side or portion of High Street from Butcher Street to its northern terminus State Highway 267 in the town;

(b) On the north side of Bradford Street between High Street and Railroad Street in the town.

(2) Any person, firm or corporation violating the provisions of this division shall upon conviction be fined any sum not to exceed \$10.

(D) (1) No person shall park a motor vehicle on the north side of Line Street between Washington Street and Main Street (commonly known as U.S. 27).

(2) No person shall park a motor vehicle on the south side of Line Street between a point on the south side of Line Street, which is an extension of the east side of Winchester Street, to the first alley east of said point on the south line of Line Street which is an extension of the east side of Winchester Street.

(3) "No Parking" signs shall be placed along Winchester Street where designated above.

(4) Any person, firm or entity violating any of the provisions of this division shall be fined for each violation a sum of \$50 for a first offense, \$75 for a second offense, and \$100 for subsequent offenses, to be deposited in the Local Law Fund.

(E) (1) It is prohibited, declared unlawful, and a violation of this division for any person, firm or corporation to park or cause to be parked any vehicle, whether motor vehicle or horse drawn vehicle, for a period in excess of 5 minutes on the south side of Line Street in the town in the area set out in the following description: commencing 225 feet west to the west line of the pavement of Railroad Street, at the southwest corner of the intersection of Railroad Street and Line Street in the town, thence west a distance of 40 feet on and along the south side of Line Street in the town.

(2) Any person, firm or corporation violating the terms of this division shall, upon conviction thereof, be fined in a sum not to exceed \$10, provided, however, that anyone violating the terms and conditions of this division may avoid the penalty above prescribed, by payment of the sum of \$1 to the Clerk-Treasurer of the town within 48 hours of the time of receiving notification of the violation.

(F) [Reserved]

(G) (1) The driver of a truck or any vehicle of an overall length of more than 25 feet or an overall width of more than 82 inches shall not park the truck or vehicle on or in any street or alley in any residence district in the town, except temporarily, while waiting in line to load or unload or while actually engaged in loading and/or unloading freight or other supplies or materials on or from the truck or vehicle at an industry or place of business in the town.

(2) Any person, firm or corporation violating the provisions of this division shall, upon conviction thereof, be fined in any sum not exceeding \$100. In lieu of any such conviction and fine, any person, firm or corporation to whom a uniform traffic ticket or notice of violation is issued for a violation of this division may, within 24 hours after the ticket or notice of violation is issued pay the sum of \$25 to the Clerk-Treasurer of the town for the benefit of the General Fund of the town, and the payment shall bar any further prosecution on account of the violation for which the uniform ticket or notice of violation is issued. In addition to the foregoing, any police officer upon discovering a truck or vehicle parked in violation of the terms of this division may remove the truck or vehicle or cause the same to be removed to any town owned property or private property where the truck or vehicle shall be impounded and retained. Any truck or vehicle so towed away and impounded shall be restored to the owner or operator upon the payment of a fee of \$5 within 24 hours or fraction thereof and, in addition thereto, shall pay the costs of towing the truck or vehicle away from the place where same was illegally parked.

(H) (1) No person shall park a vehicle on Decatur Street in the town from its intersection with Line Street south to its intersection with Shackley Street other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the right-hand wheels of the vehicle on the street within 12 inches of the curb or edge of the roadway.

(2) Any person, firm or corporation violating the provisions of this division shall, upon conviction thereof, be fined in any sum not exceeding \$100. In lieu of any such conviction and fine, any person, firm or corporation to whom a uniform traffic ticket or notice of violation is issued for a violation of this division may, within 24 hours after the ticket or notice of violation is issued, pay the sum of \$10 to the Clerk-Treasurer of the town for the benefit of the General Fund of the town, and the payment shall bar any further prosecution on account of the violation for which the uniform traffic ticket or notice of violation is issued. Failure to pay the sum to the Clerk-Treasurer within 24 hours after the ticket or notice of violation is issued will subject the person, firm or corporation to prosecution for violation of this division and upon conviction to the fine hereinabove provided.

(I) (1) No person, firm or corporation shall park a vehicle along the west side of Railroad Street south from its intersection with Line Street to the intersection of the first alley running east and west parallel to Line Street and intersecting at Railroad Street.

(2) Any person, firm or corporation violating the provisions of this division shall, upon conviction thereof, be fined in any sum not exceeding \$100. In lieu of any such conviction and fine, by any person, firm or corporation to whom a uniform traffic ticket or notice of violation is issued for a violation of this division may, within 24 hours after the ticket or notice of violation is issued, pay the sum of \$10 to the Clerk-Treasurer of the town, and the payment shall bar any further prosecution on account of the violation for which the uniform traffic ticket or notice of violation is issued. Failure to pay the sum to the Clerk-Treasurer within 24 hours after the ticket or notice of violation is issued will subject the person, firm or corporation to prosecution for violation of this division and upon conviction to the fine hereinabove provided.

(J) (1) No person shall park a vehicle on the east side of Decatur Street in the town from its intersection with Line Street south to its intersection with Shackley Street other than diagonal parking with the east edge of the roadway headed in a northeasterly direction with the front right-hand wheel of the vehicle on the street within 12 inches of the curb or edge of the roadway and within the lined markings which shall be placed upon the roadway in accordance with this division.

(2) Any person, firm or corporation violating the provisions of this division shall, upon conviction thereof, be fined in any sum not exceeding \$100. In lieu of any such conviction and fine, any person, firm or corporation to whom a uniform traffic ticket or notice of violation is issued for a violation of this division may, within 24 hours after the ticket or notice of violation is issued, pay the sum of \$10 to the Clerk-Treasurer of the town for the benefit of the General Fund of the town, and the payment shall bar any further prosecution on account of the violation for which the uniform traffic ticket or notice of violation is issued. Failure to pay the sum to the Clerk-Treasurer within 24 hours after the ticket or notice of violation is issued will subject the person, firm or corporation to prosecution for violation of this division and upon conviction to the fine hereinabove provided.

(K) (1) No person shall park a vehicle on the west side of Short Street from its intersection with East Shackley Street and Sixth Street at any time.

(2) Any person, firm or corporation violating the provisions of this division shall, upon conviction thereof, be fined in any sum not exceeding \$100. In lieu of any such conviction and fine, any person, firm or corporation to whom a uniform traffic ticket or notice of violation is issued for a violation of this division may, within 24 hours after the ticket or notice of violation is issued, pay the sum of \$10 to the Clerk-Treasurer of the town for the benefit of the General Fund of the town, and the payment shall bar any further prosecution on account of the violation for which the uniform traffic ticket or notice of violation is issued. Failure to pay the sum to the Clerk-Treasurer within 24 hours after the ticket or notice of violation is issued will subject the person, firm or corporation to prosecution for violation of this division and upon conviction to the fine hereinabove provided.

(L) (1) No person shall drive a motor vehicle on the street over Rainbow Lake Dam between North Drive and South Drive, where designated by "No Parking" signs.

(2) No person shall park a motor vehicle on South Drive between 109 South Drive and 113 South Drive.

(3) "No Parking" signs shall be placed along the streets.  
(I.C. 9-20-1-3(c)(2))

(4) Any person, firm or corporation violating any of the provisions of this division (L) shall be fined for each violation a sum not exceeding \$100.

(M) (1) No person shall park a motor vehicle on the west side of Winchester Street from Line Street (State Road 116) to Butcher Street.

(2) No person shall park a motor vehicle on the east side of Winchester Street from a point which is 108 feet south of Butcher Street to the platted alley between Butcher Street and Line Street.

(3) "No Parking" signs shall be placed along Winchester Street where designated above.

(4) Any person, firm or entity violating any of the provisions of this division shall be fined for each violation a sum of \$50 for the first offense, \$75 for the second offense, and \$100 for subsequent offenses, to be deposited in the Local Law Fund.

(1997 Code, Ch. 11) (Ord. passed 5-2-1946; Ord. passed 6-15-1950; Ord. passed 11-6-1952; Ord. passed 8-4-1955; Ord. passed 8-6-1970; Ord. 1971, passed 12-21-1971; Ord. 1972-6, passed 10-4-1972; Ord. 1974-2, passed 11-6-1974; Ord. 1974-3, passed - -; Ord. 1982-8, passed - -; Ord. 1995-02, passed 4-11-1995; Ord. 2005-5, passed 8-8-2005; Ord. 2010-14, passed 12-7-2010; Ord. 2012-1, passed 6-5-2012; Am. Ord. 2019-9, passed 12-10-2019; Am. Ord. 2019-13, passed 11-12-2019)

**SCHEDULE III. TWO HOUR PARKING.**

(A) No person shall park a vehicle longer than 2 hours on the east side of High Street from its intersection with East Line Street and to the first alley north of East Line Street at any time.

(B) Any person, firm or corporation violating the provisions of this division shall, upon conviction thereof, be fined in any sum not exceeding \$100. In lieu of any such conviction and fine, any person, firm or corporation to whom a uniform traffic ticket or notice of violation is issued for a violation of this division may, within 24 hours after the ticket or notice of violation is issued, pay the sum of \$10 to the Clerk-Treasurer of the town for the benefit of the General Fund of the town, and the payment shall bar any further prosecution on account of the violation for which the uniform traffic ticket or notice of violation is issued. Failure to pay the sum to the Clerk-Treasurer within 24 hours after the ticket or notice of violation is issued will subject the person, firm or corporation to prosecution for violation of this division and upon conviction to the fine hereinabove provided.

(Ord. 1995-04, passed 6-13-1995)



**SCHEDULE IV. [RESERVED]**



**SCHEDULE V. SNOW ROUTES; REMOVAL OF VEHICLES.**

(A) *Snow routes.* The following streets or portions thereof are designated as priority snow routes. On a declaration by the Board of Trustees of the Town of Geneva or the Town Street Department that a snow emergency exists due to heavy snowfall in the town, or the declaration of a snow warning by Adams County (Level Red), no parking by any vehicle shall be permitted on the priority snow routes listed below. The routes shall be designated as priority snow routes and reasonable insignias shall be placed on them to indicate to the public that they are priority snow routes.

<i>Street</i>	<i>Snow Route Portion</i>
Line Street	U.S. 27 to Railroad Street
Winchester Road	S.R. 116 to East Lake Road
Rainbow Road	U.S. 27 to C.R. 950 S

(B) *Removal of vehicles.*

(1) Individuals shall be charged with the responsibility of knowing the priority of their street of residence or business and shall be deemed to know the same. Further, individuals shall be responsible for ascertaining the priority of the street upon which they are traveling or upon which they have parked or have become stalled and shall be deemed to know the same and shall take whatever measures necessary to remove such parked or stalled vehicles from those routes in accordance with this section.

(2) The Town Street Department and the Town Police Department are hereby authorized to remove or have removed a vehicle from a street to the nearest garage or other place (including another place on a street) or to a garage designated or maintained pursuant to a contract with the town when:

- (a) The vehicle is parked or stalled on a street that is declared a snow route;
- (b) A snow emergency has been declared; and
- (c) The vehicle is interfering or about to interfere with snow removal operations.

(3) In the event that it is deemed by any law enforcement officer that a vehicle shall be towed for the purpose of removal, he shall order the vehicle towed immediately in accordance with the provisions of this section. In the event that there is an insufficient number of contract wreckers available, the Town Council, or its designee, shall have the authority to enter into a service contract with other wrecker services for the purpose of towing vehicles during the period of snow removal operations. Vehicles shall be towed to any approved storage lot owned by a wrecker service. In the event that there

is no space available on such a lot, the vehicle shall be stored at a site designated by the law enforcement officer.

(4) Whenever a vehicle has been removed from a street as authorized in this section and the appropriate agency is able to ascertain from the registration records in the vehicle the name and address of the owner thereof, such agency shall, as soon as possible, give or cause to be given notice in writing to such owner of the fact of such removal and the reasons therefor and of the manner in which such vehicle may be reclaimed. In this event, any such notice shall be given to the proprietor of such storage lot or garage.

(5) Whenever an officer removes or has removed a vehicle from a street under this section and does not know and is not able to ascertain the name of the owner, or for any reason is unable to give notice to the owner as hereinbefore provided, and in the event the vehicle is not returned to the owner within a period of 3 days, then and in that event the officer shall immediately send or cause to be sent a written report of such removal by mail to the Bureau of Motor Vehicles and shall file a copy of such notice with the proprietor of any storage lot or garage in which the vehicle may be stored.

(6) (a) No person shall recover any vehicle removed in accordance with this section except as provided herein. Before the owner or person in charge of such vehicle shall be allowed to recover it from the place where it has been placed or impounded, he or she shall present to a member of the Town Police Department evidence of his identity and right to possession of the vehicle and shall:

1. Sign a receipt for its return;
2. Pay the cost of removal;
3. Pay any cost of storage accrued for each additional day or portion thereof thereafter; and
4. Pay the associated fine to the town for violating this chapter.

(b) Until paid, these charges constitute a lien on the vehicle that may be enforced in the same manner as a garage keeper's lien in accordance with the provisions of the applicable state statutes.

(7) It shall be the duty of the Town Police Department to keep a record of each vehicle removed in accordance with this section. The record shall include:

- (a) A description of the vehicle;
- (b) Its license number;
- (c) The date and time of its removal;

- (d) Location from where it was removed;
- (e) Its present location;
- (f) The name and address of its owner and last operator, if known;
- (g) Its final disposition; and
- (h) The parking violation involved.

(8) This section shall be supplemental to any other provisions of law granting members of the Police Department the authority to remove vehicles.

(9) Any party who received a citation for violation of any provision of this schedule shall pay a penalty not to exceed \$100. The penalty for a first violation shall be the sum of \$25, which is in addition to any and all other costs as provided in division (B)(6) of this section. The penalty for a second violation of the same driver or person in charge of the vehicle which is in violation shall be the sum of \$50, which is in addition to any and all other costs as provided in division (B)(6) of this section. The penalty for a third or subsequent violation of the same driver or person in charge of the vehicle which is in violation shall be the sum of \$100, which is in addition to any and all other costs as provided in division (B)(6) of this section. All assigned fines and penalties collected locally shall be deposited in the Town of Geneva Police Department's Local Law Fund.

(Ord. 2012-2, passed 5- -2012)

***Cross-reference:***

*Snow emergencies, see § 70.02*



## **TITLE IX: GENERAL REGULATIONS**

Chapter

**90. FAIR HOUSING**

**91. FIRE PREVENTION**

**92. ANIMALS**

**93. NUISANCES**

**94. RESERVED**

**95. TREES**

**96. STREETS AND SIDEWALKS**



## CHAPTER 90: FAIR HOUSING

### Section

- 90.01 Policy statement
- 90.02 Definitions
- 90.03 Unlawful practice
- 90.04 Discrimination in the sale or rental of housing
- 90.05 Discrimination in residential real estate-related transactions
- 90.06 Discrimination in the provision of brokerage services
- 90.07 Interference, coercion, or intimidation
- 90.08 Prevention of intimidation
- 90.09 Exemptions
- 90.10 Administrative enforcement

### § 90.01 POLICY STATEMENT.

It shall be the policy of the town to provide, within constitutional limits, for fair housing throughout its corporate limits as provided for under the federal Civil Rights Act of 1968, being 42 U.S.C. §§ 3601 *et seq.*, as amended, the federal Housing and Community Development Act of 1974, being 42 U.S.C. §§ 5301 *et seq.*, as amended, and I.C. 22-9.5-1 *et seq.*  
(Ord. 1996-1, passed 4-9-1996)

### § 90.02 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)

**Geneva - General Regulations**

**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)

**DISABILITY.**

(1) With respect to a person:

(a) A physical or mental impairment which substantially limits 1 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, being 42 U.S.C. §§ 12101 *et seq.*;

(e) Any other impairment defined under state statute.

(2) (a) The term **DISABILITY** shall not include current illegal use of or addiction to a controlled substance as defined in 21 U.S.C. § 802;

(b) Nor does the term **DISABILITY** include an individual solely because that individual is a transvestite.

**DISCRIMINATORY HOUSING PRACTICE.** An act that is unlawful under §§ 90.04 through 90.08 or I.C. 22-9.5-5.

**DWELLING.** Any building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by 1 or more families; or any vacant land which is offered for sale or lease for the construction or location of a building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as a residence by 1 or more families. (I.C. 22-9.5-2-8)

**FAMILY.** Includes a single individual, with the status of such family being further defined in the definition of familial status. (I.C. 22-9.5-2-9)

**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.

**PERSON.** Includes 1 or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, non-incorporated organizations, trustees, trustees in cases under 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 not owned by the occupant.

(I.C. 22-9.5-2-13)

(Ord. 1996-1, passed 4-9-1996)

### § 90.03 UNLAWFUL PRACTICE.

Subject to the provisions of division (B) of this section, § 90.09 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 § 90.04 shall apply to:

(A) All dwellings except as exempted by division (B) of this section and I.C. 22-9.5-3.

(B) Other than the provisions of division (C) of this section, nothing in § 90.04 shall apply to:

(1) Any single-family house sold or rented by an owner where the private individual owner does not own more than 3 such single-family houses at any one time; provided that in the sale of the 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 behalf, title to or any right to all or a portion of the proceeds from the sale or rental of more than 3 such single-family houses at any one time. The sale or rental of any such single-family house shall be excepted from application of this section only if the house is sold or rented:

(a) Without the use in any manner of the sales or rental facilities or services of any real estate broker, agent or salesperson, or any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent or salesperson, or person; and

## Geneva - General Regulations

(b) Without the publication, posting or mailing, after notice of advertisement or written notice in violation of § 90.04(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 4 families living independently of each other, if the owner actually maintains and occupies 1 of the living quarters as his residence.

(C) For the purposes of division (B) of this section, a person shall be deemed to be in the business of selling or renting dwellings if:

(1) He has, within the preceding 12 months, participated as principal in 3 or more transactions involving the sale or rental of any dwelling or any interest therein; or

(2) He has, within the preceding 12 months, participated as agent, other than in the sale of his own personal residence, in providing sales or rental facilities or services in 2 or more transactions involving the sale or rental of any dwelling or any interest therein; or

(3) He is the owner of any dwelling unit designed or intended for occupancy by, or occupied by, 5 or more families.

(Ord. 1996-1, passed 4-9-1996)

### § 90.04 DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING.

As made applicable by § 90.03 and except as exempted by § 90.03(B) and § 90.09, it shall be unlawful:

(A) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, HIV-positive 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, HIV-positive 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, handicap, familial status, HIV-positive status or national origin, or an intention to make any such preference, limitation, or discrimination;

(D) To represent to any person because of race, color, religion, sex, handicap, familial status, HIV-positive status or national origin that any dwelling is not available for inspection, sale, or rental when the dwelling is in fact so available;

(E) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or perspective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, handicap, familial status, HIV-positive status or national origin;

(F) (1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap 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 handicap of:

(a) That person; or

(b) A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(c) Any person associated with that person.

(3) For purposes of this subsection, **DISCRIMINATION** includes:

(a) A refusal to permit, at the expense of the handicapped 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) A 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

## Geneva - General Regulations

(c) In connection with the design and construction of covered multi-family dwellings for first occupancy after the date that is 30 months after September 13, 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 handicapped persons;
2. All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by handicapped 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. Light, 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 such that an individual in a wheelchair can maneuver about the space.

(4) Compliance with the appropriate requirements of Americans With Disabilities Act of 1990, being 42 U.S.C. §§ 12101 *et seq.*, and of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as "ANSI A117.1") suffices to satisfy the requirements of subsection (3)(c)3.

(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 of whose tenancy would result in substantial physical damage to the property of others.  
(Ord. 1996-1, passed 4-9-1996) Penalty, see § 10.99

### § 90.05 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, handicap, familial status, HIV-positive status or national origin.

(B) As used in this section, the term ***RESIDENTIAL REAL ESTATE-RELATED TRANSACTION*** means any of the following:

- (1) The making or purchasing of loans or providing other financial assistance:
  - (a) For purchasing, constructing, improving, repairing, or maintaining a dwelling; or
  - (b) Secured by residential real estate.
- (2) The selling, brokering, or appraising of residential real property.

(C) Nothing in this chapter prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, HIV-positive status or familial status.

(Ord. 1996-1, passed 4-9-1996) Penalty, see § 10.99

#### **§ 90.06 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 in the terms or conditions of such access, membership, or participation on account of race, color, religion, sex, handicap, familial status, HIV-positive status or national origin.

(Ord. 1996-1, passed 4-9-1996) Penalty, see § 10.99

#### **§ 90.07 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 having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by §§ 90.03, 90.04, 90.05 or 90.06.

(Ord. 1996-1, passed 4-9-1996) Penalty, see § 10.99

#### **§ 90.08 PREVENTION OF INTIMIDATION.**

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, handicap, familial status, HIV-positive status or national origin and because he or she is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation

of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings; or

(B) Any person because he or she is or has been, or in order to intimidate such person or any other person or any class of persons from:

(1) Participating, without discrimination on account of race, color, religion, sex, handicap, familial status, HIV-positive status or national origin, in any of the activities, services, organizations or facilities described in § 90.04; or

(2) Affording another person or class of persons opportunity or protection so to participate; or

(C) Any citizen because he or she is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, handicap, familial status, HIV-positive status or national origin, in any of the activities, services, organizations or facilities described in division (A) of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to participate shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both; and if bodily injury results shall be fined not more than \$10,000, or imprisoned for not more than 10 years, or both; and if death results shall be subject to imprisonment for any term of years or for life.  
(Ord. 1996-1, passed 4-9-1996)

#### § 90.09 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) of this section.

(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 such persons, unless membership in the religion is restricted on account of race, color or national origin. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which 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) As used in this section, ***HOUSING FOR OLDER PERSONS*** means housing:

(a) Provided under any state or federal program that the Secretary of the Federal Department of Housing and Urban Development or the state civil rights commission determines is specifically designed and operated to assist elderly persons (as defined in the state or federal program);

(b) Intended for, and solely occupied by, persons 62 years of age or older; or

(c) Intended and operated for occupancy by at least 1 person 55 years of age or older per unit.

(Ord. 1996-1, passed 4-9-1996)

**§ 90.10 ADMINISTRATIVE ENFORCEMENT.**

(A) The authority and responsibility for properly administering this chapter and referral of complaints hereunder to the Commission as set forth in division (B) of this section shall be vested in the Chief Executive Officer of the state.

(B) Notwithstanding the provisions of I.C. 22-9.5-4-8, the town, 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 articles 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 Officer of the town shall refer all complaints to the Commission as provided for under division (A) of this section 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 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 Executive Officer and the Commission to further such purposes.

(D) The Chief Executive Officer of the town or the Chief Executive Officer’s designee, shall provide information on remedies available to any aggrieved person or complainant requesting the information.

(Ord. 1996-1, passed 4-9-1996)



## CHAPTER 91: FIRE PREVENTION

### Section

- 91.01 Open containers
- 91.02 Open burning

### § 91.01 OPEN CONTAINERS.

(A) It shall be unlawful for any person to kindle or maintain any bonfire or any fires in open barrels or containers or any type or to knowingly furnish the materials for any such fire, or authorize or direct any such fire to be kindled or maintained at any place within the town unless a written permit shall first have been secured from the town duly approved by this Board and the Fire Chief.

(B) Any person who shall violate this section or any person who shall permit, aid or assist in a violation thereof may, within 48 hours of the time notice of violation is given to the person, pay a penalty in the sum of \$10 in full satisfaction of the violation to the Clerk-Treasurer of the town or to the Town Marshal. Upon the lapse of the 48 hour period and within 7 days of the time a notice of violation was given to the person, the person may pay a penalty in the sum of \$25 in full satisfaction of the violation to the Clerk-Treasurer of the town or the Town Marshal. If the person has not paid the penalty sum of \$25 within the 7 day period, the person shall be subject to suit and summons to the Adams County Court by the town to enforce a penalty in the sum of \$75 for the violation of this section plus court costs all payable to or for the benefit of the town. Upon the lapse of the 48 hour period and within 7 days of the time a notice of violation is given to the person, firm or corporation, the person, firm or corporation may pay a penalty sum in the sum of \$50 in full satisfaction of the violation to the Clerk-Treasurer of the town or to the Town Marshal. If the person, firm or corporation has not paid the penalty sum of \$50 within the 7 day period, the person shall be subject to suit and summons to the Adams County Court by the town to enforce a penalty and for damages for violation of this section in the amount of \$100 plus court costs, payable to the town.  
(1997 Code, Ch. 23) (Ord. 1980-, passed - -)

### § 91.02 OPEN BURNING.

(A) *Prohibition.* No open burning of leaves, grass, wood, brush, waste oil, tires, paper, garbage, or waste products from home remodeling or any other products that should be discarded in a proper waste receptacle shall be allowed within the town.

**Geneva - General Regulations**

(B) *Exceptions.* However, the following types of clean wood fires are permitted (must comply with open burning regulations in division (C)):

- (1) Fires celebrating Twelfth Night ceremonies.
- (2) Fires celebrating school pep rallies.
- (3) Fires celebrating scouting activities.
- (4) Fires used for recreational and cooking purposes; i.e., campfires, BBQ grills.
- (5) Open burning of leaves and brush are permitted with the following conditions:
  - (a) When the transport of leaves and brush to the leaf and brush site is impractical; or
  - (b) When placing leaves curbside for pickup by the leaf vacuum is unrealistic.
  - (c) The Town Police Department must grant approval prior to burning leaves or brush.

(C) *Open burning regulations.* The following regulations, set and adopted by the Town Council, shall be enforced by any law enforcement officer of the state:

- (1) Fires shall be attended at all times until completely extinguished.
- (2) If fires create a nuisance, pollution problem, threat to public health or a fire hazard, they shall be extinguished.
- (3) No burning shall be conducted during unfavorable meteorological conditions such as temperature inversions, high winds, air stagnation, drought conditions, and the like.
- (4) Open burning is prohibited any time Adams County issues a no burn order.
- (5) Any open burning shall comply with all other federal, state, and local laws, rules and ordinances.

(D) *Penalties.* Any person, firm, company, corporation, and the like, found to be in violation of the set conditions and restrictions of this section shall be subject to the following.

- (1) The violator shall be notified by the Town Marshal or designee or any law enforcement officer of the state, of the violation and shall extinguish said fire. If the violator will not comply or cannot be located, the Town Fire Department shall be summoned and shall extinguish said fire at the expense of the violator. The violator shall be billed by the Town Clerk for the cost of the Fire Department.

(2) At any time, if the violator is not complying with the order of the Town Marshal, his designee or any law enforcement officer of the state, said violator may be issued a fine from said law enforcement officer. Said fine shall be no less than \$50 and shall not exceed \$2,500. Said fine shall be paid within 5 business days to the Town Clerk and shall be paid to the Marshal's local law continuing education fund.

(3) It shall be known that if it is deemed that a stiffer penalty is necessary, a summons written on the state statute for open burning may be issued by said law enforcement officer.  
(Ord. 2009-1, passed 5-5-2009; Am. Ord. 2011-1, passed 4-5-2011)



## CHAPTER 92: ANIMALS

### Section

- 92.01 Definitions
- 92.02 State law adopted by reference
- 92.03 Animals running at large
- 92.04 Impounding animals
- 92.05 Animal bites; reporting and confinement
- 92.06 Noise; unsanitary conditions
- 92.07 Cruelty, teasing and tormenting animals
- 92.08 Enticing or trespassing; non-resident owners
  
- 92.99 Penalty

### § 92.01 DEFINITIONS.

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

***ABANDONED ANIMAL.*** The voluntary relinquishment of possession by the owner with the intention of terminating his ownership, but without vesting possession in any other person.

***ANIMAL SHELTER.*** Any animal shelter established by any lawful authority in any city or town within the county, or by the action of the Board of Commissioners or County Council in the county, to keep, care for or legally dispose of dogs, cats and other animals impounded as provided for herein.

***AT LARGE.*** Off the premises of the owner while not under control of the owner or other person by leash, cord, chain or other device of actual physical restraint or under the control of and accompanying the owner or other person who has the ability to control the animal by voice command. However, a dog engaged in lawful hunting or a dog, which has been trained to work, working shall not be considered to be ***AT LARGE*** by the terms of this definition.

***DOMESTIC ANIMALS.*** Animals considered household pets, being those animals commonly bred and used as domesticated purpose are allowed in the town limits. Household pets would include dogs,

cats, and caged rodents such as white mice, gerbils, ferrets, rabbits; and non-hunting birds such as pigeons, parakeets, parrots; and small aquarium fish.

**EXOTIC ANIMALS.** Animals sometimes kept in captivity for exhibit, controlled hunting purposes, or agricultural production, such as buffalo, deer, elk, llamas, ostriches, emus are not allowed.

**FARM ANIMALS.** Animals usually held for agricultural or commercial production including, but not limited to, cattle, swine, sheep, goats, chickens, turkeys, ducks, geese, mink, ermine are not allowed.

**OWNER.** Any person or persons, firm, association or corporation owning, keeping or harboring domestic, farm, wild, predator or exotic animal.

**PEACE OFFICER.** Includes, but is not limited to town police, town officials, animal warden or game wardens.

**PREDATOR ANIMALS.** Animals considered a predator in the wild, even if bred and captivity, including but not limited to bears, wolves, coyotes; lions, tigers, cougars, panthers and other members of the large hunting cat family; eagles, hawks, falcons, peacocks, any other members of the fowl family and other large hunting bird species; alligators, crocodiles, iguanas and any poisonous or constrictor snakes are not allowed.

**VICIOUS ANIMAL.** Any dog, cat or other animal which is known to have an inclination to attack human beings, or other dogs, cats or other animals, except dogs so trained by duly constituted police or law enforcement authority.

**WILD ANIMALS.** May include, but are not limited to, raccoons, squirrels, beavers, badgers, or muskrats are not allowed.

(Ord. 2010-13, passed 11-2-2010)

## § 92.02 STATE LAW ADOPTED BY REFERENCE.

All laws of the State of Indiana pertaining to the regulation and control of dogs, cats or other animals, including but not limited to their ownership, licensing, harboring, abandonment, running at large, rabies control and quarantine, pursuit, capture, confinement, the prevention and control of diseases of domestic animals as defined, and the administrative rules and regulations of the State Board of Health, and unlawful acts relating thereto not inconsistent herewith, are made a part hereof by reference. The provisions of this chapter are not to replace such laws, but are to be considered supplementary and in addition thereto and fully enforced where not inconsistent with the laws of this state.

(Ord. 2010-13, passed 11-2-2010)

**§ 92.03 ANIMALS RUNNING AT LARGE.**

No person who owns, harbors or keeps a dog, cat or other animal shall permit such animal to run at large or roam away from the premises where usually kept.  
(Ord. 2010-13, passed 11-2-2010) Penalty, see § 92.99

**§ 92.04 IMPOUNDING ANIMALS.**

Any animal may be captured and impounded by any peace officer if such animal:

(A) Is found running at large within the city;

(B) Is a menace to persons or other animals;

(C) Is suffering or reasonably suspected to be suffering from an infection or contagious disease;

(D) Causes serious annoyance or disturbance to persons in the neighborhood by habitual howling, yelping, barking, meowing or any other type of loud noises or otherwise;

(E) Is kept in any unsanitary manner thereby causing odors which are annoying and disturbing to the persons in the neighborhood; or

(F) Is treated by the owner in a cruel or inhumane manner or be considered as an abandoned animal.

(Ord. 2010-13, passed 11-2-2010)

**§ 92.05 ANIMAL BITES; REPORTING AND CONFINEMENT.**

(A) It shall be the duty of a physician in attendance on every case of a human being bitten by a dog, cat or other animal to make a report thereof to the County Health Department. If the person bitten is a minor, it shall be the duty of the parent or guardian to make such report.

(B) It shall be the duty of the owner or keeper of any dog, cat or any other animal known to have attacked or bitten any human being, and it shall be the duty also of any peace officer or the operator of any animal shelter having custody of any animal to keep the dog, cat or any other animal confined for a period of not less than 14 days after the day on which such attack or bite occurred. The owner or person having had such custody shall immediately make a report to the County Health Department when and if such animal dies. If the animal lives beyond such period, that fact will also be reported.

(C) No person shall harbor any dog, cat or any other animal affected with rabies or allow them to run at large within the city. It shall be the duty of every peace officer to kill any animal found to be infected, if it has not bitten anyone.

(Ord. 2010-13, passed 11-2-2010) Penalty, see § 92.99

#### **§ 92.06 NOISE; UNSANITARY CONDITIONS.**

(A) No person who owns, harbors or keeps a dog, cat or other animal shall permit such dog, cat or any other animal to give rise to noise by habitual howling, yelping, scratching, barking, meowing or otherwise that is plainly audible across property boundaries or between partitions common to 2 or more persons within a building that causes serious annoyance or disturbance to persons in the neighborhood.

(B) No person who owns a dog, cat or any other animal shall allow unsanitary conditions that cause serious annoyance across property boundaries or between partitions common to 2 or more persons within a building or neighbors.

(C) Animals may be given exercise walks along the public streets, sidewalks and alleyways as long as the animal is held by a leash controlled by a person of sufficient size and strength to restrain the animal. No animal may be allowed to trespass onto private property without the express permission of the property owner. If a domestic animal deposits fecal matter, the person controlling such animal must immediately pick up and remove said animal feces and dispose of it in a covered garbage container located where the animal resides. This provision specifically exempts horses with riders or horses pulling a buggy or carriage.

(Ord. 2010-13, passed 11-2-2010) Penalty, see § 92.99

#### **§ 92.07 CRUELTY, TEASING AND TORMENTING ANIMALS.**

(A) It shall be unlawful for any person to deliberately starve, torture, beat or ill-treat any dog, cat or any other animal. Any person who shall violate the provisions of this section shall be guilty of an infraction and upon conviction thereof shall be fined in accordance with § 92.99.

(B) It shall be unlawful for any person to annoy or tease persistently any dog, cat or any other animal thereby causing such animal to become irritated and vicious. No person who is attacked or bitten by any dog, cat or any other animal shown or proven to have been so teased or annoyed by such person, nor anyone having a derivative claim by reason of any injury of such person, will have any right of action to recover damages from the owner or keeper of such an animal.

(C) It shall be unlawful to fail to feed adequately or to feed any dog, cat or any other animal unsuitable or unhealthy food, or to provide such animal with stagnant or unclean water to drink and which is likely to produce disease in the animal.

(Ord. 2010-13, passed 11-2-2010) Penalty, see § 92.99

**§ 92.08 ENTICING OR TRESPASSING; NON-RESIDENT OWNERS.**

(A) No person shall entice any dog, cat or any other animal from the premises of the person owning, keeping or harboring the same, or entice any such animal from any highway, street, alley or public place in the city with the intention of depriving the owner, keeper or person harboring the same, of the possession thereof, except as authorized in this chapter.

(B) No person shall enter or invade the private premises of another to capture, entice or take any dog, cat or any other animal, out of the enclosure or premises of the person harboring the same or molest or seize any such dog, cat or any other animal, anywhere while the same is accompanied by his owner, keeper or custodian; or bring within the town any dog, cat or any other animal for the purpose of impounding or otherwise disposing of the same, or collecting any fee or reward for the return thereof, except as provided in this chapter.

(C) The provisions of this chapter, except as to those having rabies, shall not apply to animals owned by non-resident parties passing through the city and having them under restraint.  
(Ord. 2010-13, passed 11-2-2010) Penalty, see § 92.99

**§ 92.99 PENALTY.**

Domestic animal impoundment by the town is subject to a \$25 fine. All other violations of this chapter or committing any act declared hereby to be unlawful shall be fined \$100 for the first offense; \$250 for the second offense within 12 months of the first offense; and \$500 for the third or subsequent offense within 12 months of the second offense. All fines assessed and paid under this section shall be deposited in the Local Law Fund of the town within 7 days of infraction.  
(Ord. 2010-13, passed 11-2-2010)



## CHAPTER 93: NUISANCES

### Section

#### *Public Nuisances*

- 93.01 Public nuisances prohibited
- 93.02 Public nuisances defined
- 93.03 Public health nuisances
- 93.04 Public nuisances offending morals and decency
- 93.05 Public nuisances affecting peace and safety
- 93.06 Abatement of public nuisances
- 93.07 Cost of abatement

#### *Grass, Weeds, Debris, and Other Rank Vegetation*

- 93.20 Removal of grass, weeds, debris, and other such rank vegetation

#### *Junk, Junk Vehicles and Abandoned Vehicles*

- 93.30 Definitions of junk, junk vehicles and abandoned vehicles
- 93.31 Junk, junk vehicles and abandoned vehicles declared nuisances
- 93.32 Storage prohibited
- 93.33 Enforcement for junk
- 93.34 Enforcement for junk vehicles and abandoned vehicles

#### *Outdoor Burning Regulations*

- 93.40 Application of outdoor burning regulations
- 93.41 Exceptions
- 93.42 Enforcement

#### *Miscellaneous Regulations*

- 93.50 Nondisposal of dangerous and toxic materials
- 93.51 Smoking prohibited in town facilities
- 93.52 Noise regulations
- 93.53 Unsafe building regulations
  
- 93.99 Penalty

***PUBLIC NUISANCES*****§ 93.01 PUBLIC NUISANCES PROHIBITED.**

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the town.

(Ord. 2019-12, passed 12-10-2019; Am. Ord. 2022-16, passed 1-10-2023; Am. Ord. 2023-13, passed 11-14-2023)

**§ 93.02 PUBLIC NUISANCES DEFINED.**

A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

(A) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public; or

(B) In any way render the public insecure in life or in the use of property; or

(C) Greatly offend the public morals or decency; or

(D) Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way; or

(E) Be injurious to health, or indecent, or offensive to the senses, or an obstruction to the full use of property, so as essentially to interfere with the comfortable enjoyment of life or property.

(Ord. 2019-12, passed 12-10-2019; Am. Ord. 2022-16, passed 1-10-2023; Am. Ord. 2023-13, passed 11-14-2023)

**§ 93.03 PUBLIC HEALTH NUISANCES.**

The following acts, omissions, places, conditions and things are specifically declared to be public health nuisances, but shall not be construed to exclude other health nuisances coming within the definition of § 93.02:

(A) All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public;

(B) Carcasses of animals, birds or fowl not buried or otherwise disposed of in a sanitary manner within 24 hours after death;

(C) Accumulations of decayed animal or vegetable matter (except for approved compost methods), trash, rubbish, rotting lumber, bedding, packing material, junk vehicles, scrap metal or any material in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed, or may be a fire hazard;

(D) Piles of any wood or wood product usually used or intended to be used as firewood in a residence or any accessory structure which is not contained within a covered enclosure impervious to the elements or not stored or kept in neat and secure stacks no more than four feet in height as measured from the ground surface, or that has been stacked in a manner in which disease-carrying insects, rats or other vermin may breed, or which becomes a fire hazard, or which has been open to the elements for a duration which causes the wood to rot or decay;

(E) All stagnant water in which mosquitoes, flies or other insects can multiply;

(F) The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the town limits in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property;

(G) The pollution of any public well or cistern, stream, river, lake, canal or body of water by sewage, creamery or industrial wastes or other substances;

(H) Any use of property, substances or things within the town emitting or causing foul, offensive, noisome, nauseous, noxious, or disagreeable odors, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health or any appreciable number of persons within the town; or any slaughter house;

(I) All abandoned wells not securely covered or secured from public use;

(J) All noxious weeds;

(K) Any accumulation of junk, rubbish, scrap metal, scrap plastic, paper, cardboard, automotive parts, building materials, machinery, equipment, dead trees, or parts thereof, upon any premises in a residential area;

(L) Any structure used for the collection or deposit of trash or garbage that has an open door allowing access into said structure, except when the door is open to allow the structure to be used for the deposit or removal of trash or garbage, or to allow the structure to be cleaned or repaired;

(M) Crop residue, including, but not limited to, corn cobs, bean stalks and corn stalks that exits the property upon which it was harvested and accumulates on neighboring property.  
(Ord. 2019-12, passed 12-10-2019; Am. Ord. 2023-13, passed 11-14-2023)

**§ 93.04 PUBLIC NUISANCES OFFENDING MORALS AND DECENCY.**

(A) The following acts, omissions, places, conditions and things are specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of § 93.02:

(1) All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling;

(2) All gambling devices and slot machines;

(3) All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified for the purpose of sale without a permit or license as provided for by this code or state law;

(4) Any place or premises within the town where town ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated;

(5) Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the State of Indiana or the ordinances of the town.

(B) Public nuisances offending morals and decency shall also mean where any of the following is conducted, permitted, continued, or exists, and the personal property and contents used in conducting and maintaining the place for such a purpose:

(1) Any place in or upon which prostitution (as described in I.C. 35-45-4);

(2) Any public place in or upon which sexual conduct (as defined in I.C. 35-49-1-9); or

(3) Any public place in or upon which the fondling of the genitals of a person.  
(Ord. 2019-12, passed 12-10-2019; Am. Ord. 2023-13, passed 11-14-2023)

**§ 93.05 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.**

The following acts, omissions, places, conditions and things are declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions of § 93.02:

(A) All buildings erected, repaired or altered within the town in violation of the provisions of the ordinances of the town relating to materials and manner of construction of buildings and structures;

(B) All unauthorized signs, signals, markings or devices which purport to be or may be mistaken as official traffic control devices placed or maintained upon or in view of any public highway;

(C) All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk;

(D) All limbs of trees which project over a public sidewalk less than eight feet above the surface thereof or less than ten feet above the surface of a public street;

(E) All use of display of fireworks except as provided by the laws of the State of Indiana and ordinances of the town;

(F) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use; or shall be an invitation to children and endanger the lives of such children, or which because of its condition has become a fire hazard;

(G) All wires over streets, alleys or public grounds;

(H) All loud and discordant noises or vibrations of any kind, except as may be permitted under a zoning ordinance;

(I) All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except those which, as permitted by the ordinances of the town, although made in accordance with such ordinances, are kept or maintained for an unreasonable length of time after the purpose thereof has been accomplished;

(J) All parking, location or relocation of any trailer, boat trailer, truck commercial vehicle, storage unit, motor home, recreational vehicle (RV), camper shell, all terrain vehicle (ATV), camper or camping trailer, on any public street, alley or right-of-way for a period of more than 24 hours over a one month period;

(K) All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalks;

(L) All abandoned refrigerators, iceboxes or similar containers from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside by pushing only with the strength of a small child;

(M) Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks;

(N) Any sign, marquee, or awning which is in an unsafe condition, or which overhangs any roadway, or which overhangs any sidewalks less than eight feet above the sidewalk surface; and

(O) Any nuisance so defined by the Indiana Code.  
(Ord. 2019-12, passed 12-10-2019; Am. Ord. 2023-13, passed 11-14-2023)

### § 93.06 ABATEMENT OF PUBLIC NUISANCES.

(A) *Inspection of premises.* Whenever a written complaint is made to the Clerk-Treasurer or the Clerk-Treasurer's designee that a public nuisance exists or has existed within the Town, the Clerk-Treasurer, Town Marshal, and President of the Board of Trustees, as inspection officers, shall promptly inspect or cause to be inspected the premises and shall make a written report of their findings to the Clerk-Treasurer or the Clerk-Treasurer's designee. Whenever practicable, the inspection officers shall cause photographs to be made of the premises and shall file the same in the office of the Town Clerk-Treasurer.

(B) *Summary abatement.*

(1) *Notice to owner.* If the inspection officers shall determine that a public nuisance exists on private property and that there is a great and immediate danger to the public health, safety, peace, morals or decency, the Clerk-Treasurer shall direct the Town Marshal, or a Deputy Town Marshal, to serve a notice on the owner, or, if the owner cannot be found, on the occupant or person causing, permitting or maintaining such nuisance and to post a copy of the notice on the premises. If the inspection officers shall determine that a public nuisance exists on private property and that there is not a great and immediate danger to the public health, safety, peace, morals or decency, then such notice may be served the owner or the occupant or person causing, permitting or maintaining such nuisance by certified mail, return receipt requested or by posting a copy of the notice on the premises. Such notice shall direct the owner, occupant or person causing, permitting or maintaining such nuisance to abate or remove such nuisance within 48 hours and shall state that unless such nuisance is so abated, the town will cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the same, as the case may be.

(2) *Abatement by town.* If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the Clerk-Treasurer, Town Marshal, and President of the Board of Trustees shall have the authority to cause the abatement or removal of such public nuisance.

(C) *Abatement by court action.* If the inspecting officers shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, they shall file a written report of their findings with the Clerk-Treasurer, who shall cause an action to abate such nuisance to be commenced in the name of the town. The Town Attorney may initiate an action to abate or enjoin such nuisances.

(Ord. 2019-12, passed 12-10-2019; Am. Ord. 2021-1, passed 5-11-2021; Am. Ord. 2023-13, passed 11-14-2023)

**§ 93.07 COST OF ABATEMENT.**

In addition to any other penalty imposed by § 93.99(A) for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the town shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance. Said cost of the abatement shall include, but not be limited to, court costs, attorney's fees, administrative costs, and interest on any amounts incurred by the town. If the town uses municipal employees, it shall set and assign an appropriate per hour rate for employees, equipment, supplies and chemicals that may be used. The Clerk-Treasurer shall send a notice to the owner of the cost of abatement, and the owner shall then have 30 days from the mailing of said notice to reimburse the town. If said cost of abatement is not reimbursed within 60 days of the mailing of said notice, the Clerk-Treasurer shall file a certified copy of the statement of costs in the Auditor's office of Adams County, and the County Auditor shall cause such costs, together with interest at the rate of 8% per annum, to be added to the property's tax duplicate to be collected as delinquent real estate taxes, pursuant to I.C. 36-7-10.1-1 *et seq.*, which upon collection shall be deposited into the town's General Fund.

(Ord. 2019-12, passed 12-10-2019; Am. Ord. 2023-13, passed 11-14-2023)

***GRASS, WEEDS, DEBRIS, AND OTHER RANK VEGETATION***

**§ 93.20 REMOVAL OF GRASS, WEEDS, DEBRIS, AND OTHER SUCH RANK VEGETATION.**

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

***DEBRIS.*** The remains of something broken-down or destroyed.

***GRASS.*** Vegetation consisting of typically short plants with long narrow leaves, growing wild or cultivated on lawns.

***RANK VEGETATION.*** Those weeds and growing vegetation which are excessively vigorous in growth, shockingly conspicuous, malodorous and/or flagrant.

***WEEDS.*** Any plant that is not valued where it is growing, and is of rank growth, tends to overgrow or choke out more desirable plants and/or is listed as a weed in the U.S. Department of Agriculture publication entitled Common Weeds of the United States, or in any similar government publication.

(B) *Violation.* It is a violation of this section to have weeds, rank vegetation and/or debris on any real property ("property") located within the town's corporate limits.

(C) *Requirement to cut.* All owners of real property ("property") located within the town shall cut and remove weeds and other rank vegetation growing thereon that exceeds an average height of eight inches, and shall keep their property clear of debris. Grass shall at all times be cut to an average height of no more than eight inches.

(D) *Discharge of cut grass.* No property owner shall cause or allow to cause the discharge of cut grass debris onto any public street, alley or right-of-way unless such cut grass debris is immediately removed, in its entirety, from said public street, alley or right-of-way.

(E) *Violation notice.* In the event of a violation of this section, the enforcement officer, the Town Marshal, or a Deputy Town Marshal shall issue a written notice ("violation notice") to the violating landowner. The violation notice shall identify the violation and order the landowner to correct the same within five calendar days from the date on which the violation notice is served on the landowner ("abatement period"). Personal service, service by U.S. certified mail or any other manner service recognized in the Indiana Rules of Trial Procedure shall constitute proper service upon the landowner for purposes of this section.

(F) *Appeal.* Any violation notice issued pursuant to this section may be appealed to the Hearing Authority under the unsafe building regulations in this chapter ("Hearing Authority") if written notice of appeal is served on the town within the abatement period. The timely appeal of a violation notice shall toll the abatement period pending the issuance of a decision thereon by the Hearing Authority.

(G) *Town to abate.* If the landowner fails to timely abate each violation set forth in a violation notice, the landowner shall be deemed to have granted permission to the town to enter the landowner's property for the limited purpose of cutting and/or removing such debris, grass, weeds or rank vegetation located thereon and identified in the violation notice. If the town uses municipal employees, it shall set and assign an appropriate per hour rate for employees, equipment, supplies and chemicals that may be used. The Clerk-Treasurer shall send an invoice to the owner of the cost of abatement. Said invoice shall be for a minimum of \$100 due to the administrative costs incurred by the town. The landowner shall, within seven calendar days from the date on which the landowner is served with such invoice ("payment period"), pay in full the amount stated thereon to the Clerk-Treasurer.

(H) *Failure to pay.* If the landowner fails to timely pay an invoice issued pursuant to this section, the Clerk-Treasurer, or the Clerk-Treasurer's designee, shall file a certified copy of the statement of costs in the Auditor's office of Adams County. The County Auditor shall cause such costs, together with interest at the rate of 8% per annum, to be added to the property's tax duplicate to be collected as delinquent real estate taxes, pursuant to I.C. 36-7-10.1-1 *et seq.*; which upon collection shall be deposited into the town's General Fund, unless the town's employees and/or equipment were used to abate such nuisance. In such case, such collected amounts shall instead be deposited into the town's Park and Recreation Fund.

(I) This section supplements and does not limit any other remedy or action available in law or in equity regarding the subject matter hereof.

(Ord. 2019-12, passed 12-10-2019; Am. Ord. 2023-13, passed 11-14-2023)

### ***JUNK, JUNK VEHICLES AND ABANDONED VEHICLES***

#### **§ 93.30 DEFINITIONS OF JUNK, JUNK VEHICLES AND ABANDONED VEHICLES.**

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

***ABANDONED VEHICLE.*** Any motor vehicle, car, boat, and other means of motorized transportation that is left on private premises without the consent of the owner or person in control of such premises, or on a public street, alley or right-of-way for a continuous period of time exceeding 30 days. ***ABANDONED VEHICLE*** shall also include any vehicle located on public premises illegally or in such manner as to constitute a hazard or unreasonable obstruction to the movement of pedestrian or other vehicle traffic on a public right-of-way, street or highway.

***JUNK.*** Any articles in any form composed of or consisting of any of the following enumerated secondhand, discarded, abandoned or cast-off metals or materials, namely: iron, brass, bronze, copper, tin, zinc, lead or any other metals or compounds thereof, broken glass, rags, clothing, rubber, plastics, synthetic substances and fabrics, bottles, papers, feathers or any other waste material or any compound or by-product of the foregoing enumerated materials. ***JUNK*** shall also include and mean wrecked, abandoned or dismantled automobiles or parts thereof.

***JUNK VEHICLE.*** Any motor vehicle, trailer, truck, commercial vehicle, storage trailer, motor home, recreational vehicle (RV), camper shell, camper or camping trailer, located on any public street, alley or right-of-way for a period of more than 24 hours over a one month period which does not bear a currently valid license plate, and is not kept in a garage or building. ***JUNK VEHICLE*** shall also include

any vehicle from which there has been removed the engine, transmission or differential or which is otherwise partially dismantled or inoperable and left on public premises or which has been left unattended for more than 30 days on private premises in a location visible from public premises and/or private premises at ground level. **JUNK VEHICLE** shall also include any trailer, truck, commercial vehicle, storage trailer, motor home, recreational vehicle (RV), camper shell, camper or camping trailer which has been left unattended for more than 30 days on private premises in a location visible from public premises and/or private premises at ground level.

(B) *Exemptions.* The provisions of this subchapter shall not apply to any vehicle located on a properly zoned vehicle sale lot, at a properly zoned commercial vehicle servicing facility, at a properly zoned automobile scrap yard, and any motor vehicle eligible for registration and licensing under I.C. 9-18-12-1 and 9-18-12-2 as an antique vehicle.  
(Ord. 2019-12, passed 12-10-2019; Am. Ord. 2023-13, passed 11-14-2023)

### **§ 93.31 JUNK, JUNK VEHICLES AND ABANDONED VEHICLES DECLARED NUISANCES.**

Because of the danger of health by vermin and insects and because of the danger of the safety of children attracted by such, junk, junk vehicles, abandoned vehicles and junked motor vehicles are declared to be nuisances except in lawfully zoned and operated junk yards.  
(Ord. 2019-12, passed 12-10-2019; Am. Ord. 2023-13, passed 11-14-2023)

### **§ 93.32 STORAGE PROHIBITED.**

It shall be unlawful for any person to store or to allow to remain in the open upon public or private property within the town, any disassembled and/or non-operative or unlicensed, or junked, wrecked or abandoned motor vehicle for a period of 30 days or more on public property or a period of 45 days or more on private property unless it is in connection with an automobile sale or repair business in a properly zoned area.  
(Ord. 2019-12, passed 12-10-2019; Am. Ord. 2023-13, passed 11-14-2023)

### **§ 93.33 ENFORCEMENT FOR JUNK.**

Any enforcement under this subchapter for junk shall take place pursuant to §§ 93.06 and 93.07. Whoever creates or maintains any nuisance regarding junk, junk vehicles or abandoned vehicles, as defined in this subchapter and who fails or refuses to abate such nuisance when so ordered, shall be fined the sum of \$100, and said fine shall be assessed by the Town Marshal or any Deputy Town Marshal. A separate offense shall be deemed committed upon each day during or on which the violation occurs or continues beyond the date fixed for abatement of such nuisance. The action against any person to enforce a penalty by the town shall constitute a separate and additional legal remedy, and the fact that any

proceedings by way of an injunction or for the abatement of any such nuisance has been or may be instituted by the town and may be pending or concluded, shall not affect this subchapter or be considered in any way as a defense to such action for the penalty herein prescribed.

(Ord. 2019-12, passed 12-10-2019; Am. Ord. 2023-13, passed 11-14-2023)

### **§ 93.34 ENFORCEMENT FOR JUNK VEHICLES AND ABANDONED VEHICLES.**

(A) *Discovery, notice and declaration of abandonment.* In addition to the enforcement procedures as set forth in § 93.33, when a Town of Geneva Marshal or Deputy Marshal (hereinafter "officer") discovers a vehicle in the possession of a person other than the owner of the vehicle and the person cannot establish the right to possession of the vehicle, the vehicle shall be taken to and stored in a suitable place determined by the officer. The Indiana Bureau of Motor Vehicles shall be notified within 72 hours of the location and description of a vehicle described herein. Upon receipt of notification, the Bureau shall cause a search to be made to determine and notify the person who owns the vehicle under this chapter. Pursuant to I.C. 9-22-17, the Bureau shall declare a vehicle abandoned and provide for disposal under this chapter if:

- (1) The owner or lienholder under division (C) below does not appear and pay all costs; or
- (2) The owner of a vehicle cannot be determined by a search under division (K) below.

(B) *Release to owner or lienholder of stored vehicle.* If the properly identified person who owns or holds a lien on a vehicle appears at the site of storage before disposal of the vehicle or parts and pays all costs incurred against the vehicle or parts at that time, the vehicle or parts shall be released. The town shall notify the appropriate public agency of all releases under this section. The notification must include the name, signature and address of the person that owns or holds a lien on the vehicle, a description of the vehicle or parts, costs, and the date of release.

(C) *Tagging abandoned or junk vehicle or parts.* An officer who finds or is notified of a vehicle or parts believed to be abandoned shall attach in a prominent place a notice tag containing the following information:

- (1) The date, time, officer's name, public agency, and address and telephone number to contact for information;
- (2) That the vehicle or parts are considered abandoned;
- (3) That the vehicle or parts will be removed after:
  - (a) 24 hours, if the vehicle is located on or within the right-of-way of an interstate highway or any highway that is designated as part of the state highway system under I.C. 8-23-4; or

(b) 72 hours, for any other vehicle;

(4) That the person who owns the vehicle will be held responsible for all costs incidental to the removal, storage, and disposal of the vehicle; and

(5) That the person who owns the vehicle may avoid costs by removal of the vehicle or parts within:

(a) 24 hours, if the vehicle is located on or within the right-of-way of an interstate highway or any highway that is designated as part of the state highway system under I.C. 8-23-4; or

(b) 72 hours, for any other vehicle.

(D) *Officer's abandoned vehicle report.* If a vehicle or a part tagged under division (C) above is not removed within the applicable period, the officer shall prepare a written abandoned vehicle report of the vehicle or parts, including information on the condition and missing parts. Photographs may be taken to describe the condition of the vehicle or parts.

(E) *Vehicle or parts valued at less than \$1,000.* If the vehicle is an abandoned vehicle and the market value of said vehicle or parts is less than \$1,000, the towing service shall immediately transfer the vehicle to a storage yard. A copy of the abandoned vehicle report and photographs, if applicable, relating to the abandoned vehicle shall be provided to the storage yard. A towing service or storage yard may dispose of the abandoned vehicle not less than 30 days after the date on which the towing service removed the abandoned vehicle. The public agency or storage yard disposing of the vehicle shall retain the original records and photographs for at least two years. If the vehicle is demolished, a copy of the abandoned vehicle report shall be forwarded to the Bureau by the automobile scrap yard after the vehicle has been demolished.

(F) *Vehicle or parts valued at \$1,000 or more.* If in the opinion of the officer the market value of the abandoned vehicle or parts is at least \$1,000, the officer, before placing a notice tag on the vehicle or parts, shall make a reasonable effort to ascertain the person who owns the vehicle or parts or who may be in control of the vehicle or parts. After 72 hours, the officer shall require the vehicle or parts to be towed to a storage yard or towing service.

(G) *Discovery of vehicle abandoned on rental property.*

(1) A person who finds a vehicle believed to be abandoned on private property that the person owns or controls, including rental property may:

(a) Obtain the assistance of an officer under division (J) below to have the vehicle removed; or

(b) Personally arrange for the removal of the vehicle by complying with division (B) above and division (H) below.

(2) If the person wishes to personally arrange for the removal of the vehicle, the person shall attach in a prominent place a notice tag containing the following information:

(a) The date, time, name and address of the person who owns or controls the private property and a telephone number to contact for information;

(b) That the vehicle is considered abandoned;

(c) That the vehicle will be removed after 24 hours;

(d) That the person who owns the vehicle will be held responsible for all costs incidental to the removal, storage, and disposal of the vehicle; and

(e) That the person who owns the vehicle may avoid costs by removal of the vehicle or parts within 24 hours.

(H) *Towing vehicle from rental property.*

(1) If after 24 hours the person who owns a vehicle believed to be abandoned on private property has not removed the vehicle from the private property, the person who owns or controls the private property on which the vehicle is believed to be abandoned may have the vehicle towed from the private property.

(2) Notwithstanding division (H)(1) above, in an emergency situation a vehicle believed to be abandoned on private property may be removed immediately. As used in this division, emergency situation means that the presence of the vehicle believed to be abandoned interferes physically with the conduct of normal business operations of the person who owns or controls the private property or poses a threat to the safety or security of persons or property, or both.

(I) *Notice to public agency of vehicle abandoned on rental property.* A towing service that tows a vehicle under division (H) above shall give notice to the public agency that the abandoned vehicle is in the possession of the towing service.

(J) *Complaint by person owning or controlling private property.* Under complaint of a person who owns or controls private property that a vehicle has been left on the property for at least 48 hours without the consent of the person who owns or controls the property, an officer shall follow the procedures set forth in divisions (C) through (F).

(K) *Abandoned vehicle report.*

(1) Within 72 hours after removal of an abandoned vehicle to a storage yard or towing service under divisions (E), (F) or (H), the public agency or towing service shall conduct a search of national data bases, including a data base of vehicle identification numbers, to attempt to obtain the last state of record of the vehicle in order to attempt to ascertain the name and address of the person who owns or holds a lien on the vehicle.

(2) A public agency or towing service that obtains the name and address of the owner of or lienholder on the vehicle shall, not later than 72 hours after obtaining the name and address, notify the person who owns or holds a lien on the vehicle of the: (a) name; (b) address; and (c) telephone number of the public agency or towing service. The notice must be made by certified mail or a certificate of mailing or by means of an electronic service approved by the Bureau.

(3) Notwithstanding I.C. 9-22-1-4, a public agency or towing service that fails to notify the owner of or the lienholder on the vehicle, as set forth in this division, may not collect additional storage costs incurred after the date of receipt of the name and address obtained.

(L) *Means of vehicle identification not available; disposal without notice.* If a vehicle or parts are in such a condition that vehicle identification numbers or other means of identification are not available to determine the person who owns or holds a lien on the vehicle, the vehicle may be disposed of without notice.

(M) *Purchasers at public sales.* A person that purchases a vehicle under this subchapter shall be furnished a bill of sale for each abandoned vehicle sold by the public agency upon paying the fee for a bill of sale imposed by the public agency. The fee may not exceed \$6 for each bill of sale. A person that purchases a vehicle under this chapter must do the following to obtain a certificate of title for the vehicle:

(1) Present evidence from a law enforcement agency that the vehicle purchased is roadworthy, if applicable; and

(2) Comply with the applicable requirements under I.C. 9-17.

(N) *Payment of removal, storage and disposition costs.* The costs for removal and storage of an abandoned vehicle or parts not claimed by the person who owns or holds a lien on a vehicle shall be paid from the abandoned vehicle account established under division (Q) below. The charge payable by the person who owns or holds a lien on a vehicle for towing, storing, or removing an abandoned vehicle or parts may not exceed the limits established by ordinance adopted under division (Q) below.

(O) *Sale proceeds credited against removal, storage and disposition costs.* The proceeds of sale of an abandoned vehicle or parts under this chapter shall be credited against the costs of the removal, storage, and disposal of the vehicle.

(P) *Sales; deposit of proceeds; payment of public agency costs; appropriations.*

(1) This section applies to sales of abandoned vehicles or parts by local units.

(2) The proceeds from the sale of abandoned vehicles or parts shall be deposited with the Town Clerk-Treasurer and placed by the Clerk-Treasurer in the town's Abandoned Vehicle Fund, including:

(a) Charges for bills of sale; and

(b) Money received from persons who own or hold liens on vehicles for the cost of removal or storage of vehicles.

(3) The costs incurred by the town in administering this chapter shall be paid from the Abandoned Vehicle Fund.

(4) The fiscal body shall annually appropriate sufficient money to the Fund to carry out this chapter. Money remaining in the Fund at the end of a year remains in the Fund and does not revert to the General Fund.

(5) Notwithstanding division (P)(4) above, the Town Council may transfer money from the Fund.

(Q) *Abandoned Vehicle Fund.* There is hereby created the Town of Geneva Abandoned Vehicle Fund, which shall be a revolving fund, and all moneys paid to the town for the cost of removal, storage and disposal of abandoned vehicles shall be placed in such Fund and in no other place. Such Fund shall also have added to it such moneys as may be appropriated by the Common Council and such moneys also shall not revert but shall remain in the Abandoned Vehicle Fund.

(R) *Liability for loss or damage to vehicle or vehicle parts.* The following are not liable for loss or damage to a vehicle or parts occurring during the removal or storage of a vehicle or parts under this chapter:

(1) A person who owns, leases, or occupies property from which an abandoned vehicle or its contents or parts are removed;

(2) A public agency;

(3) A towing service;

(4) An automobile scrap yard or storage yard; and

(5) An agent of a person or entity listed in divisions (R)(1) through (4) above.  
(Ord. 2019-12, passed 12-10-2019; Am. Ord. 2023-13, passed 11-14-2023)

### ***OUTDOOR BURNING REGULATIONS***

#### **§ 93.40 APPLICATION OF OUTDOOR BURNING REGULATIONS.**

All outdoor burning of any material is banned within the municipal town limits except as provided by § 93.41 and I.C. 13-17-9.  
(Ord. 2019-12, passed 12-10-2019; Am. Ord. 2023-13, passed 11-14-2023)

#### **§ 93.41 EXCEPTIONS.**

(A) The following types of fires are permitted subject to the limitations found in division (B) below:

(1) Fires used for celebrating school pep rallies;

(2) Fires used for celebrating scouting activities;

(3) Fires used for recreational and cooking purposes, i.e. camp fires;

(4) Farm burning and burning by the Department of Natural Resources as allowed by I.C. 13-17-9; and

(5) Burning with prior receipt of a variance application and approval of the Indiana Air Pollution Control Board or its designated agent as allowed by 326 I.A.C. 4-1-1.

(B) All permitted type of fires shall be subject to the following:

(1) Only untreated wood products shall be burned unless otherwise stated.

(2) Fires shall be attended at all times until completely extinguished.

(3) If fires create an air pollution problem, a nuisance, a health hazard, or a fire hazard, they shall be extinguished. A nuisance shall be defined so as to include a complaint regarding the burning from any downwind property owner or occupant.

(4) All residential burning shall occur between sunrise and sunset, during which the fires may be replenished, but only in such a manner that all of the burning material is consumed by sunset.

(5) No burning shall be conducted unless the wind is at least five mph and no more than 15 mph.

(6) No burning shall be conducted on property owned by another party, including publicly-owned streets, roads, and highways.

(7) No burning shall be conducted on any paved street or alley within the town.

(8) No burning shall be conducted within 50 feet of a structure owned by another party.

(9) No burning shall be conducted within 50 feet of a power line.  
(Ord. 2019-12, passed 12-10-2019; Am. Ord. 2023-13, passed 11-14-2023)

**§ 93.42 ENFORCEMENT.**

The Town of Geneva Fire Department and the Town of Geneva Marshal's office shall have authority for issuing citations for violations of this subchapter.  
(Ord. 2019-12, passed 12-10-2019; Am. Ord. 2023-13, passed 11-14-2023)

***MISCELLANEOUS REGULATIONS***

**§ 93.50 NONDISPOSAL OF DANGEROUS AND TOXIC MATERIALS.**

Any and all collected trash, garbage and/or refuse containing potentially dangerous and toxic materials must be otherwise legally disposed of, and will not be subject to town trash pickup.  
(Ord. 2019-12, passed 12-10-2019; Am. Ord. 2023-13, passed 11-14-2023)

**§ 93.51 SMOKING PROHIBITED IN TOWN FACILITIES.**

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

***GENEVA TOWN FACILITIES.*** The buildings and the grounds surrounding the Geneva Town Hall, Geneva municipal parks, Geneva fire station, Geneva town garage and water works, and Geneva waste treatment plants, but shall exclude all public streets, alleys and rights-of-way.

**PERSON.** Any man, woman, or child, regardless of age.

**SMOKE OR SMOKING.** To ignite or cause to be ignited tobacco or a tobacco product or derivative, which includes but is not limited to tobacco, marijuana or a derivative thereof, such that the product or derivative emits a gas or cloud which is commonly understood to be smoke, which may be or is intended to be inhaled by any person.

(B) *Prohibition.* No person shall have in his or her possession any lighted tobacco product or tobacco derivative, including but not limited to pipes, cigars, cigarettes, or other devices used for smoking of tobacco or tobacco-like products, which includes but is not limited to tobacco, marijuana or a derivative thereof, within or upon the grounds of Geneva town facilities.

(C) *Fine.* Any person who violates the provisions of this section shall be guilty of an infraction, punishable by a fine of \$100, to be paid to the Town Clerk-Treasurer.

(D) *Citations.* Citations for violation of this section may be issued by any member of the Town of Geneva Marshal's office.  
(Ord. 2019-12, passed 12-10-2019; Am. Ord. 2023-13, passed 11-14-2023)

### § 93.52 NOISE REGULATIONS.

(A) No person shall play, use or operate any machine, motor vehicle, device, or thing that produces or reproduces sound if the sound therefrom generated, made, caused or otherwise emitted is audible 50 feet or more from its source:

(1) At a level of more than 55 decibels for a period of five minutes or more within any 30-minute period of time between the hours of 8:00 a.m. and 10:00 p.m., when measured on a dB(A) scale;  
or

(2) At a level of more than 50 decibels for a period of five minutes or more within any 30-minute period of time between the hours of 10:00 p.m. and 8:00 a.m., when measured on a dB(A) scale;  
or

(3) At a level of more than 70 decibels for any period of time, when measured on a dB(A) scale.

(B) The following are exempted from the provisions of this section:

(1) Sounds emitted from authorized emergency vehicles;

(2) Lawn mowers, weed blowers, garden tractors, construction and repair equipment, and similar home power tools, when properly muffled, between the hours of 6:00 a.m. and 10:00 p.m. only;

- (3) Burglar 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;
- (4) Parades, festivals, carnivals, fairs, celebrations, concert performances, band and drum corps performances, and artistic performances, as well as any rehearsals for same, and all other events authorized by the Hearing Authority or other appropriate governmental entity;
- (5) Attendant noise connected with the actual performance of athletic or sporting events and practices related thereto;
- (6) The emission of sound for the purposes of alerting persons to the existence of an emergency, or for the performance of emergency construction, repair or other work;
- (7) Sounds associated with the use of legal consumer fireworks during the following days and times:
  - (a) Between the hours of 5:00 p.m. and two hours after sunset on June 29, June 30, July 1, July 2, July 3, July 5, July 6, July 7, July 8 and July 9;
  - (b) Between the hours of 10:00 a.m. and 12:00 midnight on July 4; and
  - (c) Between the hours of 10:00 a.m. on December 31 and 1:00 a.m. on January 1;
- (8) Sounds associated with the use of the Town of Geneva Marshal's office firing range;
- (9) Sounds associated with the normal conduct of legally established non-transient businesses, organizations and governmental entities, when such sounds are customary, incidental and within the normal range appropriate for such use;
- (10) Rubbish collection utilizing any mechanical equipment between the hours of 6:00 a.m. and 9:00 p.m. only;
- (11) 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 streets;
- (12) Sounds associated with equipment or animals lawfully utilized by handicapped persons to accommodate their handicap;
- (13) Sounds associated with the operation of aircraft or snow removal equipment;
- (14) Sounds associated with church and temple bells and chimes; and

(15) Sounds associated with building construction between the hours of 7:00 a.m. and 9:00 p.m. only, as well as, and to the extent that, such construction is necessitated at other times due to a bona fide "emergency", as that term is defined in I.C. 36-1-2-4.5, as the same may be amended from time to time.

(C) No person shall keep any animal which, by causing frequent or long-continuing noise that is audible 50 feet or more from its source when the animal is on public property or 50 feet or more outside of a private property line when the animal is on private property, disturbs the comfort or repose of any other person.

(D) *Penalty.* Citations for violation of this section may be issued by any member of the Town of Geneva Marshal's office, and any person found to be in violation of this section shall be subject to a fine of \$100 for each violation, to be paid to the Town Clerk-Treasurer. A separate offense shall be deemed committed upon each occurrence of such nuisance.

(Ord. 2019-12, passed 12-10-2019; Am. Ord. 2023-13, passed 11-14-2023)

### § 93.53 UNSAFE BUILDING REGULATIONS.

(A) *Adoption by reference.* I.C. 36-7-9-1 through 36-7-9-28, as amended from time to time, which addresses unsafe buildings and the enforcement of building standards, is hereby adopted and incorporated in full by this reference, and is supplemented by the additional terms and conditions of this section. Two copies of the same are on file in the office of the Clerk-Treasurer. All proceedings within the town for the inspection, repair, and removal of unsafe buildings shall be governed by this law and the provisions of this subchapter. In the event the provisions of this section conflict with the provisions of I.C. 36-7-9-1 through 36-7-9-28, then the provisions of the state statute shall control.

(B) *Declaration of public nuisance.* All buildings or portions thereof within the town which are determined after inspection by the Building and Planning Director to be unsafe as defined in this section are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal.

(C) *Administration.*

(1) The Building and Planning Director, as the Enforcement Authority, shall be authorized to administer and to proceed under the provisions of this law in ordering the repair or removal of any buildings found to be unsafe as specified therein or as specified hereafter.

(2) Whenever in the building regulations of the Building Department or the Town of Geneva Unsafe Building Law it is provided that anything must be done to the approval of or subject to the direction of the Building and Planning Director, or any other officer of the Building Department, this shall be construed to give that officer only the discretion of determining whether the rules and standards

established by this section have been complied with; and no such provision shall be construed as giving any office discretionary powers as to what such regulations or standards shall be, power to require conditions not prescribed by ordinance, or to enforce ordinance provisions in an arbitrary or discretionary manner.

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

**DIRECTOR.** The Building and Planning Director of the Town of Geneva.

**ENFORCEMENT AUTHORITY.** The Building and Planning Director of the Town of Geneva.

**HEARING AUTHORITY.** The Hearing Authority which shall be composed of the Clerk-Treasurer and two members of the Town Council.

**SUBSTANTIAL PROPERTY INTEREST.** Any right in real property that may be affected in a substantial way by actions authorized hereunder, including a fee interest, a life estate interest, a future interest, a present possessory interest and/or the equitable interest of a contract purchaser.

**TOWN.** The Town of Geneva, Indiana.

**UNSAFE PREMISES.** An "unsafe building," as defined division (E) below, and the tract of real property on which the unsafe building is located.

(E) *Unsafe building defined.* An unsafe building contained in I.C. 36-7-9-4 is hereby incorporated by reference herein as if copied in full, but is also supplemented to provide minimum standards for building conditions or maintenance in the town by adding the following definition: any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be an unsafe building, provided that such conditions or defects exist to the extent that life, health, property, or safety of the public or its occupants are in danger.

- (1) Is in an impaired structural condition that makes it unsafe to a person or property;
- (2) Is a fire hazard;
- (3) Is a hazard to the public health;
- (4) Is a public nuisance;
- (5) Is dangerous to a person or property because of a violation of a statute or ordinance concerning building condition or maintenance;

**Geneva - General Regulations**

- (6) Is vacant and not maintained in a manner that would allow human habitation, occupancy or use under the requirements of any statute or ordinance;
- (7) Has any door, aisle, passageway or other means of exit that is not of sufficient width or size or is not arranged so as to provide safe and adequate means of exit in case of fire or panic;
- (8) Has the walking surface of any aisle, passageway, stairway or other means of exit so warped, worn, loose or otherwise unsafe so as not to provide safe and adequate means of exit in case of fire or panic;
- (9) Has stress on any material, member or portion thereof, due to dead and/or live loads, that is more than one and one-half times the working stress allowed for new buildings of similar structure, purpose or location;
- (10) Has any portion thereof that has been damaged by fire, earthquake, wind, flood or other cause to such an extent that the structural strength or stability thereof is materially less than it was before such event and is less than the minimum requirements for new buildings of similar structure, purpose, or location;
- (11) Has any portion, member or appurtenance thereof that is reasonably likely to fail, to become detached or dislodged or to collapse and thereby injure persons or damage property;
- (12) Has any exterior portion, member, appurtenance or ornamentation thereon that is not of sufficient strength or stability, or is not anchored, attached or fastened, 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 such buildings;
- (13) Has any portion thereof that was 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 new buildings of similar structure, purpose or location;
- (14) Is, or has any portion thereof that, because of: (1) dilapidation, deterioration, or decay; (2) faulty construction; (3) the removal, movement, or instability of any portion of the ground necessary for the support of such building; (4) the deterioration, decay, or inadequacy of its foundation; or (5) any other cause, is reasonably likely to partially or completely collapse;
- (15) Is, or has any portion thereof that is, manifestly unsafe for the purpose for which it is being used;
- (16) Has exterior walls or other vertical structural members that list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base;

(17) Shows, exclusive of its foundation, 33% or more damage or deterioration of any supporting member, or 50% or more damage or deterioration of any non-supporting member, enclosure or outside wall or covering;

(18) Has been so damaged by fire, wind, earthquake or flood or has become so dilapidated or deteriorated so as to become: (1) an attractive nuisance to children; or (2) freely accessible to persons for the purpose of committing unlawful acts;

(19) Has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by any law of the State of Indiana or any town ordinance or building regulation relating to the condition, location or structure of buildings;

(20) Has, whether or not it was erected in accordance with all applicable laws and ordinances, in any non-supporting part, member or portion, less than 50%, or in any supporting part, member, or portion, less than 66%, of the: (1) strength; (2) fire-resisting qualities or characteristics; and/or (3) weather-resisting qualities or characteristics that would be required by law in the case of a newly constructed building of like area, height and occupancy;

(21) Is used or intended to be used for dwelling purposes and, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the Adams County Health Department to be unsanitary, unfit for human habitation or in such a condition that it is likely to cause sickness or disease;

(22) Is, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits or lack of sufficient fire-resistive construction, determined by the Town of Geneva Fire Department to be a fire hazard;

(23) Is the remnant of a building or structure that remains on site after the attempted demolition or destruction of such building or structure; or

(24) Is abandoned for a period in excess of six months, so as to constitute an attractive nuisance or hazard to the public.

(F) *Nuisance.* All buildings or portions thereof within the town which are determined after inspection by the Director to be "unsafe" as defined in division (E) above, are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the terms and conditions of this section.

(G) *Authorized official.* The Director shall be authorized to administer and enforce this section and to proceed under the provisions hereof in ordering the repair, removal or other disposition of any building or structure found to be "unsafe."

(H) *Hearing.* Any hearing required pursuant to such order shall comply with I.C. 36-7-9-7.

(I) *Action performed by contractor.* Pursuant to I.C. 36-7-9-10 and 36-7-9-11, the Clerk-Treasurer may cause any action required by an order of the Director hereunder to be performed by a contractor.

(J) *Authority to determine compliance.* Any provision hereof which provides for the approval or direction of the Director, or any other officer of the town, shall be construed as giving such person only the discretion to determine whether compliance with the rules and standards established by this section have occurred, and not as giving such person any discretionary powers as to the substance of such rules and standards, nor any power to require conditions not prescribed by this section, nor any power to enforce these section provisions in an arbitrary or discriminatory manner.

(K) *Work performed in workmanlike manner.* All work for the reconstruction, repair, or demolition of buildings and other structures performed pursuant hereto shall be performed in a good and workmanlike manner according to accepted standards and practices in the trade. The provisions of all building laws referenced in I.C. 22-12-1-3, as adopted as rules of the Fire Prevention and Building Safety Commission described in I.C. 22-12-1-6, shall be considered standard and acceptable practices for all matters covered hereby and/or all orders issued by the Director pursuant hereto.

(L) *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. 36-7-9-14.

(M) *Construction and the like forbidden.* No person, firm, corporation or other entity, 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 this section and/or any order issued by the Director hereunder.

(N) *Violation.*

(1) Any person violating any provision of this chapter 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 chapter.

(2) Any violation of the provisions of this section shall constitute a Class C infraction for each day such violation continues, except where another penalty is expressly set forth in I.C. 36-7-9 *et seq.*

(O) *Performance bond.* The Hearing Authority shall, after proper notice and hearing, adopt a schedule setting forth the maximum amount of performance bonds applicable to various types of actions ordered by the Director hereunder and the amount of the average processing expense incurred in taking the actions necessary hereunder concerning a typical unsafe premises.

(P) *Severability*. Should any section, paragraph, sentence, clause, or phrase of this section be declared unconstitutional or invalid for any reason by a court of competent jurisdiction, the remainder of this section shall continue in full force and effect and not be affected thereby.  
(Ord. 2019-12, passed 12-10-2019; Am. Ord. 2023-13, passed 11-14-2023)

### **§ 93.99 PENALTY.**

(A) Whoever creates or maintains any nuisance defined in §§ 93.01 through 93.07 and who fails or refuses to abate such nuisance when so ordered, shall be fined the sum of \$100, and said fine shall be assessed by the Town Marshal or any Deputy Town Marshal. A separate offense shall be deemed committed upon each day during or on which the violation occurs or continues beyond the date fixed for abatement of such nuisance. The action against any person to enforce a penalty by the town shall constitute a separate and additional legal remedy, and the fact that any proceedings by way of an injunction or for the abatement of any such nuisance has been or may be instituted by the town and may be pending or concluded, shall not affect §§ 93.01 through 93.07 or be considered in any way as a defense to such action for the penalty herein prescribed.

(B) Whoever creates or maintains any nuisance regarding grass, weeds, debris, and other rank vegetation as defined in § 93.20 and who fails or refuses to abate such nuisance when so ordered shall be fined the sum of \$50, and said fine shall be assessed by the Town Marshal or any Deputy Town Marshal. A separate offense shall be deemed committed upon each day during or on which the violation occurs or continues beyond the date fixed for abatement of such nuisance. The action against any person to enforce a penalty by the town shall constitute a separate and additional legal remedy, and the fact that any proceedings by way of an injunction or for the abatement of any such nuisance has been or may be instituted by the town and may be pending or concluded, shall not affect § 93.20 or be considered in any way as a defense to such action for the penalty herein prescribed.

(C) Any person found to be in violation of §§ 93.40 through 93.42 shall be fined the sum of \$100, and said fine shall be assessed by the Town Marshal or any Deputy Town Marshal. A separate offense shall be deemed committed upon each occurrence of such nuisance. The action against any person to enforce a penalty by the town shall constitute a separate and additional legal remedy, and the fact that any proceedings by way of an injunction has been or may be instituted by the town and may be pending or concluded, shall not affect §§ 93.40 through 93.42 or be considered in any way as a defense to such action for the penalty herein prescribed.  
(Ord. 2019-12, passed 12-10-2019; Am. Ord. 2023-13, passed 11-14-2023)



**CHAPTER 94: RESERVED**



## CHAPTER 95: TREES

### Section

#### *General Provisions*

- 95.01 Title
- 95.02 Purpose and intent
- 95.03 Definitions
- 95.04 Non-reverting capital fund established for tree maintenance and replacement

#### *Tree Planting and Care*

- 95.15 Street tree species to be planted
- 95.16 Size and spacing
- 95.17 Spacing; distance from curbs, sidewalk, street corner, driveways, fire hydrants and utilities
- 95.18 Planting; town responsibility
- 95.19 Planting; responsibility of owner/occupant
- 95.20 Public utilities responsibility
- 95.21 Planting new subdivisions
- 95.22 Routine street tree care
- 95.23 Emergency tree care
- 95.24 Private tree care; pruning, corner and sidewalk clearance
- 95.25 Dead or diseased tree removal
- 95.26 Removal of stumps
- 95.27 Construction
- 95.28 Injury to trees
- 95.29 Permits; requirements and exceptions
- 95.30 Arborist's certification
- 95.31 Arborist's certification revocation

#### *Tree Board*

- 95.45 Creation, establishment and compensation
- 95.46 Term of office
- 95.47 Duties; responsibilities
- 95.48 Operation
- 95.49 Interference with Tree Board

- 95.50 Tree Board representative; establishment; duties  
 95.51 Review by Town Board
- 95.99 Penalty

### ***GENERAL PROVISIONS***

#### **§ 95.01 TITLE.**

This chapter shall be known and may be cited as the “Town of Geneva Tree Chapter” (or “Tree Chapter”) of the town.  
 (Ord. 2007-8, passed 9-21-2007)

#### **§ 95.02 PURPOSE AND INTENT.**

(A) *Purpose.* It is the purpose of this chapter to promote and protect the public health, safety and general welfare by providing for the regulations of the planting, maintenance and removal of trees, shrubs and other plants within the town rights-of-way or town-owned property.

(B) *Intent.* It is the intent of the Town Board that the terms of this chapter shall be constructed so as to promote:

(1) The planting, maintenance, restoration and survival of desirable trees, shrubs and other plants within the town rights-of-way; and

(2) The protection of community residents from personal injury and property damage, and the protection of the town from property damage, caused or threatened by the improper planting, maintenance or removal of trees, shrubs or other plants located within the town rights-of-way.  
 (Ord. 2007-8, passed 9-21-2007)

#### **§ 95.03 DEFINITIONS.**

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

***PERSON.*** Any person, firm, partnership, association, corporation, company or organization of any kind.

**PROPERTY OWNER.** The record owner or contract purchaser of any parcel of land.

**SHALL.** It is always mandatory and not merely suggestive.

**SUBJECT EXCLUSIONS.**

(1) Excluding the real estate owned or controlled by the Town Park Board, except for an area on either side of any paved through streets or roadways within any park or recreational facility maintained by the Park Board, 15 feet in depth by parallel lines to the edge of the pavement; and

(2) Excluding real estate contained within public alleys, and median strips or boulevards, located entirely within the right-of-way of a street, which are intended to serve an aesthetic purpose. Such median strips or boulevards are typically located at the entry to a subdivision and may include other forms of decorative plantings in addition to trees. This exclusion shall not prevent the town from taking such steps as may be necessary to avoid hazards to the public safety and welfare.

**TOPPING.** The cutting back of the leading shoot or shoots of major limbs which form the natural canopy of the tree so as to disfigure the tree's crown.

**TOWN BOARD.** The Board of Trustees of the Town of Geneva.

**TOWN-OWNED PROPERTY.** Property within the town limits of the town:

(1) Owned by the town of fee simple absolute; or

(2) Implied or expressly dedicated to the public for present or future use for purposes of vehicular or pedestrian traffic, or for public easements.

**TREE BOARD REPRESENTATIVE.** May be the town Urban Forester, Street Commissioner, Town Manager, a member of the Tree Board, or a person trained, educated or skilled in forestry, horticulture, arboriculture or landscape architecture, a person primarily charged with the responsibility of aiding with the implementation of this chapter as agent for the Tree Board, a person to be appointed by the Town Board.

**TREE CARE.** The treating, spraying, removal, pruning and any other tree maintenance or horticultural work intended for the enhancement or preservation of trees and the removal and prevention of any and all damages to any street trees caused by tree pests, viruses or diseases.

**TREE PLANTING AND TREE PRUNING REMOVAL SPECIFICATIONS AND STANDARDS OF PRACTICE FOR THE TOWN (or ARBORICULTURAL SPECIFICATIONS MANUAL).** A manual prepared by the Urban Forester, Tree Board or its representative pursuant of the ordinance containing regulations and standards for the planting, maintenance and removal of trees, shrubs and other plants upon town-owned property.

***TREES, SHRUBS AND OTHER PLANTS.*** All vegetation, woody or otherwise, except lawn grass and flowers less than 24 inches in height.

(Ord. 2007-8, passed 9-21-2007)

**§ 95.04 NON-REVERTING CAPITAL FUND ESTABLISHED FOR TREE MAINTENANCE AND REPLACEMENT.**

(A) *Creation.* There is hereby created pursuant to the Home Rule authority stated in I.C. 36-1-3-6, a special non-reverting capital fund for the purposes of tree maintenance and replacement as required by the Tree Board. By action of the Town Board, ad valorem tax revenues, special revenues or distributions and gifts may be placed in the fund from time to time as determined by the Town Board. It is the intent of the Town Board that the source or sources of revenue which may be allocated to the fund shall be inclusive of all revenues received by the town.

(B) *Limitation on use.* Monies withdrawn from such fund shall be used by the town for tree maintenance and replacement, all as determined by official action of the Town Board. In the event of termination of the fund, as provided hereafter, any balance in the fund at such time shall revert to the General Fund of the town.

(C) *Term.* The life of the fund shall be perpetual unless or until terminated by a subsequent ordinance. The fund balance at the end of the year is non-reverting.

(Ord. 2007-8, passed 9-21-2007)

***TREE PLANTING AND CARE***

**§ 95.15 STREET TREE SPECIES TO BE PLANTED.**

(A) The Tree Board shall provide lists of species, varieties and cultivars desirable to be planted in public places in the town so as to insure public safety and welfare. No trees other than those included on the Tree Board's list may be planted as street trees without special written permission of the Tree Board or its representative. The species are classified by size, into three groups: large, medium and small. Details of tree size classification and planting location sizes can be obtained from the Tree Board.

(B) The Tree Board shall provide lists of undesirable species, cultivars and varieties not to be planted in public places in the town so as to insure public safety and welfare. These undesirable trees shall not be recommended for general planting and their use shall be restricted to special locations where they can be use to advantage because of certain characteristics of adaptability, landscape effect or compatibility with existing curb, sidewalks and utility lines.

(C) If such special permission is not granted the cost of removal and replacement of the undesirable trees shall be charged to the individual or firm who planted the trees.

(D) The Tree Board in consultation with its representative may add or delete species, cultivars or varieties as experience demonstrates their superiority.  
(Ord. 2007-8, passed 9-21-2007) Penalty, see § 95.99

#### **§ 95.16 SIZE AND SPACING.**

(A) The Tree Board may establish rules for the minimum size for trees at planting.

(B) The Tree Board may establish rules for spacing of street trees.  
(Ord. 2007-8, passed 9-21-2007)

#### **§ 95.17 SPACING; DISTANCE FROM CURBS, SIDEWALK, STREET CORNER, DRIVEWAYS, FIRE HYDRANTS AND UTILITIES.**

(A) Except for special plantings approved by the Tree Board, no tree may be planted so that its center is closer than 2 feet to the sidewalk. No tree may be planted so that its center is closer than 2 feet to the curb. New tree plantings will be lined up with neighboring trees provided that the neighboring trees meet the above mentioned distances.

(B) No street tree shall be planted closer than 25 feet to any street corner, measured from the point of nearest intersecting curbs or curblines.

(C) No street tree shall be planted so that its center is within 20 feet of the edge of a driveway.

(D) No street tree shall be planted so that its center is within 20 feet of a fire hydrant.

(E) No street tree shall be planted so that at the tree's full growth the limbs in the tree's crown are within 10 lateral feet of any overhead electric line.

(F) No street tree may be planted so that its center is within 5 lateral feet of an underground storm water line or sewer line.

(G) Notwithstanding any of the provisions relating to distance limitations in this section, the Board shall have the power and authority to vary such limitations as may be necessary and proper, taking into account the lot width in question, location of fire hydrants, driveway or curbcuts and the like. It is not the intent of this section to prevent the planting of street trees.  
(Ord. 2007-8, passed 9-21-2007) Penalty, see § 95.99

**§ 95.18 PLANTING; TOWN RESPONSIBILITY.**

(A) The planting of any street tree must be in accordance with the requirements set forth by the Tree Board. The Tree Board shall have the power and authority to vary such limitations as may be necessary and proper taking into account the lot width in question, location of fire hydrants, driveways, curbs or the like. Spacing must be in accordance with the requirements set by the Tree Board or approved by the Tree Board, or except as consistent spacing with already existing trees dictates. It is not the intention of this section to prevent the planting of street trees.

(B) Except as provided herein below, the planting of all street trees shall be done according to the Tree Board's Town Tree Plan, at the expense of the town, and with proper permit.  
(Ord. 2007-8, passed 9-21-2007)

**§ 95.19 PLANTING; RESPONSIBILITY OF OWNER/OCCUPANT.**

(A) The owner or occupant of property abutting public ways may plant street trees at his own expense in accordance with an Arboricultural Specifications Manual to be developed by the Tree Board, provided he secures a permit from the Tree Board or its representative. The permit fee provided for herein may be waived for the owner or occupant of property securing a permit pursuant to this provision.

(B) An owner or occupant who gains a permit to remove a healthy tree shall be required by the Board to replace that tree.  
(Ord. 2007-8, passed 9-21-2007)

**§ 95.20 PUBLIC UTILITIES RESPONSIBILITY.**

Public utilities are not exempt from the responsibility for the replacement of street trees which must be removed in order to maintain utility lines.  
(Ord. 2007-8, passed 9-21-2007)

**§ 95.21 PLANTING NEW SUBDIVISIONS.**

Street trees located within dedicated and accepted rights-of-way located on provisional plats submitted to the town after the passage of this chapter will be planted at the expense of the developer in compliance with the sections of this chapter.  
(Ord. 2007-8, passed 9-21-2007)

**§ 95.22 ROUTINE STREET TREE CARE.**

(A) Within the limits of the Town Tree Plan and of the Tree Board's budget and except as provided by divisions (C) through (G) below, the town shall assume the expense of tree care as defined herein above for street trees.

(B) All routine street tree care undertaken by the town shall be initiated by the Board and undertaken by a certified arborist or other person authorized by the Tree Board.

(C) The owner/occupant shall be responsible for the routine care of street trees in the right-of-way between his property and the street, such as watering, raking and preparing leaves, twigs and other debris for removal by the town. No permit is required for such activity.

(D) The owner/occupant shall be responsible so as to not permit limbs or branches to obstruct movement of vehicles or pedestrians along streets, alleys or sidewalks in the town. Such limbs shall be trimmed so that they adhere to their required distance as described in the Arboricultural Specifications Manual and town ordinance. No permit is required for such activity.

(E) Should an owner/occupant wish to perform routine trimming on a street tree in the right-of-way between his property and the street beyond that which is described in division (C) and (D) above, they may do so at their own risk and shall be held responsible for their actions, but is subject to the limits of division (H) below. A permit is required for this activity.

(F) An owner/occupant may hire a certified arborist or other person authorized by the Tree Board to perform routine street tree care. The arborist or other person must then secure a permit from the Board or its representative.

(G) Public utilities may trim street tree roots and branches as necessary for the maintenance of utility service and as is prescribed by state law and limited in division (H) below. The cost of such tree care is not the responsibility of the town.

(H) It shall be unlawful as a normal practice for any person to top, prune horizontally a branch of more than 1 inch in diameter, or cut limbs within the tree's canopy back to stubs larger than 3 inches in diameter, on any street tree, unless approved by the Board or its representative.  
(Ord. 2007-8, passed 9-21-2007) Penalty, see § 95.99

**§ 95.23 EMERGENCY TREE CARE.**

(A) Except in emergency situations (see below), the Tree Board or its representative shall have the exclusive right to cause or to approve the removal of any dead, diseased or otherwise unsafe street tree.

(B) The town, Tree Board, or their representatives shall have all the powers with due process and the laws and Constitution of the State of Indiana, to promote the health, safety and welfare of the town by removing, or causing to be removed through appropriate legal means any tree on private property within the town which constitutes a threat or menace to the public safety or the health of other trees, and to seek such legal redress, including penalties and costs, as may be appropriate.

(C) The Town Street Commissioner or public utilities may act to trim or remove trees in extreme emergency situations.

(D) The State Highway Department may act to trim or remove trees endangering traffic on state highways within the town limits.

(E) In extreme emergencies, when a tree (or trees) has been severely damaged by storms or other causes or is obstructing utility wires, or the like, the Street Commissioner or public utilities may, only as a last resort, use topping or other severe cutting back of the limbs of street trees but must report all such incidences to the Tree Board or its representative.  
(Ord. 2007-8, passed 9-21-2007)

#### **§ 95.24 PRIVATE TREE CARE; PRUNING, CORNER AND SIDEWALK CLEARANCE.**

The Tree Board or its representative shall have the right to prune or cause to be pruned any privately owned trees overhanging any street or public right-of-way or sidewalk which:

(A) Constitutes a menace to the safety of the public;

(B) Obstructs the light from any street lamp at the intersection;

(C) Obstructs the motorist's view of any street intersection or any traffic-control device or sign; or

(D) Obstructs or endangers passing vehicles and pedestrians.

(Ord. 2007-8, passed 9-21-2007)

#### **§ 95.25 DEAD OR DISEASED TREE REMOVAL.**

(A) Except in emergency situations as set forth hereinabove, the Tree Board or its designee shall have the exclusive right to cause or to approve the removal of any dead, diseased or otherwise unsafe street tree.

(B) The Town Board shall have all the powers consistent with due process and the laws and constitution of the state, to promote the health, safety and welfare of the town by removing, or causing

to be removed through appropriate legal means any tree on private property within the town which constitutes a threat or menace to public safety or the health of other trees, and to seek such legal redress, including penalties and costs, as may be appropriate.

(Ord. 2007-8, passed 9-21-2007)

#### **§ 95.26 REMOVAL OF STUMPS.**

In the process of tree removal, all stumps of street trees shall be removed and seeded as required by the Arboricultural Specifications Manual to be developed by the Tree Board.

(Ord. 2007-8, passed 9-21-2007)

#### **§ 95.27 CONSTRUCTION.**

(A) In order to protect existing trees intended for preservation, developers and construction firms must place substantial barriers around the tree at or beyond the drip line of enclosed trees, and no machinery, tools, chemicals or temporary deposits may be permitted within the barriers nor may any notice or other objects be attached to protected trees, and no burning may take place within 500 feet of preserved trees. The barriers are to remain in place until after the completion of all heavy construction on the site. Tree protection procedures and specifications in the Arboricultural Specifications Manual to be developed by the Tree Board must be adhered to.

(B) Significant changes in grading or water flow which would adversely affect preserved trees must be avoided or mitigated through protective measures.

(C) The Tree Board, or its representative, may substitute alternative means in lieu of the required barriers where appropriate to specialized circumstances.

(D) These restrictions shall not be interpreted as applying to public utilities or utility subcontractors doing routine utility work. However, public utilities and their subcontractors must take reasonable care to protect trunks, branches and roots of existing trees and shrubs.

(Ord. 2007-8, passed 9-21-2007)

#### **§ 95.28 INJURY TO TREES.**

(A) It shall be unlawful for any person to fasten or attach in any way to any defined street tree any rope, wire, sign, poster, handbill or other object; except, however, that the Town Marshal or other law enforcement officer may attach temporary traffic and parking-control signs as necessary but so as not to damage the trees, and under no circumstances shall wire, staples or nails be used.

(B) It shall be unlawful for any person in any other way to injure, deface or permit any animal to injure or deface any street tree.

(Ord. 2007-8, passed 9-21-2007) Penalty, see § 95.99

### **§ 95.29 PERMITS; REQUIREMENTS AND EXCEPTIONS.**

(A) No person shall plant, treat, spray or prune a street tree or hire a certified arborist to care for a street tree unless the Tree Board or its representative shall have first granted a proper permit. Said permits may be issued to property owners or to certified arborists.

(B) Every permit issued by the Board or its representative shall specifically describe the work to be done and be valid for a period of 60 days from issue date unless extended by a Board decision, or revoked due to noncompliance.

(C) An annual permit may be issued to any public utility for trimming trees in public rights-of-way. The permit shall include trimming schedules and procedures and be reviewed annually with the Board. This annual permit shall be at a cost of \$500. The utility subcontractor shall meet the requirements of the Arboricultural Specifications Manual to be developed by the Tree Board and this chapter.

(Ord. 2007-8, passed 9-21-2007) Penalty, see § 95.99

### **§ 95.30 ARBORIST'S CERTIFICATION.**

(A) It shall be unlawful for any person to work for hire on the tree care of street trees within the town without first applying for and procuring an arborist's certification. Each applicant must provide evidence of possession of proper insurance, certification and meets the requirements as is in the Arboricultural Specifications Manual to be developed by the Tree Board.

(B) Cancellation or other termination of any insurance policy issued for or in compliance with the provision hereof shall automatically terminate any arborist certificate, unless another policy complying with the provisions hereof shall be provided and in full force and effect at the time such cancellation or termination becomes effective.

(C) The arborist certificate fee shall be \$25 paid in advance to the Tree Board.

(D) The Tree Board may revoke certification when it has evidence of the arborist's failure to apply principles of good arboriculture, and may hear appeals of any person whose application for an arborist certificate has been denied.

(Ord. 2007-8, passed 9-21-2007) Penalty, see § 95.99

**§ 95.31 ARBORIST'S CERTIFICATION REVOCATION.**

The Tree Board may revoke certification when it has evidence of the arborist's failure to apply principles of good arboriculture, and may hear appeals of any person whose application for an arborist's certificate has been denied.

(Ord. 2007-8, passed 9-21-2007)

***TREE BOARD*****§ 95.45 CREATION, ESTABLISHMENT AND COMPENSATION.**

(A) There is hereby created and established a Town Tree Board for the town, which shall consist of 8 members. The first Tree Board shall be appointed by the Town Board.

(B) Five members shall be appointed by the Town Board with the approval of the Town Board. These 5 members shall serve without pay and shall reside within the town. The remaining 3 members shall be ex-officio and shall not vote. The 3 ex-officio members shall be: Director of Parks and Recreation, Street Commissioner and the Urban Forester or appointed representative. Each member of the Tree Board shall serve for a term of 4 years.

(Ord. 2007-8, passed 9-21-2007)

**§ 95.46 TERM OF OFFICE.**

(A) The Town Board may appoint annually at least 1 person recommended by the Tree Board.

(B) In the event that a vacancy shall occur during the term of any member, his successor shall be appointed by the Tree Board for the unexpired portion of the term. Within 30 days following the expiration of the term of any appointed commissioner, a successor shall be recommended by the Board and appointed by the Town Board and shall serve for a term of 3 years.

(C) A member of the Tree Board may be removed by the Town Board. No one shall serve more than 2 consecutive full terms. Members of the Tree Board shall serve without compensation.

(D) The Tree Board shall choose its own officers, make its own operating rules and regulations (within the bounds established by this chapter and subject to the approval of the Town Board), and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

(Ord. 2007-8, passed 9-21-2007)

**§ 95.47 DUTIES; RESPONSIBILITIES.**

The Tree Board, or its representatives shall:

(A) Meet at least twice each calendar year, or more often as needed.

(B) Develop a census of the town's street trees specifying type and condition of the trees.

(C) Establish a pattern of orderly, periodic inspection of the condition of the trees and fully document that inspection.

(D) Develop a master plan for the care, preservation, pruning, planting and disposition of street trees; sodding, seeding and maintenance of lawns along existing town streets and of trees along rivers and streams outside of the town's park system. This plan, any substantial changes in it, and any later plans and substantive changes in them must be approved by the Town Board.

(E) Annually submit a request to the Town Board for a budget for the inspection and tree care. This budget should set aside funds for emergency needs.

(F) Develop an annual written plan for tree care. This plan will be presented annually to the Town Board and shall constitute the official Town Tree Plan. The Town Board shall give public notice and conduct a public hearing for the purpose of receiving public input on the plan before the plan may be adopted as the official plan for the year affected. In addition, owners of property which will be affected by the proposed plan shall be notified in a manner reasonably designed to insure actual notice to them of the proposed action affecting their property.

(G) Consider, investigate, make findings, report, recommend upon and keep adequate records of its actions upon any matter or questions coming within the scope of its work as defined by this chapter.

(H) Coordinate its efforts with related projects of such groups as the Park Board, Plan Commission and the Street Department.

(I) Communicate with the State Highway Department as to any highway projects which would affect the planting area along state highways within the town limits.

(J) Promulgate rules and regulations for the proper administration of this chapter which shall include methods of good arboriculture.

(K) Review, with the Town Planner or representative, all plans for preserving existing trees and planting new trees in subdivisions or along new roadways. (Technical Advisory Committee)

(L) Review, with the Town Manager and Town Board, all public utility street cut permits which might endanger existing street trees.

(M) Cause or order to be removed any street tree or part thereof which is in an unsafe condition or is affected with any injurious fungus, insect or other pest, or which by reason of its nature, is injurious to sewers, electric power lines, gas lines, water lines or other public improvements.

(N) Issue permits as required by this chapter. (See § 95.29.)

(O) Govern all aspects of the town's arborist's certification program. (See § 95.30.)

(P) Conduct educational and fund-raising campaigns as necessary and work with private and public agencies and organizations to establish programs for planting and care of street trees.

(Q) Establish non-reverting capital tree improvement fund to be used by the Board to accept public and private sector resources for programs of the Board. In the event of the discontinuance of the Tree Board, the remainder of this fund shall revert to the General Fund of the town. All fees and fines connected to the enforcement of this chapter shall be deposited into this fund.

(R) The Tree Board shall advise and consult its appointed representative on any matter pertaining to the Tree Chapter and its enforcement. The topics under which the advice and consultation are given may include, but are not limited to, any of the following:

(1) Amendments to the Tree Chapter, and alterations or revisions to the Arboricultural Specifications Manual, and alterations or revisions of the Town Tree Plan;

(2) Policy concerning selection, planting, maintenance and removal of trees, shrubs and other plants within the town;

(3) Allocation and expenditures of funds for arboricultural programs;

(4) Establishment of educational and informational programs;

(5) Development of policies and procedure regarding the Tree Board representative's duties;

(6) Issuance of permits required by this chapter.

(S) The Tree Board, upon the request of any person who disagrees with the decision of the Tree Board representative, shall hear all issues of the disputes which arise between the representative and any such person whenever those issues involve matters of the interpretation and enforcement of the Arboricultural Specifications Manual, the Town Tree Plan, or the interpretation or enforcement of this chapter, including disputes regarding the issuance of permits, or the concurrence or nonconcurrence of

the Tree Board representative in permits required under other ordinance or laws, or the abatement of nuisances. The decision of a majority of the appointed members of the Tree Board with regard to such dispute shall be binding upon the Tree Board representative. Nothing in this section shall be construed to limit the jurisdiction of any court of law with respect to such disputes.

(Ord. 2007-8, passed 9-21-2007)

#### **§ 95.48 OPERATION.**

The Tree Board shall choose its own officers, make its own operating rules and regulations, within the bounds established by this chapter, and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

(Ord. 2007-8, passed 9-21-2007)

#### **§ 95.49 INTERFERENCE WITH TREE BOARD.**

It shall be unlawful for any person to prevent, delay or interfere with the Town Tree Board, or any of its agents, while engaging in inspecting, surveying, planting, cultivating, mulching, pruning, spraying or removing of any street tree or tree on public grounds as authorized in this chapter.

(Ord. 2007-8, passed 9-21-2007) Penalty, see § 95.99

#### **§ 95.50 TREE BOARD REPRESENTATIVE; ESTABLISHMENT; DUTIES.**

(A) *Establishment.* The title of Tree Board representative or Town Urban Forester is hereby established to a position within the Street Department.

(B) *Duties.*

(1) The Town Urban Forester or Tree Board representative, with the assistance of the Tree Board, shall develop, and each subsequent year, update the Town Tree Plan. The Plan shall outline urban forestry program activities for a minimum of the next 5 years. This Plan shall describe the urban forestry activities to be undertaken by the town, the reasons for those activities, the possible finding sources(s), the means of accomplishing the activities, the alternatives available to the town to fund or accomplish the activity, the projected date of completion, and the consequences if the activity is not completed. Activities may include but are not limited to street tree inventory, planting, tree removal, beautification projects and educational projects.

(2) The Town Urban Forester or Tree Board representative shall cause the Town Tree Plan and the Arboricultural Specifications Manual, and all revisions and amendments to them, to be published and promulgated and shall cause 3 copies of the manual, and all revisions and amendments to it, to be

available for public inspection at the office of the Clerk-Treasurer. Notice that such information is available for public inspection shall be published in a newspaper of general circulation within the county at least 1 week day of each of 4 consecutive weeks immediately following the initial availability of the Arboricultural Specifications Manual, or revisions or amendments thereto. The Arboricultural Specifications Manual, and any revisions and additions thereto shall become effective on the fifth day following the final publication in a newspaper of general circulation required under this division.

(3) The Town Urban Forester or Tree Board representative shall make available to any interested person copies of the Tree Chapter, information about the activities of the Tree Board, and copies of the Arboricultural Specifications Manual, and the Town Tree Plan.

(4) The Town Urban Forester, Tree Board or its representative shall administer the Town Tree Plan, the Tree Chapter and the provisions of the Arboricultural Specifications Manual.

(5) The Town Urban Forester or Tree Board representative shall perform whatever acts are necessary, including the planting and maintenance of trees and the removal of undesirable trees, shrubs and other plants located on town-owned property, to ensure that all trees, shrubs and other plants located on town-owned property conform with the Town Tree Plan, the Arboricultural Specifications Manual and this chapter. Pursuant to this duty, the Urban Forester, in accordance with normal town procedures regarding contracts, may arrange contractual agreements.

(6) The Town Urban Forester or Tree Board representative shall issue such permits as are required by this chapter and shall obtain as a condition precedent to the issuance of such permits the written agreement of each pawn who applies for such permits that he will comply with the requirements of this chapter, the Town Tree Plan, and with the regulations and standards of the Arboricultural Specifications Manual. The Urban Forester or Tree Board representative shall have the right to inspect all work performed pursuant to such permits. If the Urban Forester or Tree Board representative finds that the work performed is not in compliance with the requirements of this chapter, the Town Tree Plan, or with the regulations or standards of the Arboricultural Specifications Manual, the Urban Forester or Tree Board representative shall provide written notice of his findings to the permit applicant. The notice shall contain a copy of this chapter, and:

(a) The permit shall be nullified and shall be void;

(b) The Town Urban Forester or Tree Board representative may issue a written order that the permit applicant cease and desist all work for which the permit was required;

(c) The permit applicant shall be subject to penalty under the terms of this chapter; and

(d) The Town Urban Forester or Tree Board representative may take steps to correct the results of the non-complying work and the reasonable costs of such steps shall be charged to the permit applicant.

(7) The Town Urban Forester, Tree Board or appointed representative shall establish a program of public information and education that will encourage the planting, maintenance or removal of trees, shrubs and other plants on private property in furtherance of the goals of the Town Tree Plan.

(8) Funding for an Urban Forester position and budget shall originate from the Tree Fund and Street Department Budget, other sources such as fines, grants and permit fees may also be used when applicable.

(Ord. 2007-8, passed 9-21-2007)

#### **§ 95.51 REVIEW BY TOWN BOARD.**

The Town Board shall have the right to review the conduct, acts and decisions of the Tree Board. Any person may appeal from any ruling or order of the Tree Board to the Town Board who may hear the matter and make a final decision.

(Ord. 2007-8, passed 9-21-2007)

#### **§ 95.99 PENALTY.**

Any person who violates any provision of this chapter or who fails to comply with any notice issued pursuant to the provisions of this chapter, upon being found guilty of violation, shall be subject to a fine not to exceed \$500 for each separate offense; each day for each separate offense, each day during which any violation of the provisions of this chapter shall occur or continue shall be a separate offense. If as the result of the violation of any provision of this chapter, the injury, mutilation or death of a tree, shrub or other plant located on town-owned property is caused, the cost of repair or replacement of such tree, shrub or other plant shall be borne by the party in violation. The replacement value of trees and shrubs shall be determined in accordance with the latest revision of *Guide for Plant Appraisal*, 8th edition, as published by the International Society of Arboriculture.

(Ord. 2007-8, passed 9-21-2007)

## CHAPTER 96: STREETS AND SIDEWALKS

### Section

#### *Street Address Numbers*

- 96.01 Purpose and intent
- 96.02 Scope
- 96.03 Assignment of number
- 96.04 Notice of numbers assigned
- 96.05 Display of number
- 96.06 Use of number

#### ***STREET ADDRESS NUMBERS***

##### **§ 96.01 PURPOSE AND INTENT.**

The purpose and intent of this subchapter is to establish that all residential dwellings or business structures, including any identifiable but vacant or unimproved lots or tracts of land, whether currently existing or hereafter placed, erected or created, located within the town, be identified by a street or road number, which number shall be prominently displayed, on any occupied lot or parcel, used as a means of address identification for said location and relied upon by emergency personnel, businesses, utilities, local government and residents as the legal address for said location.

(Ord. 2010-4, passed 5-4-2010)

##### **§ 96.02 SCOPE.**

This subchapter shall affect and apply to all residences, businesses and vacant or unimproved lots or tracts of land capable of being used as a residence or business within the incorporated areas of the town.

(Ord. 2010-4, passed 5-4-2010)

##### **§ 96.03 ASSIGNMENT OF NUMBER.**

An address number shall be assigned to each existing or potential lot or tract of land capable of being used for a residence or business within the town. Such assignment shall be made by the Town Clerk-

Treasurer. The Clerk-Treasurer may, in the discretion of said Clerk-Treasurer, request the input of the Town Plan Commission Director, the United States Postal Service, and/or other local government entities as to the proper assignment of address numbers.

(Ord. 2010-4, passed 5-4-2010)

#### **§ 96.04 NOTICE OF NUMBERS ASSIGNED.**

The Town Clerk-Treasurer shall mail a notice of the address number so assigned to each residence, business, and vacant or unimproved lot or tract within the incorporated areas of the town, to the current fee simple owner of each tract, and shall inform said owner that the new number so assigned shall serve as the new permanent, legal address for the residence, business or tract of said owner, effective April 1, 2010. The Town Clerk-Treasurer shall serve as the administrator of the address numbering system, shall serve notice of assignment of new numbers to owners and shall be the town official to whom questions concerning the numbering system are to be directed.

(Ord. 2010-4, passed 5-4-2010)

#### **§ 96.05 DISPLAY OF NUMBER.**

(A) The owner of each parcel or lot currently used as a residence or business shall prominently display the street number assigned to said location in such a manner so that said number is easily observable and readable from the public road, street or highway upon which such location is situated.

(B) While the location, type of numbering, type of background, size of numbering and location of the number shall be totally within the discretion of the owner of said residence or business, to maximize the effectiveness and to insure prompt response in the event of an emergency, it is recommended that said number be either located on the residence or business building or staked at or near the edge of the road beside a driveway entrance, on the same side of the street or road where the residence or business building is located, and that address numbers be placed on a contrasting background, with the numbers placed either horizontally or vertically and utilizing numbers at least 3 inches in height.

(Ord. 2010-4, passed 5-4-2010)

#### **§ 96.06 USE OF NUMBER.**

Upon the initial assignment of a address number and notification as hereinabove required, said number shall become the permanent, legal address for the site so identified as of the effective date of the address numbering system. All future assignments shall be effective immediately upon notification of such number by the Town Clerk-Treasurer.

(Ord. 2010-4, passed 5-4-2010)

**TITLE XI: BUSINESS REGULATIONS**

Chapter

**110.GENERAL BUSINESS REGULATIONS**

**111.GARAGE SALES**



## CHAPTER 110: GENERAL BUSINESS REGULATIONS

### Section

#### *Junk Dealers; Junk Yards*

- 110.01 Definitions
- 110.02 Requirement of fence
- 110.03 Operating junk yard or dealing in junk; consent
- 110.04 Application contents
- 110.05 Inspection of applicant; issuance of consent
- 110.06 Storing junk outside of consented area
  
- 110.99 Penalty

#### ***JUNK DEALERS; JUNK YARDS***

### **§ 110.01 DEFINITIONS.**

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

***JUNK.*** Old or scrap ferrous or nonferrous material, including but not limited to, copper, brass, rope, rags, batteries, paper, trash, rubber debris, iron, steel and other items which have been scrapped or discarded. It shall also include automobiles, farm implements, industrial machinery, business equipment, household items, or parts thereto which are being stored or kept for salvage purposes or from which all usable parts have been salvaged.

***JUNK DEALER.*** Any person, partnership, corporation, or any other business association who engages in the business of buying and selling junk and/or who maintains a junk yard, but does not include a towing operation holding wrecked vehicles while awaiting an abandoned vehicle title or disposition from an insurance company.

***JUNK YARD.*** A place outside enclosed buildings where junk is placed, deposited or stored in the course of conducting the junk business.  
(Ord. 1998-13, passed 10-19-1998)

**§ 110.02 REQUIREMENTS OF FENCE.**

Any junk yard shall be surrounded by a neat and well-built fence constructed of materials and in a condition acceptable to the consenting body to be erected on the outer boundary of that portion of the premises used for the junk yard such that any junk stored within the yard shall not be visible from the travel portion of any public right-of-way; provided however, that no fence shall be erected under this chapter which by its location or height obstructs the view at any right-of-way so as to endanger lives or property of persons traveling the street. Where a building or buildings on an adjacent property form the boundary, the fence shall not exceed 8 feet in height, and no junk shall be stored, placed, deposited or permitted to remain in the junk yard to a height greater than the height of the fence.

(Ord. 1998-13, passed 10-19-1998)

**§ 110.03 OPERATING JUNK YARD OR DEALING IN JUNK; CONSENT.**

No person, firm or corporation shall engage in the business of a junk dealer and maintain a junk yard in the town without having first complied with the provisions of this subchapter and having written consent of Town Council and Geneva Planning Commission.

(Ord. 1998-13, passed 10-19-1998)

**§ 110.04 APPLICATION CONTENTS.**

Application for the consent shall be made to the Common Council of the town, filed in the office of the Clerk-Treasurer thereof, and the consent shall state therein the place or places wherein it is proposed to engage in the business and establish and maintain the junk yard and describe the same by metes and bounds, or by lot number, indicating specifically the portion of the premises to be used for such purpose, which later tract shall in no event be so near any street to obstruct view so as to endanger the lives or property of persons traveling the street.

(Ord. 1998-13, passed 10-19-1998)

**§ 110.05 INSPECTION OF APPLICANT; ISSUANCE OF CONSENT.**

When any application has been filed under the provisions of this subchapter, the Common Council shall examine the same and the premises described therein and if they find that the same complies with the provisions of this subchapter they shall take action granting the consent, conditioned that the applicant erect the fence and otherwise comply with the provisions of this subchapter. When the applicant has done so the Clerk-Treasurer shall issue the consent, which shall be for the period of 1 year.

(Ord. 1998-13, passed 10-19-1998)

**§ 110.06 STORING JUNK OUTSIDE OF CONSENTED AREA.**

It shall be a violation of this subchapter for any consented person to deposit, place or store, or permit to be deposited, placed or stored, or to permit any junk heretofore so deposited, placed or stored, to remain within the corporate limits of the town, except as provided by this subchapter.  
(Ord. 1998-13, passed 10-19-1998) Penalty, see § 110.99

**§ 110.99 PENALTY.**

Whoever violates any provision of this chapter shall be fined the sum of \$100 to which shall be added the costs of the action, and each day the violation continues shall be deemed a separate offense. The violation shall be deemed good and sufficient cause for the revocation of the consent, which may be entered as a part of the judgment in the cause, and any revocation may prevent the issue of consent to the person, firm or corporation for a period of 6 months from the date thereof.  
(Ord. 1998-13, passed 10-19-1998)



## CHAPTER 111: GARAGE SALES

### Section

- 111.01 Purpose
- 111.02 Definitions
- 111.03 Permit required; fee; conditions for sales
- 111.04 Exemptions
- 111.05 Enforcement; complaints
- 111.06 Conduct
  
- 111.99 Penalty

### § 111.01 PURPOSE.

These rules and regulations are designed to control and restrict garage sales in order to protect the public health, safety and convenience and to restrict such sales to casual and/or occasional occurrences only, in keeping with the character of the neighborhood where this activity is carried on in compliance with Chapter 153 of this code. The intent of this chapter is to eliminate perpetual, prolonged and extended garage sales in residential areas. Such sales, if continued indefinitely, tend to become retail businesses in residential areas and zones, create a nuisance, and often violate the zoning regulations of the Town of Geneva. The provisions of this chapter arise from the need to limit, regulate, restrict and control garage sales. It is not the intent of this chapter to change or amend Chapter 153 of this code and/or any other ordinances of the Town of Geneva.

(Ord. 2023-6, passed 4-11-2023)

### § 111.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. As used in this chapter, the following terms shall have the meanings indicated:

**GARAGE SALE.** The sale or offering for sale of new, used or secondhand items of personal property at any one residential premises at any one time. This shall include all sales in residential areas entitled "garage sale," "yard sale," "tag sale," "porch sale," "lawn sale" "attic sale" "basement sale," "rummage sale," "flea market sale" or any similar casual sale of tangible personal property.

**GOODS.** Any goods, warehouse merchandise or other personal property capable of being the object of a sale regulated hereunder.

**MUNICIPALITY.** All residential dwellings located within any type of zone, zoned area, zoning district, whether or not said areas or zones are residential, business, commercial or otherwise, within the geographic boundaries of the Town of Geneva.

**PERSONS.** Individuals, partnerships, family groups, voluntary associations and corporations. (Ord. 2023-6, passed 4-11-2023)

### **§ 111.03 PERMIT REQUIRED; FEE; CONDITIONS FOR SALES.**

(A) It shall be unlawful for any person to conduct a garage sale within the geographic boundaries of the Town of Geneva without first obtaining a garage sale permit from the Clerk-Treasurer's office after filing an application containing the information hereinafter specified.

(B) Prior to issuance of any garage sale permit, the individuals conducting such sale shall file a written statement with the Town of Geneva Clerk-Treasurer in advance of the proposed sale, setting forth the following information:

- (1) The full name and address of applicant;
- (2) The location at which the proposed garage sale is to be held;
- (3) The date or dates upon which the sale shall be held;
- (4) The date or dates of any other garage sales within the current calendar year; and

(5) An affirmative statement that the property to be sold was owned by the applicant as the applicant's own personal property and was neither acquired or consigned for the purposes of resale.

(C) Each permit application shall be accompanied by a permit administration processing fee as may be set from time to time by resolution of the Common Council of the Town of Geneva.

(D) It shall be unlawful to participate in more than two garage sales in any one calendar year. For the purposes of this division, participation in a "town-wide garage sale" as scheduled and approved by the town shall not be considered as counting toward the two garage sale limit within said calendar year.

(E) Not more than two garage sale permits shall be issued to any one person in any one calendar year. For the purposes of this division, participation in a "town-wide garage sale" as scheduled and approved by the town shall not be considered as counting toward the two garage sale limit within said calendar year.

(F) Not more than two garage sale permits shall be issued for any one premises in any one calendar year. For the purposes of this division, participation in a "town-wide garage sale" as scheduled and approved by the town shall not be considered as counting toward the two garage sale limit within said calendar year.

(G) It shall be unlawful to conduct any garage sale with a duration exceeding three consecutive days. This three day limitation shall apply to all permitted garage sales, including a "town-wide garage sale." All garage sales shall be limited in time to daylight hours.

(H) The garage sale permit must be posted at a visible location to the traveling public for the duration of the sale.

(I) No personal property offered for sale at a garage sale shall be displayed in any public right-of-way.

(J) Upon the completion of a garage sale as set forth herein, all remaining property that was offered for sale, all tables and other items used to display such property, and all signage for used in said sale shall be removed from a visible location to the traveling public within 12 hours of the termination of the sale.

(Ord. 2023-6, passed 4-11-2023)

**§ 111.04 EXEMPTIONS.**

This chapter shall not be applicable to:

(A) Persons selling goods pursuant to an order of process or a court of competent jurisdiction;

(B) Persons acting in accordance with their powers and duties as public officials;

(C) Any person selling an item or items of personal property that are specifically named or described in a newspaper, radio or internet advertisement;

(D) Any publisher of a newspaper, magazine or other publication or other communications media which publishes or broadcasts anything in good faith without knowledge of its false, deceptive or misleading character or without knowledge that the provisions of this chapter have not been met;

(E) Any sale conducted by any legitimate business or commercial or industrial establishment on property zoned under the zoning regulations of the Town of Geneva with or without the protection of the nonconforming use section of the zoning laws, or any sale conducted by any other vendor or dealer when the sale is conducted in a properly zoned area and not otherwise prohibited by laws of the State of Indiana and ordinances of the Town of Geneva, including this chapter;

(F) Sales by a bona fide charitable, eleemosynary, educational, cultural or governmental institution, civic group, service club, religious or fraternal society or other tax-exempt organization; provided, however, that the burden of proof to establish the exemption under this division shall be on the organization or institution claiming such exemption; and

(G) Any public auction having a duration of no more than two days and conducted by an auctioneer licensed by the State of Indiana.  
(Ord. 2023-6, passed 4-11-2023)

#### **§ 111.05 ENFORCEMENT; COMPLAINTS.**

(A) This chapter shall be enforced by the Town of Geneva Marshal's office, and it shall be its duty to investigate and prosecute any violation of this chapter.

(B) If, after an investigation, a violation is found to exist, the Town of Geneva Marshal's office shall issue a citation pursuant to the provisions of this chapter.  
(Ord. 2023-6, passed 4-11-2023)

#### **§ 111.06 CONDUCT.**

The persons to whom the garage sale permit was issued, the person conducting the sale, and the owner, tenant or occupant of the premises where the sale or activity is conducted shall be jointly or severally responsible for the maintenance of good order and decorum on the premises during the hours of such sale or activity.

(A) No such person shall permit any loud or boisterous conduct on such premises or permit vehicles to impede the passage of the traffic on any roads or streets in the area of the premises where the sale is being conducted.

(B) In the event of an emergency, all such persons shall obey reasonable orders from any member of the Town of Geneva Marshal's office or Fire Department in order to maintain the public health, safety and convenience.

(Ord. 2023-6, passed 4-11-2023)

**§ 111.99 PENALTY.**

Each violation shall carry a fine of \$75. In addition to civil penalties imposed herein, a person cited for violation of this chapter shall be responsible for all court costs. The Town of Geneva shall not issue such individual another garage sale permit for a period of four years from the time of a prior violation. Every day that a violation of this chapter continues shall constitute a separate offense.

(Ord. 2023-6, passed 4-11-2023)



**TITLE XIII: GENERAL OFFENSES**

Chapter

**130.GENERAL OFFENSES**



## CHAPTER 130: GENERAL OFFENSES

### Section

- 130.01 Discharge of firearms
- 130.02 Synthetic cannabinoid

### § 130.01 DISCHARGE OF FIREARMS.

(A) **FIREARM** means any weapon that is capable of or designed to or that may readily be converted to expel a projectile by means of an explosion.

(B) This section does not apply to:

(1) A person who is justified in using reasonable force against another person or animal in self-defense;

(2) Any law enforcement officer in the discharge of his official duties and while in the exercise of reasonable care; or

(3) Officials at military functions held during parades or funerals who fire blank charges.

(C) It shall be unlawful for any person or persons to fire or discharge, or cause to be fired or discharged, any firearm within the limits of the town.

(D) Any person who violates this section shall, upon conviction, be fined any sum not less than \$10 nor more than \$100. Each discharge or firing of the firearm shall constitute a separate offense. If the Court determines that this section has been violated, the court may order the firearm seized and disposed of consistent with Indiana law.

(Ord. 1997-07, passed 10-7-1997)

### § 130.02 SYNTHETIC CANNABINOID.

(A) It is hereby declared to be unlawful for any person to use, possess, purchase, attempt to purchase, sell, publicly display for sale or attempt to sell, give or barter any 1 or more of the following chemicals within the boundaries of the town:

**Geneva - General Offenses**

(1) 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol {also known as CP 47,497 and its C6, C7, C8, and C9 homologues};

(2) (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo [c]chromen-1-ol {also known as HU-210};

(3) Naphthalen-1-yl-(1-pentylindol-3-yl)methanone {also known as 1-Pentyl-3-(1-naphthoyl)indole or JWH-018}; or

(4) Naphthalen-1-yl-(1-butylindol-3-yl)methanone {also known as 1-Butyl-3-(1-naphthoyl)indole or JWH-073}.

(B) This section shall be enforced by the town's Police Department. If any of the substances listed in division (A) above are found in the possession of any person, they may be confiscated and destroyed by law enforcement officials.

(C) It is not an offense under division (A) above if the person was acting at the direction of an authorized law enforcement agent to enforce or ensure compliance with this law prohibiting the sale of the aforementioned substance.

(D) This section does not apply to any person who commits any act described in this section pursuant to the direction or prescription of a licensed physician or dentist authorized to direct or prescribe such act. This section likewise does not apply to the inhalation of anesthesia for a medical purpose or dental purpose.

(E) Any business found to be in violation of this section will be subject to a civil fine not to exceed \$2,500. Any person found in violation of this section will be guilty of a civil fine not to exceed \$1,000. For the first offense under this section, either by a business or an individual, the civil fine may be assessed, in the discretion of the Town Marshal, in the sum of \$100. All fines assessed and paid under this section shall be deposited in the Local Law Fund of the town.

(F) The Town Attorney shall have the authority to seek an injunction to close any business which refuses to or fails to comply with this section.  
(Ord. 2010-12, passed 9-7-2010)

**TITLE XV: LAND USAGE**

Chapter

**150.BUILDING CODE**

**151.FLOOD CONTROL**

**152.SUBDIVISION CONTROL**

**153.ZONING CODE**



## CHAPTER 150: BUILDING CODE

### Section

- 150.01 Title
- 150.02 Purpose
- 150.03 Authority
- 150.04 Scope
- 150.05 Adoption of building rules, codes and standards by reference
- 150.06 Application for permit
- 150.07 Permit required
- 150.08 Compliance with other provisions
- 150.09 Fees
- 150.10 Review of application
- 150.11 Waiver of permit fees
- 150.12 Inspection
- 150.13 Notification of inspection and time of inspection
- 150.14 Entry
- 150.15 Stop work order
- 150.16 Certificate of occupancy
- 150.17 Workmanship
- 150.18 Violations
- 150.19 Right of appeal
- 150.20 Remedies
  
- 150.99 Penalty

### § 150.01 TITLE.

This chapter, and all ordinances supplemental or amendatory hereto, shall be known as the “Building Code of the Town of Geneva, Indiana,” and may be cited as such and will be referred to herein as “This Code.”

(1997 Code, § 37.1) (Ord. 1986-7, passed - -)

**§ 150.02 PURPOSE.**

The purpose of this code is to provide minimum standards for the protection of life, health, environment, public safety, and general welfare, and for the conservation of energy in the design and construction of buildings and structures.

(1997 Code, § 37.2) (Ord. 1986-7, passed - -)

**§ 150.03 AUTHORITY.**

(A) The office of Building Commissioner is created and the Building Commissioner is authorized and directed to administer and enforce all of the provisions of this code. Whenever in this code 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 such provision shall be construed as giving any officer discretionary powers as to what the regulations, codes, or standards shall be, or power to require conditions not prescribed by ordinance or to enforce ordinance provisions in an arbitrary or discriminatory manner.

(B) The Building Commissioner of Adams County, Indiana hereinafter referred to as the “Building Commissioner,” after having been designated as the officer of a single agency to administer and enforce this code shall be the Building Commissioner of the town and as such is authorized in the name of the town to issue building permits, collect permit fees, perform inspections, order correction of violations of this code, and authorize occupancy of buildings and structures within the corporate limits of the town.

(1997 Code, § 37.3) (Ord. 1986-7, passed - -)

**§ 150.04 SCOPE.**

The provisions of this code apply to the construction, alteration, repair, use, occupancy, maintenance and additions to all buildings and structures other than fences in the town.

(1997 Code, § 37.4) (Ord. 1986-7, passed - -)

**§ 150.05 ADOPTION OF BUILDING RULES, CODES AND STANDARDS BY REFERENCE.**

The following rules, regulations and codes are adopted by reference as the rules and regulations governing the construction and alteration of buildings and structures in the town:

(A) Building rules of the Indiana Fire Prevention and Building Safety Commission as set out in the following articles of Indiana Administrative Code, Title 675 are incorporated by reference in this code

and shall include later amendments to those articles as the same are published in the Indiana Register or the Indiana Administrative Code with effective dates as fixed therein:

- (1) Article 13 - Building Codes:
  - (a) Fire and Building Standards (675 I.A.C. § 13-1);
  - (b) Indiana Building Code (675 I.A.C. § 13-2);
  - (c) Indiana Building Code Standards (675 I.A.C. § 13-3);
  - (d) Indiana Handicapped Accessibility Code (675 I.A.C. § 13-4);
- (2) Article 14 - One and Two Family Dwelling Codes:
  - (a) Council of American Building Officials One and Two Family Dwelling Code (675 I.A.C. § 14-1);
  - (b) CABO One and Two Family Dwelling Code; Amendments (675 I.A.C. § 14-2.1);
  - (c) Standard for Permanent Installation of Manufactured Homes (675 I.A.C. § 14-3);
- (3) Article 15 - Plumbing Codes: Indiana Plumbing Code (675 I.A.C. § 16-1);
- (4) Article 17 - Electrical Codes:
  - (a) Indiana Electrical Code (675 I.A.C. § 17-1.1);
  - (b) Safety Code for Health Care Facilities (675 I.A.C. § 17-2);
- (5) Article 18 - Mechanical Codes: Indiana Mechanical Code (675 I.A.C. § 18-1);
- (6) Article 19 - Energy Conservation Codes:
  - (a) Indiana Energy Conservation Code (675 I.A.C. § 19-1);
  - (b) Modifications to the Model Energy Code (675 I.A.C. § 19-2);
- (7) Article 20 - Swimming Pool Codes: Indiana Swimming Pool Code (675 I.A.C. § 20-1).

(B) Copies of adopted building rules, codes and standards are on file in the office of the Clerk-Treasurer of the town.

(1997 Code, § 37.5) (Ord. 1986-7, passed - -)

#### **§ 150.06 APPLICATION FOR PERMIT.**

No building permit shall be issued for the foregoing purposes, unless the application for the permit is accompanied by a plat or sketch of the proposed location showing lot boundaries and by plans and specifications showing the work to be done. In addition, a copy of a design release, issued by the State Building Commissioner and the State Fire Marshal pursuant to I.C. 22-15-3-1, shall be provided to the Building Commissioner before issuance of a permit for construction covered by the Design Release.

(1997 Code, § 37.6) (Ord. 1986-7, passed - -)

#### **§ 150.07 PERMIT REQUIRED.**

A permit shall be obtained before beginning construction, alteration or repair of any building or structure, the cost of which exceeds \$500, using forms furnished by the Building Commissioner.

(1997 Code, § 37.7) (Ord. 1986-7, passed - -)

#### **§ 150.08 COMPLIANCE WITH OTHER PROVISIONS.**

All work done under any permit issued by the Building Commissioner shall be in full compliance with all other ordinances pertaining thereto, and in addition to the fees for permits, there shall be paid the fees prescribed in the ordinances.

(1997 Code, § 37.8) (Ord. 1986-7, passed - -)

#### **§ 150.09 FEES.**

It is anticipated that this Board will enter into a joint resolution with the Board of County Commissioners of Adams County, Indiana to designate the Building Commissioner of Adams County, Indiana as Building Commissioner for the town to administer and enforce this code. Therefore, the fees for permits under this chapter shall be the same as those designated in the Building Code of Adams County, Indiana, and this Board does adopt the schedule of fees as is presently set out in the Adams County Building Code and as hereafter amended. If the joint resolution is adopted, all fees required hereunder shall be paid to the Treasurer of Adams County.

(1997 Code, § 37.9) (Ord. 1986-7, passed - -)

**§ 150.10 REVIEW OF APPLICATION.**

Prior to the issuance of any building permit, the Building Commissioner shall:

(A) Review all building permit applications to determine full compliance with the provisions of this code;

(B) Review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding;

(C) Review building permit applications for major repairs within the flood plain area having special flood hazards to determine that the proposed repair:

(1) Uses construction materials and utility equipment that are resistant to flood damage; and

(2) Uses construction methods and practices that will minimize flood damage;

(D) Review building permit applications for new construction or substantial improvements within the flood plain area having special flood hazards to assure that the proposed construction (including prefabricated and mobile homes):

(1) Is protected against flood damage;

(2) Is designed (or modified) and anchored to prevent floatation, collapse or lateral movement of the structure, flood damage; and

(3) Uses construction methods and practices that will minimize flood damage.  
(1997 Code, § 37.10) (Ord. 1986-7, passed - -)

**§ 150.11 WAIVER OF PERMIT FEES.**

There shall be no fee imposed for any work to be performed where the contract or estimated cost is \$500 or less, and the collection of any such fee shall be waived. This waiver of permit fees does not waive the Building Commissioner's right to inspect the work to insure compliance with the codes, rules and standards adopted and set forth herein.

(1997 Code, § 37.11) (Ord. 1986-7, passed - -)

**§ 150.12 INSPECTION.**

After the issuance of any building permit hereunder, the Building Commissioner shall make or shall cause to be made such inspections of the work being done as are necessary to insure full compliance with

the provisions of this chapter and the terms of the permit. Reinspections of work found to be incomplete or not ready for inspection are subject to assessment of reinspection fees as prescribed in this code. (1997 Code, § 37.12) (Ord. 1986-7, passed - -)

#### **§ 150.13 NOTIFICATION OF INSPECTION AND TIME OF INSPECTION.**

(A) *Duty to notify.* It shall be the duty of a holder of a permit issued by the Building Commissioner to notify the Building Commissioner that the construction work in progress has reached a stage where the Building Commissioner has designated an inspection is required in accordance with the schedule of inspection as promulgated by the Building Commissioner.

(B) *Time of inspection.* The Building Commissioner shall have a maximum of 24 hours (Saturdays, Sundays and holidays excluded) after being served with a request for inspection to conduct and complete the inspection.

(1997 Code, § 37.13) (Ord. 1986-7, passed - -)

#### **§ 150.14 ENTRY.**

Upon presentation of proper credentials, the Building Commissioner or his duly authorized representatives may enter at reasonable times any building, structure or premises in the town to perform any duty imposed upon him by this code.

(1997 Code, § 37.14) (Ord. 1986-7, passed - -)

#### **§ 150.15 STOP WORK ORDER.**

When any work is being done contrary to the provisions of this code, the Building Commissioner may order the work stopped by notice in writing served on any persons engaged in the doing or causing the work to be done, and any such persons shall forthwith stop the work until authorized by the Building Commissioner to proceed with the work.

(1997 Code, § 37.15) (Ord. 1986-7, passed - -)

#### **§ 150.16 CERTIFICATE OF OCCUPANCY.**

No certificate of occupancy for any building or structure erected, altered or repaired after the adoption of this chapter shall be issued unless the building or structure was erected, altered or repaired in compliance with the provisions of this chapter. It shall be unlawful to occupy any such building or

structure unless a full, partial, or temporary certificate of occupancy has been issued by the Building Commissioner.

(1997 Code, § 37.16) (Ord. 1986-7, passed - -)

**§ 150.17 WORKMANSHIP.**

All work on the construction, alteration and repair of buildings and other structures shall be performed in a good and workmanlike manner according to accepted standards and practices in the trade.

(1997 Code, § 37.17) (Ord. 1986-7, passed - -)

**§ 150.18 VIOLATIONS.**

It shall be unlawful for any person, firm or corporation, whether as owner, lessee, sublessee or occupant, to erect, construct, enlarge, alter, repair, improve, remove, convert, demolish, equip, use, occupy or maintain any building or structure other than fences in the town or cause or permit the same to be done, contrary to or in violation of the provisions of this code.

(1997 Code, § 37.18) (Ord. 1986-7, passed - -) Penalty, see § 150.99

**§ 150.19 RIGHT OF APPEAL.**

All persons shall have the right to appeal the Building Commissioner's decision first to the Board of County Commissioners of Adams County, Indiana, and then to the Fire Prevention and Building Safety Commission of Indiana in accordance with the provisions of I.C. 22-12-7.

(1997 Code, § 37.19) (Ord. 1986-7, passed - -)

**§ 150.20 REMEDIES.**

The Building Commissioner shall in the name of the town bring actions in the circuit or superior courts of Adams County, Indiana, for mandatory and injunctive relief in the enforcement of and to secure compliance with any order or orders of the Building Commissioners and such action to recover the penalties provided for in this chapter.

(1997 Code, § 37.20) (Ord. 1986-7, passed - -)

**§ 150.99 PENALTY.**

If any person, firm or corporation shall violate any of the provisions of this chapter, or shall do any act prohibited herein, or shall fail to perform any duty lawfully enjoined, within the time prescribed by

the Building Commissioner, or shall fail, neglect or refuse to obey any lawful order given by the Building Commissioner in connection with the provisions of this chapter for each such violation, failure or refusal, the person, firm or corporation shall be fined in any sum not less than \$100 nor more than \$1,000.

(1997 Code, § 37.21) (Ord. 1986-7, passed - -)

## CHAPTER 151: FLOOD CONTROL

### Section

#### *General Provisions*

- 151.01 Statutory authorization; findings of fact; purpose; methods
- 151.02 Definitions
- 151.03 Lands to which this chapter applies
- 151.04 Basis for establishing the areas of special flood hazard
- 151.05 Establishment of floodplain development permit
- 151.06 Compliance
- 151.07 Abrogation and greater restrictions
- 151.08 Discrepancy between mapped floodplain and actual ground elevations
- 151.09 Interpretation
- 151.10 Warning; disclaimer of liability
- 151.11 Violations

#### *Administration*

- 151.25 Floodplain Administrator designated
- 151.26 Floodplain development permit and certification requirements
- 151.27 Floodplain Administrator; duties and responsibilities
- 151.28 Administrative procedures
- 151.29 Map maintenance activities

#### *Flood Hazard Reduction*

- 151.40 General standards
- 151.41 Specific standards
- 151.42 Standards for subdivision proposals
- 151.43 Critical facility
- 151.44 Standards for identified floodways
- 151.45 Standards for identified fringe
- 151.46 Standards for SFHAs without established base flood elevations and/or floodways/fringes
- 151.47 Standards for SFHAs not identified on a map

*Variance Procedures*

- 151.60 Variance and Appeals Board designated
- 151.61 Duties of Board
- 151.62 Variance procedures
- 151.63 Conditions for variances
- 151.64 Variance notification
- 151.65 Historic structures
- 151.66 Special conditions
  
- 151.99 Penalty

**GENERAL PROVISIONS****§ 151.01 STATUTORY AUTHORIZATION; FINDINGS OF FACT; PURPOSE; METHODS.**

(A) *Statutory authorization.* The Indiana Legislature has in I.C. 36-1-4-11 granted the power to local government units to control land use within their jurisdictions. Therefore, the Common Council of the Town of Geneva does hereby adopt the following floodplain management regulations.

(B) *Findings of fact.* The flood hazard areas of the Town of Geneva are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. Additionally, structures that are inadequately elevated, floodproofed, or otherwise protected from flood damage also contribute to the flood loss. In order to minimize the threat of such damages and to achieve the purposes hereinafter set forth, these regulations are adopted.

(C) *Statement of purpose.* It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) Minimize prolonged business interruptions;

(5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains;

(6) Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight area;

(7) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;

(8) Minimize the impact of development on adjacent properties within and near flood prone areas;

(9) Ensure that the flood storage and conveyance functions of the floodplain are maintained;

(10) Minimize the impact of development on the natural, beneficial values of the floodplain;

(11) Prevent floodplain uses that are either hazardous or environmentally incompatible; and

(12) Meet community participation requirements of the National Flood Insurance Program.

(D) *Methods of reducing flood loss.* In order to accomplish its purposes, these regulations include methods and provisions for:

(1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging increases in flood heights or velocities;

(2) Requiring that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;

(3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

(4) Controlling filling, grading, dredging, excavating, and other development which may increase flood damage; and

(5) Preventing or regulating the construction of flood barriers, which will unnaturally divert floodwaters, or which may increase flood hazards in other areas.

(Ord. 2010-8, passed 7-6-2010; Am. Ord. 2023-8, passed 8-8-2023)

**§ 151.02 DEFINITIONS.**

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

***ACCESSORY STRUCTURE.*** A structure with a floor area of 400 square feet or less that is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure. An ***ACCESSORY STRUCTURE*** specifically excludes structures used for human habitation.

(1) ***ACCESSORY STRUCTURES*** are considered walled and roofed where the structure includes at least two outside rigid walls and a fully secured roof.

(2) Examples of ***ACCESSORY STRUCTURES*** include but are not necessarily limited to two-car detached garages (or smaller), carports, storage and tool sheds, and small boathouses.

(3) The following may have uses that are incidental or accessory to the principal structure on a parcel but are generally not considered to be accessory structures by the NFIP:

(a) Structures in which any portion is used for human habitation, whether as a permanent residence or as temporary or seasonal living quarters, such as a detached garage or carriage house that includes an apartment or guest quarters, or a detached guest house on the same parcel as a principal residence;

(b) Structures used by the public, such as a place of employment or entertainment; and

(c) Development that does not meet the NFIP definition of a structure for floodplain management purposes. Examples include, but are not necessarily limited to, a gazebo, pavilion, picnic shelter, or carport that is open on all sides (roofed but not walled).

***ADDITION (TO AN EXISTING STRUCTURE).*** Any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed ***ADDITION***, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

***ALTERATION OF A WATERCOURSE.*** A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other modification which may alter, impede, retard, or change the direction and/or velocity of the flow of water during conditions of the base flood.

***APPEAL.*** A request for a review of the Floodplain Administrator's interpretation of any provision of this chapter, a request for a variance, or a challenge of a Board decision.

**AREA OF SPECIAL FLOOD HAZARD.** The land within a community subject to a 1% or greater chance of being flooded in any given year.

**BASE FLOOD.** The flood having a 1% chance of being equaled or exceeded in any given year. The **BASE FLOOD** may also be referred to as the 1% annual chance flood or 100 year flood.

**BASE FLOOD ELEVATION (BFE).** The water surface elevation of the base flood in relation to a specified datum, usually the North American Vertical Datum of 1988.

**BASEMENT.** That portion of a structure having its floor sub-grade (below ground level) on all sides.

**BEST AVAILABLE FLOOD LAYER (BAFL).** Floodplain studies and any corresponding floodplain maps prepared and/or approved by the Indiana Department of Natural Resources which provide base flood elevation information, floodplain limits, and/or floodway delineations for flood hazards identified by approximate studies on the currently effective FIRM (Zone A) and/or for waterways where the flood hazard is not identified on available floodplain mapping.

**BUILDING.** See **STRUCTURE**.

**COMMUNITY.** A political entity that has the authority to adopt and enforce floodplain ordinances for the areas within its jurisdiction.

**CRITICAL FACILITY.** A facility for which even a slight chance of flooding might be too great. **CRITICAL FACILITIES** include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, and installations which produce, use, or store hazardous materials or hazardous waste.

**DEVELOPMENT.**

(1) For floodplain management purposes, any man-made change to improved or unimproved real estate including but not limited to:

- (a) Construction, reconstruction, or placement of a structure or any addition to a structure;
- (b) Installing a manufactured home on a site, preparing a site for a manufactured home, or installing a recreational vehicle on a site for more than 180 days;
- (c) Installing utilities, erection of walls and fences, construction of roads, or similar projects;
- (d) Construction of flood control structures such as levees, dikes, dams, channel improvements, and the like;

- (e) Mining, dredging, filling, grading, excavation, or drilling operations;
- (f) Construction and/or reconstruction of boat lifts, docks, piers, and seawalls;
- (g) Construction and/or reconstruction of bridges or culverts;
- (h) Storage of materials; and/or
- (i) Any other activity that might change the direction, height, or velocity of flood or surface waters.

(2) **DEVELOPMENT** does not include activities such as the maintenance of existing structures and facilities including painting; re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

**ELEVATION CERTIFICATE.** A FEMA form that is routinely reviewed and approved by the White House Office of Management and Budget under the Paperwork Reduction Act, that is encouraged to be used to collect certified elevation information.

**ENCLOSED AREA (ENCLOSURE).** An area of a structure enclosed by walls on all sides.

**ENCLOSURE BELOW THE LOWEST FLOOR.** See **LOWEST FLOOR** and **ENCLOSED AREA**.

**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the community's first floodplain ordinance.

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION.** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FEMA.** The Federal Emergency Management Agency.

**FILL.** For floodplain management purposes, any material deposited or placed which has the effect of raising the level of the ground surface above the natural grade elevation. **FILL** material includes but is not limited to consolidated material such as concrete and brick and unconsolidated material such as soil, sand, gravel, and stone.

***FLOOD* or *FLOODING*.**

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters;

(b) The unusual and rapid accumulation or runoff of surface waters from any source;  
and/or

(c) Mudslides (i.e., mudflows) which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(2) ***FLOOD* or *FLOODING*** also includes the collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or current of water exceeding anticipated cyclical levels that result in a flood as defined above.

***FLOOD HAZARD AREA.*** Areas subject to the 1% annual chance flood. See ***SPECIAL FLOOD HAZARD AREA.***

***FLOOD INSURANCE RATE MAP (FIRM).*** An official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community. A ***FIRM*** that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

***FLOOD INSURANCE STUDY (FIS).*** The official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM and the water surface elevation of the base flood.

***FLOOD PRONE AREA.*** Any land area acknowledged by a community as being susceptible to inundation by water from any source. See ***FLOODPLAIN.***

***FLOOD PROTECTION GRADE (FPG).*** The BFE plus two feet at any given location in the SFHA. See ***FREEBOARD.***

***FLOODPLAIN.*** Any land area susceptible to being inundated by water from any source. See ***FLOOD.***

***FLOODPLAIN MANAGEMENT.*** The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

***FLOODPLAIN MANAGEMENT REGULATIONS.*** Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance), and other applications of police power which control development in flood prone areas. The term describes such state or local regulations in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

***FLOODPROOFING (DRY FLOODPROOFING).*** A method of protecting a structure that ensures that the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation with walls that are substantially impermeable to the passage of water. All structural components of these walls are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.

***FLOODPROOFING CERTIFICATE.*** A form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPO.

***FLOODWAY.*** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

***FREEBOARD.*** A factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

***FRINGE or FLOOD FRINGE.*** The portion of the floodplain lying outside the floodway.

***FUNCTIONALLY DEPENDENT USE.*** A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

***HARDSHIP.*** As related to variances of this chapter, the exceptional hardship that would result from a failure to grant the requested variance. The town requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

***HIGHEST ADJACENT GRADE.*** The highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

***HISTORIC STRUCTURE.*** Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by:
  - (a) An approved state program as determined by the Secretary of Interior; or
  - (b) Directly by the Secretary of Interior in states without approved programs.

***HYDROLOGIC AND HYDRAULIC ENGINEERING ANALYSIS.*** Analyses performed by a professional engineer licensed by the State of Indiana, in accordance with standard engineering practices that are accepted by the Indiana Department of Natural Resources and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

***INTERNATIONAL CODE COUNCIL-EVALUATION SERVICE (ICC-ES) REPORT.*** A document that presents the findings, conclusions, and recommendations from a particular evaluation. ***ICC-ES REPORTS*** provide information about what code requirements or acceptance criteria were used to evaluate a product, and how the product should be identified and installed.

***LETTER OF FINAL DETERMINATION (LFD).*** A letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The ***LFD*** initiates the six-month adoption period. The community must adopt or amend its floodplain management regulations during this six-month period unless the community has previously incorporated an automatic adoption clause.

***LETTER OF MAP CHANGE (LOMC).*** A general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They are broken down into the following categories:

- (1) ***CONDITIONAL LETTER OF MAP REVISION (CLOMR).*** FEMA's comment on a proposed project that would, upon construction, result in modification of the SFHA through the placement of fill outside the existing regulatory floodway.

(2) **CONDITIONAL LETTER OF MAP REVISION BASED ON FILL (CLOMR-F).** A letter from FEMA stating that a proposed structure that will be elevated by fill would not be inundated by the base flood.

(3) **LETTER OF MAP AMENDMENT (LOMA).** An amendment by letter to the currently effective FEMA map that establishes that a building or area of land is not located in a SFHA through the submittal of property specific elevation data. A **LOMA** is only issued by FEMA.

(4) **LETTER OF MAP AMENDMENT OUT AS SHOWN (LOMA-OAS).** An official determination by FEMA that states the property or building is correctly shown outside the SFHA as shown on an effective NFIP map. Therefore, the mandatory flood insurance requirement does not apply. An out-as-shown determination does not require elevations.

(5) **LETTER OF MAP REVISION (LOMR).** An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

(6) **LETTER OF MAP REVISION BASED ON FILL (LOMR-F).** FEMA's modification of the SFHA shown on the FIRM based on the placement of fill outside the existing regulatory floodway.

**LOWEST ADJACENT GRADE.** The lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

**LOWEST FLOOR.** For floodplain management purposes, the lowest elevation described among the following:

- (1) The lowest floor of a building;
- (2) The basement floor;
- (3) The garage floor if the garage is connected to the building;
- (4) The first floor of a structure elevated on pilings or pillars;

(5) The floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of floodwaters. Designs for meeting the flood opening requirement must either be certified by a registered professional engineer or architect or meet or exceed the following criteria:

(a) The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of floodwaters; and

(b) At least two openings are designed and maintained for the entry and exit of floodwater; and these openings provide a total net area of at least one square inch for every one square foot of enclosed area. The bottom of all such openings shall be no higher than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher. Doorways and windows do not qualify as openings; or

(6) The first floor of a building elevated on pilings or columns in a coastal high hazard area (as that term is defined in 44 CFR 59.1), as long as it meets the requirements of 44 CFR 60.3.

**MANUFACTURED HOME.** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term does not include a recreational vehicle.

**MANUFACTURED HOME PARK OR SUBDIVISION.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**MITIGATION.** Sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of **MITIGATION** is twofold: to protect people and structures, and to minimize the cost of disaster response and recovery.

**NATURAL GRADE.** For floodplain management purposes, the elevation of the undisturbed natural surface of the ground. Fill placed prior to the date of the initial identification of the flood hazard on a FEMA map is also considered **NATURAL GRADE**.

**NEW CONSTRUCTION.** For floodplain management purposes, any structure for which the "start of construction" commenced on or after the effective date of a floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

**NEW MANUFACTURED HOME PARK OR SUBDIVISION.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community's first floodplain ordinance.

**NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88).** As adopted in 1993, a vertical control datum used as a reference for establishing varying elevations within the floodplain.

**OBSTRUCTION.** Includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

**ONE PERCENT ANNUAL CHANCE FLOOD.** The flood that has a 1% chance of being equaled or exceeded in any given year. See **REGULATORY FLOOD**.

**PHYSICAL MAP REVISION (PMR).** An official republication of a community's FEMA map to effect changes to base (1% annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

**PREFABRICATED BUILDING.** A building that is manufactured and constructed using prefabrication. It consists of factory-made components or units that are transported and assembled on-site to form the complete building.

**PRINCIPALLY ABOVE GROUND.** At least 51% of the actual cash value of the structure, less land value, is above ground.

**RECREATIONAL VEHICLE.** A vehicle which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

**REGULATORY FLOOD.** The flood having a 1% chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in § 151.04. The **REGULATORY FLOOD** is also known by the term **BASE FLOOD**, **ONE-PERCENT ANNUAL CHANCE FLOOD**, and **100-YEAR FLOOD**.

**REPETITIVE LOSS.** Flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equaled or exceeded 25% of the market value of the structure before the damage occurred.

**RIVERINE.** Relating to, formed by, or resembling a river (including tributaries), stream, brook, and the like.

***SPECIAL FLOOD HAZARD AREA (SFHA).*** Synonymous with areas of special flood hazard and floodplain, means those lands within the jurisdiction of the town subject to a 1% or greater chance of flooding in any given year. ***SPECIAL FLOOD HAZARD AREAS*** are designated by the Federal Emergency Management Agency on flood insurance rate maps, flood insurance studies, flood boundary and floodway maps and flood hazard boundary maps as Zones A, AE, AH, AO, A1-30, A99, or VE. The ***SFHA*** includes areas that are flood prone and designated from other federal, state or local sources of data including but not limited to best available flood layer maps provided by or approved by the Indiana Department of Natural Resources, historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.

***START OF CONSTRUCTION.*** Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a ***SUBSTANTIAL IMPROVEMENT***, the actual ***START OF CONSTRUCTION*** means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

***STRUCTURE.*** A walled and roofed building, including a gas or liquid storage tank, which is principally above ground. The term includes a manufactured home, as well as a prefabricated building. It also includes recreational vehicles installed on a site for more than 180 consecutive days.

***SUBSTANTIAL DAMAGE.*** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

***SUBSTANTIAL IMPROVEMENT.*** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures that have incurred "repetitive loss" or "substantial damage" regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

***VARIANCE.*** A grant of relief from the requirements of this chapter consistent with the variance conditions herein.

**VIOLATION.** The failure of a structure or other development to be fully compliant with this chapter.

**WALLED AND ROOFED.** A building that has two or more exterior rigid walls and a fully secured roof and is affixed to a permanent site.

**WATERCOURSE.** A lake, river, creek, stream, wash, channel, or other topographic feature on or over which waters flow at least periodically. **WATERCOURSE** includes specifically designated areas in which substantial flood damage may occur.

(Ord. 2010-8, passed 7-6-2010; Am. Ord. 2023-8, passed 8-8-2023)

### **§ 151.03 LANDS TO WHICH THIS CHAPTER APPLIES.**

This chapter shall apply to all areas of special flood hazard (SFHAs) within the jurisdiction of the Town of Geneva, Indiana as identified in § 151.04, including any additional areas of special flood hazard annexed by the town.

(Ord. 2010-8, passed 7-6-2010; Am. Ord. 2023-8, passed 8-8-2023)

### **§ 151.04 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.**

(A) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of the Town of Geneva, Indiana, delineated as an "AE Zone" on the Adams County and Incorporated Areas Flood Insurance Rate Map dated September 29, 2010, shall be determined from the 1% annual chance flood profiles in the Flood Insurance Study of Adams County and Incorporated Areas and the corresponding Flood Insurance Rate Maps (FIRM) dated September 29, 2010, as well as any subsequent updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. Should the floodway limits not be delineated on the Flood Insurance Rate Map for a studied SFHA designated as an "AE Zone", the limits of the floodway will be according to the best available flood layer as provided by the Indiana Department of Natural Resources.

(B) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of Town of Geneva, Indiana, delineated as an "A Zone" on the Adams County and Incorporated Areas Flood Insurance Rate Map, dated September 29, 2010, as well as any updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best available flood layer provided by the Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available flood layer data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.

(C) In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas shall be according to the best available flood layer as provided by the Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one square mile.

(D) Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA. (Ord. 2010-8, passed 7-6-2010; Am. Ord. 2023-8, passed 8-8-2023)

**§ 151.05 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.**

A floodplain development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities in areas of special flood hazard. (Ord. 2010-8, passed 7-6-2010; Am. Ord. 2023-8, passed 8-8-2023)

**§ 151.06 COMPLIANCE.**

(A) No structure shall hereafter be located, extended, converted, or structurally altered within the SFHA without full compliance with the terms of this chapter and other applicable regulations.

(B) Where an existing or proposed structure or other development is affected by multiple flood zones, by multiple base flood elevations, or both, the development activity must comply with the provisions of this chapter applicable to the most restrictive flood zone and the most conservative (highest) base flood elevation affecting any part of the existing or proposed structure; or for other developments, affecting any part of the area of the development.

(C) No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this chapter and other applicable regulations. (Ord. 2010-8, passed 7-6-2010; Am. Ord. 2023-8, passed 8-8-2023) Penalty, see § 151.99

**§ 151.07 ABROGATION AND GREATER RESTRICTIONS.**

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 2010-8, passed 7-6-2010; Am. Ord. 2023-8, passed 8-8-2023)

**§ 151.08 DISCREPANCY BETWEEN MAPPED FLOODPLAIN AND ACTUAL GROUND ELEVATIONS.**

(A) In cases where there is a discrepancy between the mapped floodplain (SFHA) with base flood elevations provided (riverine or lacustrine Zone AE) on the FIRM and the actual ground elevations, the elevation provided on the profiles or table of still water elevations shall govern.

(B) If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.

(C) If the natural grade elevation of the site in question is at or above the base flood elevation and a LOMA or LOMR-FW is obtained, the floodplain regulations will not be applied provided the LOMA or LOMR-FW is not subsequently superseded or invalidated.

(Ord. 2010-8, passed 7-6-2010; Am. Ord. 2023-8, passed 8-8-2023)

**§ 151.09 INTERPRETATION.**

In the interpretation and application of this chapter all provisions shall be:

(A) Considered as minimum requirements;

(B) Liberally construed in favor of the governing body; and

(C) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. 2010-8, passed 7-6-2010; Am. Ord. 2023-8, passed 8-8-2023)

**§ 151.10 WARNING; DISCLAIMER OF LIABILITY.**

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this chapter does not create any liability on the part of the Town of Geneva, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this chapter, or any administrative decision made lawfully thereunder.

(Ord. 2010-8, passed 7-6-2010; Am. Ord. 2023-8, passed 8-8-2023)

**§ 151.11 VIOLATIONS.**

Failure to obtain a floodplain development permit in the SFHA or failure to comply with the requirements of a floodplain development permit or conditions of a variance shall be deemed to be a violation of this chapter.

(Ord. 2010-8, passed 7-6-2010; Am. Ord. 2023-8, passed 8-8-2023) Penalty, see § 151.99

**ADMINISTRATION****§ 151.25 FLOODPLAIN ADMINISTRATOR DESIGNATED.**

The Common Council of the Town of Geneva hereby appoints the Building and Planning Department Director to administer and implement the provisions of this chapter and is herein referred to as the Floodplain Administrator.

(Ord. 2010-8, passed 7-6-2010; Am. Ord. 2023-8, passed 8-8-2023)

**§ 151.26 FLOODPLAIN DEVELOPMENT PERMIT AND CERTIFICATION REQUIREMENTS.**

An application for a floodplain development permit shall be made to the Floodplain Administrator for all development activities located wholly within, partially within, or in contact with an identified special flood hazard area. Such application shall be made by the owner of the property or his/her authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction on a form furnished for that purpose. Such applications shall include, but not be limited to plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question, existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

(A) *Application stage.*

- (1) A description of the proposed development;
- (2) Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams;
- (3) A legal description of the property site;
- (4) For the reconstruction, rehabilitation, or improvement of an existing structure, or an addition to an existing building, a detailed quote and description of the total work to be completed including but not limited to interior work, exterior work, and labor as well as a certified valuation of the existing (pre-improved or pre-damaged) structure;
- (5) A site development plan showing existing and proposed development locations and existing and proposed land grades;
- (6) A letter from a licensed professional surveyor or engineer noting that an elevation reference benchmark has been established or confirmed for those projects requiring elevations to be met;

(7) Verification that connection to either a public sewer system or to an approved on-site septic system is available and approved by the respective regulatory agency for proposed structures to be equipped with a restroom, kitchen or other facilities requiring disposal of wastewater;

(8) Plans showing elevation of the top of the planned lowest floor (including basement) of all proposed structures in Zones A, AH, and AE. Elevation should be in NAVD 88;

(9) Plans showing elevation (in NAVD 88) to which any non-residential structure will be floodproofed;

(10) Plans showing location and specifications for flood openings for any proposed structure with enclosed areas below the flood protection grade;

(11) Plans showing materials to be used below the flood protection grade for any proposed structure are flood resistant;

(12) Plans showing how any proposed structure will be anchored to resist flotation or collapse;

(13) Plans showing how any electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities are designed and/or located. Elevation should be in NAVD 88;

(14) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering analysis is required and any watercourse changes shall be submitted to DNR for approval. Once DNR approval is obtained, a FEMA conditional letter of map revision must be obtained prior to construction. See § 151.27(B)(8) and § 151.29 for additional information; and

(15) Any additional information, as requested by the Floodplain Administrator, which may be necessary to determine the disposition of a proposed development or structure with respect to the requirements of this chapter.

(B) *Construction stage.* Upon establishment of the lowest floor of an elevated structure or structure constructed on fill, it shall be the duty of the applicant to submit to the Floodplain Administrator an elevation certificate for the building under construction. The Floodplain Administrator shall review the elevation certificate. Any deficiencies detected during the review shall be corrected by the applicant before work is allowed to continue. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

(C) *Finished construction.*

(1) Upon completion of construction of any structure requiring certification of elevation, an elevation certificate which depicts the "as-built" lowest floor elevation and other applicable elevation data is required to be submitted by the applicant to the Floodplain Administrator. The elevation certificate shall be prepared by or under the direct supervision of a registered land surveyor and certified by the same.

(2) Upon completion of construction of an elevated structure constructed on fill, a fill report is required to be submitted to the Floodplain Administrator to verify the required standards were met, including compaction.

(3) Upon completion of construction of a floodproofing measure, a floodproofing certificate is required to be submitted by the applicant to the Floodplain Administrator. The floodproofing certificate shall be prepared by or under the direct supervision of a registered professional engineer or architect and certified by same.

(Ord. 2010-8, passed 7-6-2010; Am. Ord. 2023-8, passed 8-8-2023)

**§ 151.27 FLOODPLAIN ADMINISTRATOR; DUTIES AND RESPONSIBILITIES.**

(A) The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this chapter. The administrator is further authorized to render interpretations of this chapter, which are consistent with its spirit and purpose.

(B) Duties and responsibilities of the Floodplain Administrator shall include, but are not limited to:

(1) Enforce the provisions of this chapter;

(2) Evaluate application for permits to develop in special flood hazard areas to assure that the permit requirements of this chapter have been satisfied;

(3) Interpret floodplain boundaries and provide flood hazard and flood protection elevation information;

(4) Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met or refuse to issue the same in the event of noncompliance;

(5) Advise permittee that additional federal, state and/or local permits may be required. If specific federal, state and/or local permits are known, require that copies of such permits be provided and maintained on file with the floodplain development permit;

(6) Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas identified by FEMA, must meet the development standards of these regulations;

(7) For applications to improve structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator shall:

- (a) Verify and document the market value of the pre-damaged or pre-improved structure;
  - (b) Compare the cost to perform the improvement; or the cost to repair a damaged building to its pre-damaged condition; or the combined costs of improvements and repair, if applicable, to the market value of the pre-damaged or pre-improved structure. The cost of all work must be included in the project costs, including work that might otherwise be considered routine maintenance. Items/activities that must be included in the cost shall be in keeping with guidance published by FEMA to ensure compliance with the NFIP and to avoid any conflict with future flood insurance claims of policyholders within the community;
  - (c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; the determination requires evaluation of previous permits issued for improvements and repairs as specified in the definition of substantial improvement for proposed work to repair damage caused by flood; and
  - (d) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the applicable general and specific standards in §§ 151.40 *et seq.* are required;
- (8) Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse and submit copies of such notifications to FEMA;
- (9) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to §§ 151.44, 151.46(A) and 151.47. Maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment);
- (10) Verify the upstream drainage area of any proposed development site near any watercourse not identified on a FEMA map to determine if division (B)(9) above is applicable;
- (11) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;
- (12) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with § 151.26;
- (13) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with § 151.26;
- (14) Make-on-site inspections of projects in accordance with § 151.28;
- (15) Coordinate with insurance adjusters prior to permitting any proposed work to bring any flood-damaged structure covered by a standard flood insurance policy into compliance (either a substantially damaged structure or a repetitive loss structure) to ensure eligibility for ICC funds;

(16) Ensure that an approved connection to a public sewer system or an approved on-site septic system is planned for any structures (residential or non-residential) to be equipped with a restroom, kitchen or other facilities requiring disposal of wastewater;

(17) Provide information, testimony, or other evidence as needed during variance hearings;

(18) Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with § 151.28;

(19) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and "as-built" elevation and floodproofing data for all buildings constructed subject to this chapter in accordance with § 151.28;

(20) Coordinate map maintenance activities and associated FEMA follow-up in accordance with § 151.29;

(21) Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community; and

(22) Request any additional information which may be necessary to determine the disposition of a proposed development or structure with respect to the requirements of this chapter. (Ord. 2010-8, passed 7-6-2010; Am. Ord. 2023-8, passed 8-8-2023)

#### **§ 151.28 ADMINISTRATIVE PROCEDURES.**

(A) *Inspections of work in progress.* As the work pursuant to a permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of this chapter and terms of the permit. In exercising this power, the Administrator has a right, upon presentation of proper credential, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.

(B) *Stop work orders.*

(1) Upon notice from the Floodplain Administrator, work on any building, structure or premises that is being done contrary to the provisions of this chapter shall immediately cease.

(2) Such notice shall be in writing and shall be given to the owner of the property, to his/her agent, or to the person doing the work, and shall state the conditions under which work may be resumed.

(C) *Revocation of permits.*

(1) The Floodplain Administrator may revoke a permit or approval issued under the provisions of this chapter in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

(2) The Floodplain Administrator may revoke a permit upon determination by the Floodplain Administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this chapter.

(D) *Floodplain management records.*

(1) Regardless of any limitation on the period required for retention of public records, records of actions associated with the administration of this chapter shall be kept on file and maintained under the direction of the Floodplain Administrator in perpetuity. These records include permit applications; plans; certifications; flood insurance rate maps; letter of map change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations required by this chapter; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this chapter.

(2) These records shall be available for public inspection at the Building and Planning Department, 158 West Franklin Street, Berne, Indiana.

(E) *Periodic inspection.* Once a project is completed, periodic inspections may be conducted by the Floodplain Administrator to ensure compliance. The Floodplain Administrator shall have a right, upon presentation of proper credential, to enter on any premises within the territorial jurisdiction of the Department at any reasonable hour for the purposes of inspection or other enforcement action. (Ord. 2023-8, passed 8-8-2023)

### **§ 151.29 MAP MAINTENANCE ACTIVITIES.**

To meet NFIP minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that the Town of Geneva's flood maps, studies and other data identified in § 151.04 accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

(A) *Requirement to submit new technical data.*

(1) For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes be submitted to FEMA within six months of the date such information becomes available. These development proposals include:

(a) Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;

(b) Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area; and

(c) Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and subdivision or large-scale development proposals requiring the establishment of base flood elevations.

(2) It is the responsibility of the applicant to have required technical data for a conditional letter of map revision or letter of map revision and submitted to FEMA. The Indiana Department of Natural Resources will review the submittals as part of a partnership with FEMA. The submittal should be mailed to the Indiana Department of Natural Resources at the address provided on the FEMA form (MT-2) or submitted through the online letter of map change website. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.

(3) The Floodplain Administrator shall require a conditional letter of map revision prior to the issuance of a floodplain development permit for proposed floodway encroachments that increase the base flood elevation.

(4) Floodplain development permits issued by the Floodplain Administrator shall be conditioned upon the applicant obtaining a letter of map revision from FEMA for any development proposal subject to this section.

(B) *Right to submit new technical data.* The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the President of the Common Council of the Town of Geneva, Indiana, and may be submitted to FEMA at any time.

(C) *Annexation/detachment.* Upon occurrence, the Floodplain Administrator shall notify FEMA in writing whenever the boundaries of the Town of Geneva, Indiana, have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the Adams County and Incorporated

Areas Flood Insurance Rate Map accurately represent the Town of Geneva's boundaries, the Floodplain Administrator shall include within such notification a copy of a map of the Town of Geneva suitable for reproduction, clearly showing the new corporate limits or the new area for which the town has assumed or relinquished floodplain management regulatory authority.

(Ord. 2023-8, passed 8-8-2023)

### ***FLOOD HAZARD REDUCTION***

#### **§ 151.40 GENERAL STANDARDS.**

In all areas of special flood hazard, the following provisions are required:

(A) All new construction, reconstruction or repairs made to a repetitive loss structure, and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure;

(B) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG;

(C) New construction and substantial improvements must incorporate methods and practices that minimize flood damage;

(D) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be located at/above the FPG for residential structures. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG for non-residential structures. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG;

(E) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

(F) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

(G) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(H) Any alteration, repair, reconstruction, or improvements to a structure that is in compliance with the provisions of this chapter shall meet the requirements of "new construction" as contained in this chapter;

(I) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of 50 lots or five acres.

(J) Where an existing or proposed structure or other development is affected by multiple flood zones, by multiple base flood elevations, or both, the development activity must comply with the provisions of this chapter applicable to the most restrictive flood zone and the highest base flood elevation affecting any part of the existing or proposed structure; or for other developments, affecting any part of the area of the development.

(K) Fill projects that do not involve a structure must be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than three feet horizontal to one foot vertical.  
(Ord. 2010-8, passed 7-6-2010; Am. Ord. 2023-8, passed 8-8-2023)

#### **§ 151.41 SPECIFIC STANDARDS.**

In all areas of special flood hazard where base flood elevation data or flood depths have been provided, as set forth in § 151.04, the following provisions are required:

(A) *Building protection requirement.* In addition to the general standards described in § 151.40, structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:

- (1) Construction or placement of a residential structure;
- (2) Construction or placement of a non-residential structure;
- (3) Addition or improvement made to an existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land). An addition and/or improvement project that is continuous in scope or time is considered as one project for permitting purposes;
- (4) Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred (the costs of any proposed additions or improvements beyond restoring the damaged structure to its before damaged condition must be included in the cost);
- (5) Installing a manufactured home on a new site or a new manufactured home on an existing site;

(6) Installing a travel trailer or recreational vehicle on a site for more than 180 days;

(7) Reconstruction or repairs made to a repetitive loss structure; and

(8) Addition or improvement made to any existing structure with a previous repair, addition or improvement constructed since the community's first floodplain ordinance.

(B) *Residential construction.*

(1) New construction or substantial improvement of any residential structures shall meet provisions described in this subchapter and applicable general standards described in § 151.40.

(2) In Zone A and Zone AE, new construction or substantial improvement of any residential structure shall have the lowest floor, including basement, at or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of division (B)(3). Should fill be used to elevate a structure, the standards of division (B)(4) must be met.

(3) Fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall meet the following requirements:

(a) Designed to preclude finished living space and designed to allow for the automatic entry and exit of floodwaters to equalize hydrostatic flood forces on exterior walls. Flood openings must be designed and installed in compliance with criteria set out in FEMA Technical Bulletin 1. Engineered flood openings must be designed and certified by a registered design professional (requires supporting engineering certification or make/model specific ICC-ES report), or meet the following criteria for non-engineered flood openings:

1. Provide a minimum of two openings on different sides of an enclosure. If there are multiple enclosed areas, each is required to meet the requirements for enclosures, including the requirement for flood openings in exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area);

2. The bottom of all openings shall be no more than one foot above the higher of the final interior grade (or floor) and the finished exterior grade immediately under each opening;

3. If the floor of the enclosure is below the BFE, the openings must be located wholly below the BFE;

4. If the floor of the enclosure is at or above the BFE, but below the FPG, the openings must be located wholly below the FPG;

5. Doors and windows do not qualify as openings; and

6. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(b) The floor of such enclosed area must be at or above grade on at least one side.

(4) A residential structure may be constructed on a fill in accordance with the following:

(a) Fill shall be placed in layers no greater than one foot deep before compacting to 95% of the maximum density obtainable with either the standard or modified proctor test method. The results of the test showing compliance shall be retained in the permit file;

(b) Fill shall extend ten feet beyond the foundation of the structure before sloping below the BFE;

(c) Fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than three feet horizontal to one foot vertical;

(d) Fill shall not adversely affect the flow of surface drainage from or onto neighboring properties; and

(e) Fill shall be composed of clean granular or earthen material.

(5) A residential structure may be constructed using a stem wall foundation (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill). Any backfilled stem wall foundation (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill) must be backfilled with compacted structural fill, concrete, or gravel that supports the floor slab. No flood openings are required for this type of construction.

(C) *Nonresidential construction.*

(1) New construction or substantial improvement of any non-residential structures (excludes accessory structures) shall meet provisions described in this subchapter and applicable general standards described in § 151.40.

(2) In Zone A and Zone AE, new construction, or substantial improvement of any commercial, industrial, or non-residential structure (excludes accessory structures) shall either have the lowest floor, including basement, elevated to or above the FPG or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of division (C)(3) below. Should fill be used to elevate a structure, the standards of division (C)(4) below must be met.

(3) Fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall meet the following requirement:

(a) Designed to preclude finished living space and designed to allow for the automatic entry and exit of floodwaters to equalize hydrostatic flood forces on exterior walls. Flood openings must be designed and installed in compliance with criteria set out in FEMA Technical Bulletin 1. Engineered flood openings must be designed and certified by a registered design professional (requires supporting engineering certification or make/model specific ICC-ES Report), or meet the following criteria for non-engineered flood openings:

1. Provide a minimum of two openings on different sides of an enclosure. If more than one enclosed area is present, each must have openings on exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area);
2. The bottom of all openings shall be no more than one foot above the higher of the final interior grade (or floor) and the finished exterior grade immediately under each opening;
3. If the floor of the enclosure is below the BFE, the openings must be located wholly below the BFE;
4. If the floor of the enclosure is at or above the BFE, but below the FPG, the openings must be located wholly below the FPG;
5. Doors and windows do not qualify as openings; and
6. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(b) The floor of such enclosed area must be at or above grade on at least one side.

(4) A nonresidential structure may be constructed on fill in accordance with the following:

(a) Shall be placed in layers no greater than one foot deep before compacting to 95% of the maximum density obtainable with either the standard or modified proctor test method. The results of the test showing compliance shall be retained in the permit file;

(b) Shall extend ten feet beyond the foundation of the structure before sloping below the BFE;

(c) Shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than three feet horizontal to one foot vertical;

(d) Shall not adversely affect the flow of surface drainage from or onto neighboring properties; and

(e) Shall be composed of clean granular or earthen material.

(5) A nonresidential structure may be floodproofed in accordance with the following:

(a) A registered professional engineer or architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the Floodplain Administrator.

(b) Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

(6) A nonresidential structure may be constructed using a stem wall foundation (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill). Any backfilled stem wall foundation must be backfilled with compacted structural fill, concrete, or gravel that supports the floor slab. No flood openings are required for this type of construction.

(D) *Manufactured homes and recreational vehicles.*

(1) These requirements apply to all manufactured homes to be placed on a site in the SFHA:

(a) The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement;

(b) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in division (B)(3) above; and

(c) Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

(2) Recreational vehicles placed on a site in the SFHA shall either:

(a) Be on site for less than 180 days and be fully licensed and ready for use on a public highway (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or

(b) Meet the requirements for manufactured homes as stated earlier in this section.

(E) *Accessory structures.* Within SFHAs, new construction or placement of an accessory structure must meet the following standards:

- (1) Shall have a floor area of 400 square feet or less;
- (2) Use shall be limited to parking of vehicles and limited storage;
- (3) Shall not be used for human habitation;
- (4) Shall be constructed of flood resistant materials;
- (5) Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters;
- (6) Shall be firmly anchored to prevent flotation;
- (7) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG;
- (8) Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in division (C)(3) above; and
- (9) Shall not have subsequent additions or improvements that would preclude the structure from its continued designation as an accessory structure.

(F) *Free-standing pavilions, gazebos, decks, carports, and similar development.* Within SFHAs, new construction or placement of free-standing pavilions, gazebos, decks, carports, and similar development must meet the following standards:

- (1) Shall have open sides (having not more than one rigid wall);
- (2) Shall be anchored to prevent flotation or lateral movement;
- (3) Shall be constructed of flood resistant materials below the FPG;
- (4) Any electrical, heating, plumbing and other service facilities shall be located at/above the FPG; and
- (5) Shall not have subsequent additions or improvements that would preclude the development from its continued designation as a free-standing pavilion, gazebo, carport, or similar open-sided development.

(G) *Above ground gas or liquid storage tanks.* Within SFHAs, all newly placed aboveground gas or liquid storage tanks shall meet the requirements for a non-residential structure as required in division (C) above.

(Ord. 2010-8, passed 7-6-2010; Am. Ord. 2023-8, passed 8-8-2023)

**§ 151.42 STANDARDS FOR SUBDIVISION PROPOSALS.**

(A) All subdivision proposals and all other proposed new development shall be consistent with the need to minimize flood damage.

(B) All subdivision proposals and all other proposed new development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(C) All subdivision proposals and all other proposed new development shall have adequate drainage provided to reduce exposure to flood hazards.

(D) In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and all other proposed new development (including manufactured home parks and subdivisions), which is greater than the lesser of 50 lots or five acres, whichever is less.

(E) All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA.

(F) All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).

(G) Streets, blocks lots, parks and other public grounds shall be located and laid out in such a manner as to preserve and utilize natural streams and channels. Wherever possible the floodplains shall be included within parks or other public grounds.

(Ord. 2010-8, passed 7-6-2010; Am. Ord. 2023-8, passed 8-8-2023)

**§ 151.43 CRITICAL FACILITY.**

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.

(Ord. 2010-8, passed 7-6-2010; Am. Ord. 2023-8, passed 8-8-2023)

**§ 151.44 STANDARDS FOR IDENTIFIED FLOODWAYS.**

Located within SFHAs, established in § 151.04, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. Under the provisions of the Flood Control Act (I.C. 14-28-1), a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing, and paving undertaken before the actual start of construction of the structure. General licenses and exemptions to the requirements of the Flood Control Act (I.C. 14-28-1 and 312 I.A.C. 10) may apply to qualified additions/improvements to existing lawful residential structures, rural bridges, logjam removals, wetland restoration, utility line crossings, outfall projects, creek rock removal, and prospecting.

(A) If the site is in a regulatory floodway as established in § 151.04, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for approval for construction in a floodway, provided the activity does not qualify for a general license or exemption (I.C. 14-28-1 or 312 I.A.C. 10).

(B) No action shall be taken by the Floodplain Administrator until approval has been granted by the Indiana Department of Natural Resources for construction in the floodway, or evidence provided by an applicant that the development meets specified criteria to qualify for a general license or exemption to the requirement of the Flood Control Act. The floodplain development permit shall meet the provisions contained in this subchapter.

(C) The floodplain development permit cannot be less restrictive than an approval issued for construction in a floodway issued by the Indiana Department of Natural Resources, or the specified criteria used to qualify for a general license or exemption to the Flood Control Act for a specific site/project. However, a community's more restrictive regulations (if any) shall take precedence.

(D) In floodway areas identified on the FIRM, development shall cause no increase in flood levels during the occurrence of the base flood discharge without first obtaining a conditional letter of map revision and meeting requirements of § 151.29. A conditional letter of map revision cannot be issued for development that would cause an increase in flood levels affecting a structure and such development should not be permitted.

(E) In floodway areas identified by the Indiana Department of Natural Resources through detailed or approximate studies but not yet identified on the effective FIRM as floodway areas, the total cumulative effect of the proposed development, when combined with all other existing and anticipated development, shall not adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse effect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.

(F) For all projects involving channel modifications or fill (including levees) the town shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44 CFR 65.12.

(Ord. 2010-8, passed 7-6-2010; Am. Ord. 2023-8, passed 8-8-2023)

**§ 151.45 STANDARDS FOR IDENTIFIED FRINGE.**

If the site is in the fringe (either identified on the FIRM or identified by the Indiana Department of Natural Resources through detailed or approximate studies and not identified on a FIRM), the Floodplain Administrator may issue the local floodplain development permit provided the provisions contained in this subchapter have been met.

(Ord. 2010-8, passed 7-6-2010; Am. Ord. 2023-8, passed 8-8-2023)

**§ 151.46 STANDARDS FOR SFHAS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS AND/OR FLOODWAYS/FRINGES.**

(A) Drainage area upstream of the site is greater than one square mile:

(1) If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.

(2) No action shall be taken by the Floodplain Administrator until written approval from the Indiana Department of Natural Resources (approval for construction in a floodway, letter of authorization, or evidence of general license qualification) or a floodplain analysis/regulatory assessment citing the 1% annual chance flood elevation and the recommended flood protection grade has been received from the Indiana Department of Natural Resources.

(3) Once the Floodplain Administrator has received the proper written approval, evidence of general license qualification, or floodplain analysis/regulatory assessment approving the proposed development from the Indiana Department of Natural Resources, a floodplain development permit may be issued, provided the conditions of the floodplain development permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in this section have been met.

(B) Drainage area upstream of the site is less than one square mile:

(1) If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and 1% annual chance flood elevation for the site.

(2) Upon receipt, the Floodplain Administrator may issue the local floodplain development permit, provided the provisions contained in this subchapter have been met.  
(Ord. 2010-8, passed 7-6-2010; Am. Ord. 2023-8, passed 8-8-2023)

### **§ 151.47 STANDARDS FOR SFHAS NOT IDENTIFIED ON A MAP.**

(A) If a proposed development site is near a waterway with no SFHA identified on a map, the Floodplain Administrator shall verify the drainage area upstream of the site. If the drainage area upstream of the site is verified as being greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.

(B) No action shall be taken by the Floodplain Administrator until written approval from the Indiana Department of Natural Resources (approval for construction in a floodway, letter of authorization, or evidence of general license qualification) or a floodplain analysis/regulatory assessment citing the 1% annual chance flood elevation and the recommended flood protection grade has been received from the Indiana Department of Natural Resources.

(C) Once the Floodplain Administrator has received the proper written approval, evidence of general license qualification, or floodplain analysis/regulatory assessment approving the proposed development from the Indiana Department of Natural Resources, a floodplain development permit may be issued, provided the conditions of the floodplain development permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in this subchapter have been met.

(Ord. 2010-8, passed 7-6-2010; Am. Ord. 2023-8, passed 8-8-2023)

### ***VARIANCE PROCEDURES***

### **§ 151.60 VARIANCE AND APPEALS BOARD DESIGNATED.**

The Board of Zoning Appeals (the Board) as established by Common Council of the Town of Geneva, Indiana, shall hear and decide appeals and requests for variances from requirements of this chapter.

(Ord. 2010-8, passed 7-6-2010; Am. Ord. 2023-8, passed 8-8-2023)

**§ 151.61 DUTIES OF BOARD.**

The Board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this chapter. Any person aggrieved by the decision of the Board may appeal such decision to the Adams County Circuit Court.

(Ord. 2010-8, passed 7-6-2010; Am. Ord. 2023-8, passed 8-8-2023)

**§ 151.62 VARIANCE PROCEDURES.**

(A) In considering such applications, the Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

- (1) The danger to life and property due to flooding or erosion damage;
- (2) The danger that materials may be swept onto other lands to the injury of others;
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity to the facility of a waterfront location, where applicable;
- (6) The compatibility of the proposed use with existing and anticipated development;
- (7) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (8) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (9) The expected height, velocity, duration, rate of rise, and sediment transport of the floodwaters at the site; and
- (10) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(B) A written report addressing each of the above factors shall be submitted with the application for a variance.

(Ord. 2010-8, passed 7-6-2010; Am. Ord. 2023-8, passed 8-8-2023)

**§ 151.63 CONDITIONS FOR VARIANCES.**

(A) Variances from the provisions of this chapter shall only be granted when the Board can make positive findings of fact based on evidence submitted at the hearing for the following:

(1) A showing of good and sufficient cause;

(2) A determination that failure to grant the variance would result in exceptional hardship as defined in § 151.02; and

(3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

(B) No variance for a residential use within a floodway subject §§ 151.44, 151.46(A) or 151.47 may be granted.

(C) Any variance granted in a floodway subject to §§ 151.44, 151.46(A) or 151.47 will require a permit from the Indiana Department of Natural Resources. Variances shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

(D) Variances to the provisions for flood hazard reduction of §§ 151.40 *et seq.* may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.

(E) Variances may be issued for new construction, substantial improvements, and other development necessary for the conduct of a functionally dependent use.

(F) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.  
(Ord. 2010-8, passed 7-6-2010; Am. Ord. 2023-8, passed 8-8-2023)

**§ 151.64 VARIANCE NOTIFICATION.**

(A) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the flood protection grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(B) The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request.

(Ord. 2010-8, passed 7-6-2010; Am. Ord. 2023-8, passed 8-8-2023)

**§ 151.65 HISTORIC STRUCTURES.**

Variances may be issued for the repair or rehabilitation of "historic structures" upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a "historic structure" and the variance is the minimum to preserve the historic character and design of the structure.

(Ord. 2010-8, passed 7-6-2010; Am. Ord. 2023-8, passed 8-8-2023)

**§ 151.66 SPECIAL CONDITIONS.**

Upon consideration of the factors listed above and the purposes of this chapter, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(Ord. 2010-8, passed 7-6-2010; Am. Ord. 2023-8, passed 8-8-2023)

**§ 151.99 PENALTY.**

(A) All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for the Town of Geneva. All violations shall be punishable by a fine of \$100 minimum, not exceeding \$500.

(B) A separate offense shall be deemed to occur for each day the violation continues to exist.

(C) The Town of Geneva Planning Commission shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a standard flood insurance policy to be suspended.

(D) Nothing herein shall prevent the town from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

(Ord. 2010-8, passed 7-6-2010; Am. Ord. 2023-8, passed 8-8-2023)



## CHAPTER 152: SUBDIVISION CONTROL

### Section

#### *General Provisions*

- 152.001 Short title
- 152.002 Application
- 152.003 Rules of construction
- 152.004 Definitions
- 152.005 Sale of land
- 152.006 Installation of improvements
- 152.007 Detailed plan submission
- 152.008 Provisions to be minimum requirements
- 152.009 Administration; Plan Commission
- 152.010 Procedural guidelines adopted by reference

#### *Procedures*

- 152.020 Preliminary considerations
- 152.021 Filing of primary plats
- 152.022 Primary plat requirements
- 152.023 Approval of secondary plats
- 152.024 Secondary plat requirements
- 152.025 Improvement plans and specifications
- 152.026 Performance guarantee
- 152.027 Approval of minor plats
- 152.028 Minor plat requirements
- 152.029 Improvement plans and specifications

#### *Minimum Design and Development Standards*

- 152.040 General
- 152.041 Streets
- 152.042 Blocks

- 152.043 Lots
- 152.044 Easements
- 152.045 Public use areas
- 152.046 Topography, natural vegetation and flooding

*Improvements*

- 152.060 General
- 152.061 Streets
- 152.062 Curbs and gutters
- 152.063 Sidewalks
- 152.064 Sewage disposal
- 152.065 Water supply
- 152.066 Landscape development
- 152.067 Monuments and markers
- 152.068 Privately developed facilities
- 152.069 Storm drainage
- 152.070 Public utilities
- 152.071 Street lighting
- 152.072 Street signs
- 152.073 Cluster development
- 152.074 Planned unit development; community unit projects; apartment complexes

*Acceptance of Subdivision Improvements*

- 152.090 Inspections
- 152.091 Completed construction notification
- 152.092 Recommendation for acceptance
- 152.093 Written notification

*Records of Plats and Enforcements*

- 152.110 Term
- 152.111 Pre-recording approval
- 152.112 Enforcement
  
- 152.998 Violations

**GENERAL PROVISIONS**

**§ 152.001 SHORT TITLE.**

This chapter shall be known and may be cited as the “Subdivision Control Ordinance of the Town of Geneva, Adams County, Indiana.”  
(1997 Code, § 36.1) (Ord. 1983-3B, passed - -)

**§ 152.002 APPLICATION.**

Except as otherwise provided in this chapter, no persons shall subdivide any parcel of land which is located within the territorial jurisdiction of the town, unless it be in conformity with the provisions of this chapter.  
(1997 Code, § 36.2) (Ord. 1983-3B, passed - -)

**§ 152.003 RULES OF CONSTRUCTION.**

In this chapter words used in the present tense include the future, the singular includes the plural and the singular. The word **SHALL** is mandatory and not optional. Unless otherwise specified, all distances shall be measured horizontally, in any direction.  
(1997 Code, § 36.3) (Ord. 1983-3B, passed - -)

**§ 152.004 DEFINITIONS.**

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

**ADMINISTRATOR, ZONING.** The officer designated and authorized by the Board of Trustees of the town to enforce the zoning requirements.

**ALLEY.** A permanent public service-way or right-of-way, dedicated to public use, other than a street, place, road, crosswalk, or easement, designated to provide a secondary means of access for the special accommodation of abutting property.

**BLOCK.** A unit of property entirely surrounded by the public highways, streets, railroad right-of-ways, tracts boundary line, or other barriers, or combination thereof.

**BOARD.** The Board of Trustees of the Town of Geneva, State of Indiana.

**BUILDING SETBACK LINE** or **BUILDING LINE**. The line nearest the front or side over and across a lot establishing the minimum yard to be provided between the principle building or structure and the lot line.

**CLERK-TREASURER**. The Clerk-Treasurer of the town.

**COMMISSION**. The Plan Commission of the town.

**CROSSWALK**. A strip of land dedicated to public use, which is reserved through a block to provide pedestrian access to adjacent areas.

**CUL-DE-SAC**. (Court) A short street having one end open to traffic and being permanently terminated by a vehicle turnaround.

**DEAD-END STREET**. A street having one of its ends closed with no provision for a vehicle turnaround.

**DESIGNATED OFFICIAL**. The person or persons designated by the Board of Trustees and the Town Plan Commission to certify primary approval and sign the plat certifying secondary approval. (President, Vice-President or Executive Secretary (Director) of the Town Plan Commission).

**DRAINAGE RIGHT-OF-WAY**. The lands required for the installation of storm water sewers or drainage ditches or required along a natural stream or water course for preserving the channel and providing for the flow of water therein.

**EASEMENT**. A grant by the property owner of the use of a strip of land by the public or a person for specified purposes.

**JURISDICTION**. All of the town, within its corporate limits. A drawing representing its external limits is on file in the office of the Recorder of Adams County, Indiana.

**LOT**. A parcel of land of specific form and dimension, defined by a metes and bounds description or by boundary lines in a recorded deed or situated within a legally recorded plat and designated by number or letter, for convenience and accuracy, in legal conveyance of the title thereto.

**LOT, CORNER**. A lot abutting 2 or more streets at their intersection, where the interior angle or intersection does not exceed 135 degrees.

**LOT, FRONT**. That part of a lot adjacent to and parallel with the street. The front of a corner lot shall be determined, at the time of application for the improvement location permit, by either the owner,

builder, developer or their agent and the Zoning Administrator. Once the front is determined, the structure shall then be erected in conformity with the Zoning Code and this chapter.

**LOT, INTERIOR.** Any lot other than a corner lot, including a through lot.

**LOT, THROUGH.** A lot having frontage on 2 parallel or approximately parallel streets.

**LOT WIDTH.** The lineal measurement of the building setback line on the affected lot.

**MAINTENANCE GUARANTEE.** Any security which may be accepted that guarantees certain improvements constructed under conditions set forth by the Board shall at the time they are accepted for public maintenance be in such condition as to require no additional work beyond normal upkeep.

**MASTER PLAN.** The complete plan, or any of its parts, serving as a guide for the development of the town, prepared by the Commission and adopted by the Board, in accordance with the authority conferred by Chapter 174 of the Acts of 1947 of the General Assembly of the State of Indiana and Acts amendatory thereto, as is now or may hereafter be in effect.

**PERFORMANCE GUARANTEE.** Any security which may be accepted in lieu of a requirement that certain improvements be made before the Board approval becomes effective; the security shall be filed with the Clerk-Treasurer prior to the release of the drawings of a secondary plat, including performance bonds, escrow agreements and other similar collateral or surety agreements.

**PLACE.** An open, unoccupied, officially designated space other than a street or alley, permanently reserved as the principal means of access to abutting property.

**PLAT.** The map or drawings of all or a portion of a parcel of land which is being or is proposed to be subdivided for the purpose, whether immediate or future, of transfer of ownership subsequent to the adoption of this chapter.

**PLAT, PRIMARY.** The drawings, maps, and documents described in Article V, Section 3, indicating the proposed layout of the subdivision which is submitted to the Board for consideration and tentative approval.

**PLAT, SECONDARY.** The final map or drawings of all or a portion of the subdivision which is presented to the Board for secondary approval in accordance with this chapter and which, if approved, shall be filed with the County Recorder for the purpose of recordation and taxation prior to the transfer of ownership of any parcel, tract, or lot as approved.

**PLAT OFFICER.** The individual designated by the Board of Trustees who shall be responsible for the proper management of subdivision plat submissions and amendments thereto as outlined in this chapter.

**ROAD SETBACK LINE.** The line established by a town street and road setback resolution in conjunction with the county road setback resolution along certain designated public roads.

**SKETCH PLAN.** A free hand pencil drawing showing, with reasonable accuracy, the proposed locations of streets and lots within the proposed subdivision.

**STREET.** A right-of-way, other than an alley, dedicated or otherwise legally established to the public use, usually affording the principal means of access to abutting property. A **STREET** may be designated as a highway, thoroughfare, parkway, boulevard, road, avenue, lane, drive, or other appropriate name.

**LOCAL (RESIDENTIAL) STREETS.** The sole function of these streets is to provide access to the immediately adjacent property. Local access streets are intended to carry low volumes of traffic.

**MARGINAL ACCESS STREET.** A street designated to connect not more than 2 streets, and which normally parallels an arterial thoroughfare, or a primary or secondary street by a lot or a tier of lots, and which is specifically so designated and approved as such on the plat of the subdivision.

**SUBDIVIDER (DEVELOPER).** Any person or his agent engaged in developing or improving a tract of land which complies with the definition of a subdivision as defined in this chapter.

**SUBDIVISION.** The division of any parcel of land, after the enactment of this chapter, shown as a unit, as part of a unit, or as contiguous units on the last preceding transfer of ownership thereof, into 3 or more parcels, or lots, for the purpose, whether immediate or future, of transfer of ownership, or the improvement of 1 or more of the lots or parcels of land for residential, commercial, or industrial structures or groups of structures. All divisions of land meeting the above described definition of a subdivision shall have after the enactment of this chapter, a plat recorded in the office of the Clerk-Treasurer of the town, as well as in the office of the County Recorder, said plat shall comply with all provisions of this chapter and any amendments thereto. Where no new streets or roads are involved, divisions of land for agricultural purposes, divisions of property by testamentary or intestate provisions, or divisions of property upon court order shall not be considered subdivisions.

**SUBDIVISION, MINOR.** The division of any parcel of land, after the enactment of this chapter, shown as a unit, as part of a unit, or as contiguous units on the last preceding transfer of ownership thereof into not more than 3 parcels, or lots for purpose, whether immediate or future, of transfer of ownership, all of which have frontage on an existing improved street and any one of which contains not less than 1/2 acre in area and not involving the extension of municipal facilities and not in direct conflict with any provisions or portions of the Master Plan, Zoning Code, or this chapter. If more than 2 lots are proposed in a minor plat, the hearing and notification procedure shall be the same as for regular plat

approval. A minor plat of less than 3 lots may be subject to a regular plat hearing process if the staff determines unusual circumstances or conditions are present to warrant.

**YARD.** A space on the same lot with a building, which is open, unoccupied, and unobstructed by structures.

**ZONING CODE.** The part of the Master Plan, now or hereafter adopted by the town, which includes an ordinance and map which divides the area within the county into districts, with regulations and requirements and procedures for the establishment of land use controls. (1997 Code, Ch. 36 (part)) (Ord. 1983-3B, passed - -)

**§ 152.005 SALE OF LAND.**

No lot, tract, or parcel of land within the jurisdiction of the town shall be offered for sale, nor shall any sale, contract for sale, or option be given until the subdivision plans have been properly reviewed and officially approved by the Plan Commission of the town and the Board of Trustees of the town. (1997 Code, § 36.4) (Ord. 1983-3B, passed - -)

**§ 152.006 INSTALLATION OF IMPROVEMENTS.**

No improvements, such as sidewalks, water supply, storm water drainage, sewage facilities, gas service, electric service or lighting, or grading, paving or surfacing of any street, shall be made within any subdivision platted after the effective date of this chapter by any owner or owners or his or their agent, or by any public service corporation at the request of the owner or owners or by his or their agent until the plat for the subdivision and also the plans for the improvements have been properly reviewed and officially approved by the Plan Commission of the town, the Board of Trustees of the town and any other body having jurisdiction. (1997 Code, § 36.5) (Ord. 1983-3B, passed - -)

**§ 152.007 DETAILED PLAN SUBMISSION.**

Where a tract of land is proposed to be subdivided in several stages over a period of years, and the subdivider intends to request approval in parts, he shall, at the time of submission of the first part, submit a detailed plan of the entire tract to be eventually developed, with appropriate sectioning to demonstrate to the Plan Commission of the town and the Board of Trustees of the town that the total design as proposed for the entire subdivision is feasible. The Plan Commission and Board of Trustees may give primary approval to the overall plan and secondary approval of the parts as they are submitted. (1997 Code, § 36.6) (Ord. 1983-3B, passed - -)

**§ 152.008 PROVISIONS TO BE MINIMUM REQUIREMENTS.**

The provisions of this chapter shall be held to be the minimum requirements necessary in the subdivision of land in the town.

(1997 Code, § 36.7) (Ord. 1983-3B, passed - -)

**§ 152.009 ADMINISTRATION; PLAN COMMISSION.**

The Plan Commission of the town shall review the tentative plans, primary plats, and the secondary plat and exercise the responsibilities provided in this chapter. There is created the office of Plat Officer. The Plat Officer shall administer the provisions of this chapter and in addition thereto and in furtherance of the authority, he shall:

(A) Maintain permanent and current records of this chapter, including amendments hereto;

(B) Receive and file all sketch plans, primary plats, minor plats, and secondary plats (together with applications);

(C) Forward copies of the primary plat, the minor plat, and the secondary plat to other appropriate agencies for their recommendations and reports;

(D) Assimilate all comments, recommendations and reviews from the applicable county and town officials and make a recommendation for action to the Plan Commission on every subdivision plan or plat which the Commission is to consider. The recommendations will either be for approval, disapproval or deferral. Reasons for the recommendation shall be clearly stated;

(E) Receive and file copies of all secondary plats and check their compliance with the primary plat;

(F) Receive “as built” plans, as outlined in § 152.025 and forward prints of the plans to the proper governmental departments;

(G) Inspect and make recommendations concerning approval of streets and improvements, in accordance with the provisions of this chapter.

(1997 Code, § 36.8) (Ord. 1983-3B, passed - -)

**§ 152.010 PROCEDURAL GUIDELINES ADOPTED BY REFERENCE.**

The procedural guidelines appended to Ord. 1983-3B, and all amendments thereto, are adopted by reference as though set forth herein in full.

***PROCEDURES*****§ 152.020 PRELIMINARY CONSIDERATIONS.**

In order to make the most of opportunities related to the subdivision and to conserve time, effort and expense, the owner or subdivider shall submit to the Board at an informal conference sketch plans of the proposed subdivision. Requirements for major and minor streets; school and recreation sites; community facilities; shopping centers; sanitation; water supply and drainage; and the relationship to other developments, existing and proposed, in the vicinity shall be determined in advance of the preparation of the primary plat. No land shall be subdivided for residential use unless adequate access to the land over improved streets or thoroughfares exists or will be provided by the subdivider or if such land is considered by the Commission to be unsuitable for such use by reason of flooding or improper drainage. In no case shall approval be given without review relative to the effects such a development may have on existing surface water drainage problems. Subdivision developments must be designed and all buildings constructed to minimize potential surface water damages and all streets, sewer and water lines designed to minimize or eliminate damages caused by presence of excessive surface water. However, this chapter does not create any liability on the part of the town, its officials or the Plan Commission for any damages that might result from reliance on this chapter or any administrative act lawfully made thereunder.

(1997 Code, § 36.9) (Ord. 1983-3B, passed - -)

**§ 152.021 FILING OF PRIMARY PLATS.**

A subdivider desiring approval of a plat of a subdivision shall submit a written application thereto to the Commission, such application shall be accompanied by the information, requirement and plans set forth in § 152.022, all in accordance with the requirements set forth in this chapter.

(A) Two copies of the complete application for subdivision approval form shall be submitted to the Town Clerk-Treasurer no later than 10 days prior to the meeting of the Plan Commission at which consideration is desired.

(B) If the primary plat is approved by the Commission, the applicant shall be authorized to proceed with the preparation of the secondary plat. The Commission shall return to the subdivider a copy of the primary plat and a letter of approval or disapproval of the primary plat not later than 10 days following the date of the hearing giving reasons and specifying aspects of conformance or nonconformance with existing ordinances.

(C) Primary approval shall confer upon the applicant the following rights for a 1 year period from the date of approval, provided that:

(1) The general terms and conditions under which the primary approval was granted shall not be changed;

(2) The applicant shall submit on or before the expiration of the 1 year period the whole or part or parts of the plat for secondary approval. In the case of a subdivision being developed in stages, the applicant may elect to have final approval delayed for a period not to exceed 3 years from the date of secondary approval for the remaining portions of the plat, after submission of the original part within the above specified period. In the event the subdivider fails to submit within the prescribed time a secondary plat, of all or part of the area included in the primary plat, then the approval given the primary plat or the remaining portion of the primary plat shall lapse and be considered null and void. (1997 Code, § 36.10) (Ord. 1983-3B, passed - -)

### § 152.022 PRIMARY PLAT REQUIREMENTS.

A primary plat shall be provided by the subdivider and consist of the following.

(A) *Soil survey map.* (Information shall be obtained from or be prepared by the United States Department of Agriculture Soil Conservation Service) showing: identification of all soil types located within the boundaries of the plat along with descriptions of soil characteristics as named in the nation-wide classification system.

(B) *Location map.* (Which may be prepared by indicating the following data on available maps) showing:

(1) Boundary line of the proposed subdivision indicated by a solid heavy line and the total approximate acreage involved;

(2) Subdivision name and location, specifying U.S. survey and township lines, city, county and state;

(3) Any and all thoroughfares related to the subdivision;

(4) Title, scale, north arrow, and date.

(C) *Primary plat.* Showing:

(1) Name of subdivision and location;

(2) Names and addresses of the owner, subdivider and the registered land surveyor who prepared the plat;

(3) Streets and rights-of-way on and adjoining the site of the proposed subdivision; showing the names and including roadway widths; approximate gradients; types and widths of pavement, curbs, sidewalks, cross-walks, planting strips, and other pertinent information;

(4) All lot lines adjacent to and abutting the subdivision, showing the subdivision or the developer's name or some other means of identification;

(5) Layout of lots, showing approximate dimensions and numbers;

(6) Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes, including proposed easements;

(7) Building setback or front yard lines and dimensions;

(8) Location and size of nearest water main, sewer outlet, and other pertinent utilities, if applicable;

(9) Location, type and minimum size of utilities, if any, to be installed;

(10) In instances where the subdivider plans to construct a common sewage treatment facility or a common water supply system, or both, the subdivider shall submit evidence to the Commission that the primary plans have been submitted to the Indiana State Board of Health for their action;

(11) If the developer intends to install the improvements prior to the approval of the secondary plat or any portion of this primary plat, he shall submit the improvement plans and specifications as specified in Section 6 of this Article V along with the primary plat;

(12) Tract boundary lines showing dimensions, bearings, angles, and references to known land lines;

(13) Contours at vertical intervals of not more than 5 feet where the slope is greater than 10% and not more than 2 feet where the slope is less than 10%. Elevations shall be marked on the contours based on the datum plain approved by the Plat Officer or on sea level datum;

(14) Location of existing structures within and immediately adjacent to the plat;

(15) Two copies of the preliminary outline of the deed restrictions and covenants that would be placed upon the subdivision;

(16) Landscaping plans and proposed limits on the location and intensity of signs, advertising, and off-street parking should be included in the case of a proposed subdivision for industrial or commercial use;

(17) Scale\*, north arrow and date. \*The primary plat of the subdivision shall be drawn to a scale of 50 feet to 1 inch, or 100 feet to 1 inch; provided, however, that if the resulting drawing would be over 36 inches in the shortest dimension, a scale as recommended by the Commission may be used. (1997 Code, § 36.11) (Ord. 1983-3B, passed - -)

**§ 152.023 APPROVAL OF SECONDARY PLATS.**

(A) The secondary plat shall be submitted to the Town Plan Commission for final approval no later than 14 days prior to the Commission meeting at which final consideration is desired. The submission shall include the plans and specifications for the required improvements as set forth in I.C. 36-7-4. All documents shall bear the approving signature of the Commission and Board of Trustees.

(B) In instances where the subdivider proposes to construct a common sewage treatment facility or a common water supply system, or both, the Board shall not give secondary plat approval until:

(1) The State Board of Health and the State Stream Pollution Control Board give approval to the final engineering and construction plans for the facility;

(2) The Public Service Commission, in the instance where a common sewage treatment facility is to be constructed, has granted the subdivider or the appropriate corporation a certificate of territorial jurisdiction. Furthermore, where the subdivider proposes to construct a common sewage treatment facility and/or a common water supply system, the Board, upon receipt of the construction plans as required in division (A) of this section, shall immediately deliver 1 copy of each of these plans to the County Health Officer.

(C) In the event a secondary plat is denied because of the interpretation of data supplied by the United States Department of Agriculture Soil Conservation Service or because of the recommendation of the Indiana Department of Natural Resources, the subdivider may request in writing another hearing at which he shall provide additional evidence attesting to the adequacy of the plat, the hearing shall be scheduled no later than 62 days after the hearing at which the original secondary plat was denied. Part of the additional evidence shall be in the form of a certification from a professional civil engineer registered in the state, obtained at the subdivider's expense, stating in effect that he, the engineer, has performed the tests and/or surveys, in the presence of a representative of, or in a manner meeting the approval of the body whose recommendations caused disapproval, necessary to determine that in the engineer's opinion the area in question will provide adequate public health, safety, convenience, and general welfare of present or future owners of any lots, parcels or tracts of the subdivision, providing that all improvements are installed according to the drawings submitted with the original secondary plat.

(D) The approval of the secondary plat improvements designed by the Town Plan Commission shall be indicated on the original tracing of the plat, to be filed for record, by the affixing of the signatures of the members of the Plan Commission; in the event of disapproval, the Plan Commission shall set out and attach to a copy of the plat the reasons for and specify the aspects of nonconformance with existing ordinances and notify the subdivider of the same.

(E) The approved secondary plat shall be held by the Clerk-Treasurer until such time as the subdivider has:

(1) Posted the performance guarantee as set forth in § 152.026; or

(2) Presented to the Town Clerk-Treasurer a statement signed by a registered engineer, stating that all utilities, facilities and improvements have been installed in accordance with all requirements and provisions of this chapter; or

(3) (a) Presented to the Town Clerk-Treasurer proof of the execution of contracts with contractors, acceptable to Town Plan Commission, providing for the construction and completion of the improvements, as prescribed by this chapter or any other municipal, state or federal ordinances, within a reasonable time from date thereof; the completion date shall be specified on the contracts.

(b) Upon the compliance of the above requirements, the Town Clerk-Treasurer shall release to the subdivider or his agent the approved secondary plat.  
(1997 Code, § 36.12) (Ord. 1983-3B, passed - -)

**§ 152.024 SECONDARY PLAT REQUIREMENTS.**

The secondary plat shall be provided by the subdivider and shall meet the following specifications.

(A) The secondary plat may include all or only a part of the primary plat which has received approval. (Any portion of the primary plat to be recorded shall be filed as a secondary plat not later than 1 year after approval of the primary plat, otherwise the approval shall be void).

(B) The original drawing of the secondary plat shall be drawn on tracing media with water-proof black drawing ink to a scale of 50 feet to 1 inch, or 100 feet to 1 inch, provided that, if the resulting drawing would be greater than 36 inches in the shortest dimension, a scale of 200 feet to 1 inch may be used. Four black or blue line prints shall be submitted with the original secondary plat; or, in order to conform to modern drafting and reproduction methods, 4 black or blue line prints and a reproducible cloth or film positive of the secondary plat shall be submitted. Prints filed in the permanent records of the Commission shall include 1 print made after recording of the secondary plat and bearing the official stamp attesting the fact of the recording and a reproducible transparent film positive print of the secondary plat, as approved.

(C) All elevations shall be referenced to the established datum and the reference shall be clearly stated on any plans or drawings showing the datum, providing bench marks are located within a reasonable distance.

(D) All dimensions shall be shown in feet and decimals of a foot.

(E) The following basic information shall be shown; all surveys for a secondary plat shall be made under the active and personal direction of a land surveyor registered in the state:

**Geneva - Land Usage**

- (1) Accurate boundary lines, with dimensions and bearings or angles, which provide a survey of the tract, closing with an error or closure of not more than 1 foot in 5,000 lineal feet of a boundary distance, 1 copy of the traverse calculations determining the closure shall be submitted with the secondary plat. Coordinates shall be established for all property corners;
- (2) Accurate distances and directions to the nearest established street corner or official monuments. Reference corners shall be accurately described on the secondary plat;
- (3) Accurate locations of all existing and recorded streets intersecting the boundaries of the tract, shown by heavy solid lines;
- (4) Accurate metes and bounds descriptions of the boundary and the included area to the nearest 1/100 of an acre;
- (5) Right-of-way line of streets, easements, and other rights-of-way and property lines of lots and other tracts with accurate dimensions, bearings and curve data, including radii, arcs and chords, points of curvature and tangency and central angles;
- (6) Name and right-of-way width for each street or other right-of-way;
- (7) Location, dimensions, and purposes of any easement, shown by light, dashed lines;
- (8) Number to identify each lot or site;
- (9) Purpose for which sites, other than residential lots, are dedicated or reserved;
- (10) Building setback or front yard lines showing all dimensions;
- (11) Floor elevation and sitting of each proposed building when in danger of inundation, subject to approval on recommendation of Indiana Department of Natural Resources;
- (12) Location, type, material, and sizes of all monuments and lot markers, including elevation related to mean sea level as established by the United States Geological Survey;
- (13) Names of owners and mortgagees accepting the plat, with record owner or owners personally signing the plat and all plans or drawings providing for the installation of the improvements;
- (14) Reference to the recorded subdivision plats of adjoining platted land by record name, date and number, shown by medium dashed lines;
- (15) Restrictions of all types which will run with the land and become covenants in the deed for lots;

(16) Title, north arrow, scale, and date;

(17) Certification by a land surveyor with registration numbers and seal affixed to all documents of the secondary plat;

(18) Certification by a land surveyor stating that all lots conform to the requirements of this chapter;

(19) Certificate of dedication of all public streets and areas;

(20) Certificate for secondary approval by the Plan Commission;

(21) Certificate for approval by the Adams County Board of Health;

(22) Such other data as the Commission or Board may by rule require.  
(1997 Code, § 36.13) (Ord. 1983-3B, passed - -)

**§ 152.025 IMPROVEMENT PLANS AND SPECIFICATIONS.**

The secondary plat submission to the Commission shall be accompanied by the plans and specifications for the improvements required under I.C. 36-7-4. The plans and profiles of all streets, storm and sanitary sewers, water lines, and drainage structures, together with their drainage area, shall be prepared on standard plan and profile sheets and shall bear the seal and signature of the registered professional engineer and/or registered land surveyor responsible for their preparation. A cross section of the proposed streets shall be included showing the widths of roadways, location and width of sidewalks, and the location of underground utilities. The plans shall show the lines of all proposed sidewalks and the location of all proposed street lights. The plans, cross sections and specifications for the proposed improvements shall be submitted to and approved by the County Surveyor, and/ or appointed officials, prior to submission to the Commission and the secondary plat. Four black or blue line prints of the approved documents shall be included with the secondary submission. After the completion of the construction of the improvements, a set of reproducible prints showing the “as built” details and changes, if any, shall be filed with the Plat Officer, or appointed official.  
(1997 Code, § 36.14) (Ord. 1983-3B, passed - -)

**§ 152.026 PERFORMANCE GUARANTEE.**

A performance guarantee shall be required from the subdivider in the amount of the estimate approved by the Commission or Board or appointed official for the cost of the proposed improvements. The performance guarantee shall run to the Commission or Board and be with good and sufficient surety satisfactory to the Commission or Board and as approved by the Town Attorney, conditioned upon the

installation of the required improvements within 2 years after the actual bond or other security shall not be required until after the secondary plat approval, provided that sufficient information concerning the form of guarantee to be used shall be submitted with the secondary plat documents to provide ample surety to permit the approval of the Commission and the Board. A certificate indicating that the Board has received the performance bond shall be forwarded to the Plan Commission for their record. In no case shall a certificate of occupancy be issued if the required streets and utilities are not in place to serve the affected lot.

(1997 Code, § 36.15) (Ord. 1983-3B, passed - -)

### **§ 152.027 APPROVAL OF MINOR PLATS.**

(A) The plat of a minor subdivision shall be submitted to the Plan Commission for approval no later than 14 days prior to the Commission meeting at which secondary consideration is desired. The submission shall be in conformity with all applicable sections of this chapter, excluding §§ 152.001 through 152.009, all documents shall bear the approving signature of the County Surveyor, or appointed officials.

(B) The minor plat shall conform to the requirements set forth in § 152.023(A), (B), (C), (E) and (F). The word secondary in § 152.023 shall be construed to mean minor so as to conform with this section.

(C) In instances where the subdivider proposes to construct a common sewage treatment facility or a common water supply system, or both, the Plan Commission shall not give minor plat approval until:

(1) The State Board of Health and the State Stream Pollution Control Board give approval to the final engineering and construction plans for the facility;

(2) The Public Service Commission, in the instance where a common sewage treatment facility is to be constructed, has granted the subdivider or the appropriate corporation a certificate of territorial jurisdiction. Furthermore, where the subdivider proposes to construct a common water supply system, the Plat Officer, upon receipt of the construction plans as required in this section or this chapter, shall immediately deliver 1 copy of each of these plans to the County Health Officer.

(D) In the event the subdivider is required, because of existing conditions, to install or cause to be installed common utilities, other than public, he shall then comply with the applicable requirements set forth in § 152.023. The County Auditor shall comply with § 152.023 unless common utilities are not required; in that event he shall release on demand by the subdivider or his agent the approved minor plat.

(E) The subdivision of land that does not involve the opening of a new public way and that complies in all other respects with this chapter and the Zoning Code may be granted primary approval by the plat

committee without public notice and hearing, subject to appeal to the Plan Commission. Within 10 days after primary approval under this subsection, the Plan Commission staff shall provide for due notice to interested parties of their right to appeal under I.C. 36-7-4-708. The notice shall be given in accordance with I.C. 36-7-4-706.

(1997 Code, § 36.16) (Ord. 1983-3B, passed - -)

**§ 152.028 MINOR PLAT REQUIREMENTS.**

The minor plat shall be provided by the subdivider and shall meet the following specifications: the minor plat shall conform to the requirements set forth in § 152.024(B) through (E), both inclusive. The word secondary in § 152.024 shall be construed to mean minor so as to conform to this section.

(1997 Code, § 36.17) (Ord. 1983-3B, passed - -)

**§ 152.029 IMPROVEMENT PLANS AND SPECIFICATIONS.**

In the event the subdivider is required, because of existing conditions to install or cause to be installed common utilities, other than public, he shall then comply with the applicable requirements set forth in § 152.026.

(1997 Code, § 36.18) (Ord. 1983-3B, passed - -)

***MINIMUM DESIGN AND DEVELOPMENT STANDARDS***

**§ 152.040 GENERAL.**

The subdivider shall conform to the following principles and standards of land subdivision in the design of each subdivision or portion thereof which has not been officially recorded in the office of the Clerk-Treasurer of the town and the County Recorder, on or before the effective date of this chapter.

(1997 Code, Ch. 36 (part)) (Ord. 1983-3B, passed - -)

**§ 152.041 STREETS.**

(A) The street and alley layout shall provide access to all lots and parcels of land within the subdivision. Street jogs of less than 125 feet shall be avoided. Cul-de-sacs shall not exceed 500 feet in length, unless necessitated by prevailing conditions which create undue hardship, the hardship to be determined by the Commission upon adequate showing by the subdivider.

(B) Local streets shall be designated so as to discourage through traffic.

(C) Proposed streets shall be adjusted to the contour of the land so as to produce usable lots and streets of reasonable gradient.

(D) Certain proposed streets, where appropriate, shall be extended to the boundary of the tract to be subdivided so as to provide for normal circulation of traffic within the vicinity.

(E) Wherever there exists a dedicated or platted portion of street or alley adjacent to the proposed subdivision, the remainder of the street or alley shall be platted to the width herein prescribed within the proposed subdivision, unless the Commission finds it unnecessary.

(F) Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed with the Board or Commission.

(G) Widths of street rights-of-way shall conform to the widths specified in Plate 1, attached to Ord. 1983-3B and made a part of this chapter. These widths may be increased or decreased or varied in unusual circumstances by the Board or Commission.

(H) Half streets shall not be permitted except:

(1) To provide right-of-way for officially adopted planned streets or highways;

(2) Whenever an existing half street is adjacent to a tract to be subdivided, in which case the other half of the street shall be platted within the tract to be subdivided, or the existing platted half street shall be vacated prior to secondary approval;

(3) Where the subdivider believes it is absolutely necessary to plat the street, in which case, realizing that the Board expects this half street to be improved, the subdivider shall submit engineering and construction plans concerning this half-street to the Board.

(I) No dead-end street shall be permitted except temporary dead-end streets will be permitted where the approved primary plat shows that the street will be extended to conform to the provisions of this chapter and/or to provide access to adjacent property where deemed necessary by the Commission to provide for adequate flow of future traffic, provided the length of the dead-end shall not be greater than 250 feet. A circular right-of-way in excess of the required street right-of-way at the termination of a temporary dead-end street shall not be required.

(J) Subdivisions that adjoin or include existing streets that do not conform to the required widths shall dedicate the adequate width along either or both sides of the street so that the street shall be in conformity with all provisions of this chapter.

(K) Streets shall be laid out so as to intersect as nearly at right angles as possible.

(L) If the smaller angle of intersection of 2 streets is less than 60 degrees, the radius of the arc of the intersection of the property lines shall be as deemed advisable by the Commission.

(M) At the intersection of 2 streets the property line corners shall be rounded by arcs with radii of not less than 20 feet or chords of the arcs. When 1 or more of the streets involved in an intersection is a limited access street, highway, thoroughfare, boulevard, or parkway, the foregoing minimum standards may be increased by the Board.

(N) At intersections of a street with an alley, the property line corners shall be rounded by arcs with radii of not less than 15 feet or chords of the arcs.

(O) Intersections of more than 2 streets at one point shall be avoided.

(P) Where parkways or special types of streets are involved, the Commission may apply special standards to be followed in the design of the parkways or streets.

(Q) Whenever the subdivision contains or is adjacent to a railroad right-of-way or a highway designated as a "limited access highway" by the appropriate highway authorities, provisions shall be made for a marginal access street or a parallel street at a distance acceptable for the appropriate use of the land between the highway or railroad and the streets.

(R) Horizontal visibility on curved streets and vertical visibility on all streets shall be maintained along the center lines as specified on Plate III attached to Ord. 1983-3B and made a part of this chapter.

(S) Horizontal curvature measured along the center line shall have a minimum radius as specified on Plate I attached to Ord. 1983-3B and made a part of this chapter.

(T) All changes in grade shall be connected by vertical curves of sufficient radii to provide smooth transitions and required sight distances.

(U) Between reversed curves on all streets, there shall be a minimum tangent as specified on Plate I attached to Ord. 1983-3B and made a part of this chapter.

(V) Maximum grades for streets shall be as specified in Plate III attached to Ord. 1983-3B and made a part of this chapter.

(W) The minimum grade of any street gutter shall not be less than 0.25%.

(X) No street shall have a name which will duplicate or so nearly duplicate as to be confused with the name of an existing street within the town, unless the proposed street is an extension of or in alignment

with an existing street, in which case the duplication shall be mandatory. In no instance shall any street name include the word north, south, east, or west unless it denotes that geographical direction.

(Y) Alleys shall be discouraged in residential areas but shall be included in commercial and industrial areas where needed for loading and unloading or access purposes and, where platted, shall be at least 15 feet in width.

(Z) Dead-end alleys shall be avoided where possible, but, if unavoidable, shall be provided with adequate turnaround facilities at the dead-end, as determined by the Commission.

(1997 Code, § 36.19) (Ord. 1983-3B, passed - -)

### § 152.042 BLOCKS.

(A) Blocks shall not normally exceed 1,320 feet in length, unless unusual circumstances justify greater length.

(B) Blocks shall be of sufficient width to permit 2 tiers of lots of appropriate depth, except where an interior street parallels a limited access highway, major street, or railroad right-of-way.

(C) No other specific rule is made concerning the shape of blocks, but blocks shall fit easily into the overall plan of the subdivision, and their design must evidence consideration of lot planning, traffic flow and public areas.

(D) Within blocks of over 700 feet in length the Commission may require, at or near the middle of the block, a public walk connecting adjacent streets or other public areas, shopping centers, and the like. Width of right-of-way for the walks shall be at least 10 feet and shall be intended for the use of pedestrians only.

91997 Code, § 36.20) (Ord. 1983-3B, passed - -)

### § 152.043 LOTS.

(A) All lots shall abut on a street which is accessible to an established public street already in use.

(B) Side lines of lots shall be at approximately right angles to straight streets and on radial lines on curved streets. Some variations from this rule are permissible, but pointed or very irregular lots shall be avoided.

(C) Double frontage lots shall not be platted, except that where desired, along primary or secondary streets, lots may face on an interior street and back on such thoroughfare. In that event a planting strip,

or a planting screen, at least 20 feet in width shall be provided along the rear of the lot and the design shall be such that access to these lots shall be only from an interior street.

(D) No lot shall be less than 66 feet wide, and no such lot contain less than 8712 square feet. The minimum front yard shall be 20 feet and of average depth of lots in a block. The minimum side yard and the rear yards shall be as required by the Geneva Zoning Code. No accessory building shall be located closer to a side lot line or rear lot line than 5 feet.

(E) Corner residential lots should be wider than normal to permit appropriate setbacks from both streets. Interior residential lots abutting a corner lot should be wider than the average interior lot in order to permit a wider side yard adjacent to the corner lot.

(F) Residential lots fronting on arterial, primary or secondary streets shall have extra depth to permit deeper building setbacks from such traffic arteries, as specified by the Zoning Code. (1997 Code, § 36.21) (Ord. 1983-3B, passed - -)

**§ 152.044 EASEMENTS.**

(A) Where alleys are not provided, easements for utilities shall be provided. The easements shall have a minimum width of 12 feet, and where located along interior lot lines, one-half of the width should be taken from each lot. Before determining the location of easements the plan shall be discussed with the local utility companies to assure the proper placing for the installation of services.

(B) Whenever a subdivision is traversed by a watercourse, drainage-way, channel, or stream, there shall be provided a drainage right-of-way which shall be for the purpose of widening, improving or protecting the stream at the subdivider's expense. To insure proper drainage right-of-way width the following requirements shall be incorporated in the plat:

(1) In order to protect stream banks and to allow for maintenance, an easement of 50 feet (or more as may be required by the County Drainage Board), measured from the normal high bank on each bank of any ditch or creek shall be provided;

(2) In order to protect river banks and to allow for maintenance, an easement of 70 feet (or more may be required by the County Drainage Board) measured from the normal high bank on each bank of any river shall be provided;

(3) (a) In order to allow for the creation of a new channel or drainage-way, relocation of an existing channel, an easement of 100 feet (or more as may be required by the County Drainage Board), measured from the normal high bank on both sides of the proposed channel shall be provided.

(b) The width of any drainage rights-of-way shall be adequate for any necessary channel relocations and straightenings and to determine adequacy the drainage right-of-way shall be reviewed by the County Drainage Board. Parallel streets or parkways may be required in connection therewith.

(C) A guy line easement of sufficient width and length as determined by the utility company shall be provided. The easement length shall be measured from the apex of the deflection angle.  
(1997 Code, § 36.22) (Ord. 1983-3B, passed - -)

#### **§ 152.045 PUBLIC USE AREAS.**

Where sites for parks, schools, playgrounds, or other public use areas are located within the subdivision area, the Commission shall require that such areas be so designated on the secondary plat. Within 3 years after the approval of the secondary plat, the authority having jurisdiction shall acquire the designated land or commence proceedings to acquire it, otherwise the owner may make any permitted use of the site, as permitted by the Commission.  
(1997 Code, § 36.23) (Ord. 1983-3B, passed - -)

#### **§ 152.046 TOPOGRAPHY, NATURAL VEGETATION AND FLOODING.**

(A) In the subdivision of any land within the jurisdiction, due regard shall be shown for all natural features, such as tree growth, water courses, or other similar elements which, if preserved, would add attractiveness to the proposed development.

(B) The natural topography shall be retained wherever possible in order to reduce excessive run-off onto adjoining property and to avoid extensive regrading of the site.

(C) Floor elevations of all buildings shall be carefully studied in relation to existing topography, proposed street grades, existing 12 inches and over caliper trees, and other pertinent site features.

(D) Consideration shall be given to varying the setback line where the subdivision is proposed in order to retain wherever possible existing topography, rock formation and large trees. Consideration shall be given only after the Commission has granted a building variance for the affected subdivision.

(E) Where there is a question as to the suitability of a lot or lots for their intended use due to factors such as rock formations, flood conditions, or similar circumstances, the Commission shall consider withholding approval of the lots.  
(1997 Code, § 36.24) (Ord. 1983-3B, passed - -)

*IMPROVEMENTS***§ 152.060 GENERAL.**

Utility and street improvements shall be provided by the subdivider in each new subdivision in accordance with the standards and requirements described in the following sections.  
(1997 Code, Ch. 36 (part))

**§ 152.061 STREETS.**

Streets shall be completed in accordance with the plans, profiles, specifications, and cross sections prepared for the subdivider by a professional civil engineer and/or registered land surveyor duly registered in the state. In no event shall any street plan be approved unless the entire improvement width is proposed to be installed within the proposed subdivision, unless the plan is in conformity with § 152.041(H).

(A) The streets shall be surfaced to a minimum width according to the type of street, as specified in Plate I, attached to Ord. 1983-3B and made a part of this chapter.

(B) Curb and gutters shall be installed in conformity with § 152.062. In all cases, the surfaced street widths given in Plate I shall include curb and gutter.

(C) The streets shall be graded, surfaced and improved to the dimensions required by the cross section and the work shall be performed in the manner prescribed in the current edition of Indiana state highway specifications. Streets shall comply with the minimum standards specified in Plates I, II, and III attached to Ord. 1983-3B and made a part of this chapter. Grading for street improvements shall not create soil slopes exceeding a vertical rise of 1 foot for each 2 feet of horizontal distance unless retaining walls are to be provided.

(D) The street surface shall be of portland cement concrete or a flexible pavement and shall be constructed in accordance with design characteristics at least equal to those specified in Plates I, II, and III attached to Ord. 1983-3B and made a part of this chapter and specifications approved by the County Highway Supervisor, Highway Engineer, or appointed official.

(E) Prior to the construction of street or alley pavements, adequate surface and subsurface (if required) drainage shall be installed by the subdivider. Pipe used for drainage purposes shall be of corrugated metal, reinforced concrete, or extra strength vitrified clay of an approved design, size and strength to meet the requirements of the specific conditions which may be encountered. Minimum diameters of pipe to be used shall meet the requirements of the specific conditions which may be encountered. See § 152.069.

(F) All construction shall be completed in accordance with the specific conditions in the agreement for improvements and the accepted plans and specifications and in a manner acceptable to the authorities having jurisdiction. When changes from the accepted plans and specifications become necessary during construction, written approval from the Board shall be secured prior to the execution of the changes.

(G) Adequate provision shall be made for the continuous maintenance of all street improvements by dedication to and acceptance by the Board.

(1997 Code, § 36.25) (Ord. 1983-3B, passed - -)

### **§ 152.062 CURBS AND GUTTERS.**

(A) Concrete curb and gutter shall be provided along with the outside edge of all street pavements in subdivisions.

(B) Curbs and gutters shall be installed by the subdivider in compliance with the approved plans, profiles and cross-sections. They shall be constructed of air-entrained portland cement concrete, and they shall be at least 18 inches wide and not less than 6 inches thick where the curb abuts the street pavement.

(C) Curb construction may or may not be integral, and roll-type curbs shall be permitted where the distance between the back of the curb and the nearest sidewalk is at least 3 feet on residential and feeder streets.

(D) All plans for the installation of the curb and gutter shall conform to all applicable sections of this chapter and shall be approved by the Board.

(1997 Code, § 36.26) (Ord. 1983-3B, passed - -)

### **§ 152.063 SIDEWALKS.**

(A) Sidewalks shall be provided by the subdivider to conform to the sidewalk plan adopted by the Board with a minimum thickness of 4 inches on a 4 inch gravel or crushed stone base and a minimum width of 4 feet, and the edge of walks adjacent to the property line of the street shall be placed at least 1 foot from the property line within the street right-of-way. The Commission may waive or lessen sidewalk requirements if the developer sufficiently shows, after Commission review, sidewalks will serve no specific purpose or future need.

(B) Crosswalks within the blocks shall be improved with a 4 foot walk of either portland cement concrete 4 inches thick or asphaltic concrete 2 inches thick on 4 inch compacted aggregate base. The base should be extended beyond the sidewalk on either side to a distance equal to depth of base.

(1997 Code, § 36.27) (Ord. 1983-3B, passed - -)

**§ 152.064 SEWAGE DISPOSAL.**

The developer shall install or cause to be installed a system for the disposal of sanitary sewage in the subdivision by one of the following means.

(A) *Public system.* A complete sanitary sewer system which shall convey the sewage into an established municipal or other public agency sanitary sewage disposal and treatment system at a point and in a manner approved in writing by the municipal or other public agency involved. The plans for the complete installation of the sewage system showing all locations, material, size, profiles and any connections thereto shall be prepared by a registered engineer and/or registered land surveyor at the expense of the subdivider or developer and shall be approved by and meet the requirements of the affected municipal or other public agency and the State Board of Health.

(B) *Private or quasi-public system.*

(1) A complete sanitary sewage system to convey the sewage to a treatment plant provided by the developers or others in accordance with the requirements of the County or the State Board of Health.

(2) A complete sanitary sewer system which shall connect into the sanitary sewer disposal system of a sewage disposal company which shall hold, at the time of plat submission, a certificate of territorial authority issued by the Public Service Commission of Indiana authorizing the sewage disposal service for the area in which the subdivision is located. The plans for the complete installation of the sewer system both within the subdivision and any off-site installations serving the subdivision showing all locations, size, material, profiles, and capacities shall be submitted to and be approved by the County and/or the State Board of Health.

(C) *Septic tank.* If the developer submits proper evidence to the County Health Department that neither of the above forms of sewage disposal and treatment is possible or economically feasible, then the Commission shall permit the developer to use a private sanitary sewage disposal system on each individual lot consisting of a septic tank and absorption field, or other approved treatments system, when installed in accordance with the standards and approval of the County and the State Boards of Health. Part of the proper evidence shall be in the form of a print of the plat showing the location of, the depth of, and the percolation rate of the test holes, one located on each lot of a percolation test conducted by an engineer. The information shown shall be certified in the state.

(D) *Set of plans.* The subdivider shall furnish the Commission a complete set of plans and profiles as approved by the various authorities.

(1997 Code, § 36.28) (Ord. 1983-3B, passed - -)

**§ 152.065 WATER SUPPLY.**

The developer shall install or cause to be installed a water system for the subdivision by one of the following methods.

(A) *Public system.* A complete water main system which shall be connected to a public or other community water supply which is approved by the County and/or State Board of Health. The plans for the complete installation showing size, location, depth, material and all connections thereto, including fire hydrants, shall meet the requirements and receive the approval of the County and/or the State Board of Health.

(B) *Private system.*

(1) A community water supply system, including well, pump, and all appurtenances thereto, necessary to supply a minimum pressure of 40 pounds per square inch. The plans showing location, depth, size, and material of mains, valves, and connections thereto shall meet the requirements of and be approved by the Adams County Board of Health and/or the State Board of Health; or

(2) A complete water main system which shall connect into the water main system of a utility company which shall be authorized to operate within the area in which the subdivision is located and which shall be subject to the control of the Public Service Commission of Indiana. The plans for the complete installation showing size, location, depth, material, and all connections thereto, including fire hydrants, shall be approved by and meet the requirements of the County and/or State Board of Health.

(C) *Individual supply.* If the developer submits proper evidence to the County Health Department that neither of the above forms of water supply is possible or economically feasible, then the Board shall permit an individual water supply on each lot in the subdivision subject to compliance with all requirements and approval of the County and/or State Board of Health.

(D) *Set of plans.* The subdivider shall furnish the Board and the Commission a complete set of plans and profiles as approved by the various authorities.  
(1997 Code, § 36.29) (Ord. 1983-3B, passed - -)

**§ 152.066 LANDSCAPE DEVELOPMENT.**

(A) All unpaved or otherwise unimproved areas within the public rights-of-way or public use areas shall be graded and seeded in an approved manner.

(B) In informal types of street patterns, informal planting of street trees in accordance with an approved landscape development plan may be permitted.  
(1997 Code, § 36.30) (Ord. 1983-3B, passed - -)

**§ 152.067 MONUMENTS AND MARKERS.**

(A) Permanent monuments shall be set:

(1) At the intersection of all lines forming angles in the boundary of the subdivision;

(2) At the intersection of street right-of-way and at the beginning and end of all curves along street right-of-way lines.

(B) Markers shall be set, unless otherwise located by a monument:

(1) At all points where lot lines intersect street right-of-way lines;

(2) At all angles in the lot property lines;

(3) At all other lot corners.

(C) Monuments shall be of concrete, with a minimum dimension of 4 inches at the top and 6 inches at the bottom and 36 inches in length and shall be marked at the top with either a copper or steel dowel imbedded so that the top of the dowel shall be flush with the top surface at the center of the monument; or an iron or steel solid bar at least 36 inches in length and not less than 1 inch in diameter.

(1997 Code, § 36.31) (Ord. 1983-3B, passed - -)

**§ 152.068 PRIVATELY DEVELOPED FACILITIES.**

Where the subdivision is to contain sewers, sewage treatment facilities, water supply system, park area or other physical facilities which will not be maintained by existing public agencies, provisions shall be made by trust agreement, which is a part of the deed restrictions and which is acceptable to the proper public agencies, for jurisdiction over the continuous maintenance, supervision, operation, and reconstruction of the facilities by the lot owners in the subdivision. Other restrictions not inconsistent or in conflict with the provisions of this report or ordinances of the town and county may also be included. (1997 Code, § 36.32) (Ord. 1983-3B, passed - -)

**§ 152.069 STORM DRAINAGE.**

(A) Adequate surface and subsurface drainageways for the removal of storm water shall be provided by the subdivider. The extent to which storm drainage facilities shall be required shall be based upon an analysis of need prepared for the subdivider by a registered professional engineer and/or land surveyor. The analysis shall be based upon the rational method of computing storm water run-off using the one-hour rainfall to be expected at a 5 year frequency. Times of concentrations, soil infiltration rates, and other

variable factors to be used in the analysis shall be discussed with and approved by the County Surveyor or Town Engineer during the preliminary consideration of the subdivision. The engineer (or his agent) preparing the analysis shall provide the County Surveyor or Town Engineer with a copy of the computation used in the completion of the analysis.

(B) A storm water sewer system, which shall be separate and independent of the sanitary sewer system, with surface inlets shall be provided by the subdivider in all cases where curb and gutter is to be installed and whenever the available evidence indicates that such a system is necessary due to the inadequacy of the natural surface drainage.

(C) Distance from streams or main drainage channels: any person proposing to locate a structure or a use within 100 feet of any stream or main drainage channel in any zoning district shall include with the application for an improvement location permit and/or a certificate of occupancy statement from the Indiana Department of Natural Resources, based on a study of the watershed area and the probable run-off, that the structure or use in the proposed location will leave adequate space for the flow of flood water; provided, however, that no building shall be permitted within 75 feet of the top of the bank or any stream or main drainage channel.

(D) The subdivider shall furnish the Board and Commission a complete set of plans and profiles as approved by the various authorities.

(E) All plans and workmanship shall be in compliance with the Indiana Drainage Code and all acts amendatory thereto.  
(1997 Code, § 36.33) (Ord. 1983-3B, passed - -)

#### **§ 152.070 PUBLIC UTILITIES.**

(A) All utility lines for telephone and electric service when carried on overhead poles shall be provided for with rear and side lot line easements. Gas mains shall be located within line easements or on public rights-of-way.

(B) Where telephone and/or electric service lines are to be placed underground throughout the subdivision, the conduit or cables shall be located within easements or public rights-of-way and in a manner which is in agreement with the utility companies and in compliance with the Indiana Public Service Commission regulations. Furthermore, all transformers and terminal boxes shall be located so as not to be hazardous to the public.

(C) All excavations for public utilities made under paved areas shall be properly back-filled with approved granular materials thoroughly compacted in place, subject to the approval of the Board and/or Commission.  
(1997 Code, § 36.34) (Ord. 1983-3B, passed - -)

**§ 152.071 STREET LIGHTING.**

Provisions for easements shall be made by the subdivider for the future lighting of public streets within the subdivision in accordance with the standards and requirements of the town and the electric utility.

(1997 Code, § 36.35) (Ord. 1983-3B, passed - -)

**§ 152.072 STREET SIGNS.**

(A) Appropriate metallic street signs with reflectorized lettering mounted on metallic posts and as specified by the Board shall be installed by the subdivider at all street intersections on diagonally opposite corners so that they will be on the far right hand side of the intersection for traffic on the more important streets. Signs indicating both streets shall be erected at each location mounted as close to the corner as practical, facing traffic on the cross street, with the nearest portion of each sign not less than 1 foot nor more than 10 feet back from the curb line.

(B) Before the secondary plat is approved, the subdivider shall submit to the Commission a statement from the local postmaster approving the names of the proposed streets and of the proposed systems of postal address along the streets.

(C) Markers shall consist of galvanized steel or wrought iron pipe or steel bars at least 18 inches in length and 1/2 of an inch in outside diameter.

(D) Monuments and markers shall be provided by the subdivider and so placed that the center point shall coincide with the intersection of lines to be marked and the top level with the surface of the surrounding ground after final grading.

(1997 Code, § 36.36) (Ord. 1983-3B, passed - -)

**§ 152.073 CLUSTER DEVELOPMENT.**

In order to promote the health and general welfare of the town and to preserve and make available open space, the Commission may grant a developer the right to vary the residential building density within a tract to be developed, leaving a substantial area free of building lots; the right to vary the density shall, however, be subject to the following conditions.

(A) An overall plan of the entire tract showing roads, lot lines, lot area, easements, encumbrances, and other relevant data shall be submitted in accordance with this chapter, excluding §§ 152.001 through 152.009.

(B) Overall density shall not exceed that of the district in which the land occurs. The houses in the proposed subdivision shall be grouped in clusters. The minimum lot area shall be two-thirds of the

minimum normally required in the zoning districts in which the land occurs. Minimum yard requirements in a cluster development shall be:

(1) Front yard: 10 feet;

(2) Side yard: 8 feet (except that garages and carports upon adjacent lots may join at the property line or be grouped on land away from the individual lot);

(3) Rear yard: 25 feet.

(C) In cases where a developer has designed special groups of dwellings and garages, the Commission, after inspecting plans and elevations, may grant smaller lot minimum sizes than those in division (B) of this section, provided that the sanitary systems are approved by the County and/or State Board of Health, or appointed official, that the overall density does not exceed that permitted within the district in which the land occurs or that the layout is not detrimental to the health and general welfare of the community.

(D) (1) The balance of the land not contained in the lots or within the road right-of-way shall be contiguous and of such condition, size, and shape as to be usable for recreation. The land shall be held in corporate ownership by the owners of lots within the development and the developer shall incorporate into the deeds of all property within the development a clause giving to the owners an interest in the open land which shall be used for recreational purposes only. (No structure except those incidental to the recreational use shall be permitted thereon).

(2) Open land shall be a minimum of 1.5 acres (and shall be subject to taxation). In the case of such tracts of 3 or more acres, the developer may petition the town to maintain the land to be used as open space.

(1997 Code, § 36.37) (Ord. 1983-3, passed - -)

#### **§ 152.074 PLANNED UNIT DEVELOPMENT; COMMUNITY UNIT PROJECTS; APARTMENT COMPLEXES.**

The listed types of developments or developments of a similar nature may not strictly qualify as a subdivision under the definition given in this chapter. However, in order that the Plan Commission might have some jurisdiction over the developments, the following applicable phases of approval shall meet the requirements of this chapter. In the approval process of the above developments the ordinance term plat shall be construed to mean development plan.

(A) *Required restrictions.* Each secondary plat submitted to the Board for approval shall contain statements in the restrictive covenants providing for the following items:

(1) All utility easements as dedicated on the face of the plat shall be kept free of all permanent structures and the removal of any obstructions such as structures, trees, shrubbery, fences or other installation thereon, whether temporary or permanent, by a utility company shall in no way obligate the utility company in damages or restore the obstruction to its original form;

(2) Before any house or building on any lot or tract in the subdivision shall be used and occupied as a dwelling or as otherwise provided in the subdivision restrictions, the developer or any subsequent owner of the lot or tract shall install all improvements serving the lot or tract as provided in the plans and specifications filed with the Board;

(3) Before any lot or tract located within the subdivision may be used and occupied, the use or occupier shall first obtain from the Zoning Administrator the improvement location permit required by the Geneva Zoning Code;

(4) Before any house or building on any lot or tract in the subdivision shall be used or occupied as a dwelling or otherwise provided in the subdivision restrictions and zoning ordinance, the developer or any subsequent owner of the lot or tract shall first obtain from the Zoning Administrator the certificate of occupancy as required by the Geneva Zoning Code;

(5) Prohibiting the further subdivision of any lot or combination of lots, within the subdivision previously approved by the Commission, unless and until the Commission has reviewed and approved the change.

(B) *Suggested certification form.* To entitle a secondary plat to be recorded, the certificates as required by law shall be lettered or printed on the secondary plat. This chapter lists certain certificates, some of which shall be placed on every plat, other certificates are optional and serve as a guide only.

(1) *Deed of dedication.* Each secondary plat submitted to the Commission for approval shall carry a deed of dedication in substantially the following form:

“We the undersigned \_\_\_\_\_ (Names) \_\_\_\_\_, owners of the real estate shown and described herein, do hereby certify that we have laid off, platted and subdivided, and do hereby lay off, plat and subdivide, said real estate in accordance with the within plat.

This subdivision shall be known and designated as \_\_\_\_\_ (Name) \_\_\_\_\_, an addition to \_\_\_\_\_ . All streets, alleys, parks, and other public lands shown and not heretofore dedicated, are hereby dedicated, to the public.

Front and side yard building setback lines are hereby established as shown on this plat, between which lines and the property lines of the street, there shall be erected or maintained no building or structure.”

Geneva - Land Usage

Witness our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ .

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

STATE OF INDIANA )  
COUNTY OF ADAMS )SS:

Before me, the undersigned Notary Public, in and for said County and State, personally appeared \_\_\_\_\_(Name)\_\_\_\_\_, \_\_\_\_\_(Name)\_\_\_\_\_, and \_\_\_\_\_(Name)\_\_\_\_\_, and each separately and severally acknowledged the execution of the foregoing instrument as his or her voluntary act and deed and for the purposes expressed therein.

WITNESS my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ .

\_\_\_\_\_  
Notary Public

(B) Each secondary plat submitted to the Commission for approval shall carry a certificate signed by a registered professional engineer or land surveyor in substantially the following form:

I, \_\_\_\_\_(Name)\_\_\_\_\_, hereby certify that I am a Professional Engineer (or Land Surveyor), licensed in compliance with the laws of the State of Indiana; that this plat correctly represents a survey completed by me on \_\_\_(Date)\_\_\_; that all the monuments shown thereon actually exist; and that their location, size, type and material are accurately shown.

(SEAL) \_\_\_\_\_

(C) Approval:

APPROVED

BOARD OF TRUSTEES

TOWN OF GENEVA, INDIANA

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ .

(D) Certificate of secondary plat approval:

CERTIFICATE OF SECONDARY PLAT APPROVAL

I hereby certify that under I.C. 36-7-1-19 et seq. and after proper publication of Public Notice and hearing this plat was given secondary approval on \_\_\_\_\_, 20\_\_ .

Designated Official

\_\_\_\_\_

Plan Commission

(1997 Code, § 36.38) (Ord. 1983-3B, passed - -)

*ACCEPTANCE OF SUBDIVISION IMPROVEMENTS*

**§ 152.090 INSPECTIONS.**

(A) During the course of construction of the improvements, the subdivider shall be required to notify the Board and Commission at least 24 hours before each of the following operations in order that the Board and Commission may make inspections:

- (1) Before base material is deposited in place for inspection of all streets subgrades, especially areas where back-filling was placed over subterranean construction and curb and gutter construction;
- (2) Before bituminous topping is placed on the base material for inspection of the base construction.

(B) It is essential that these inspections be made in order for the town or county to ascertain the quality of construction preliminary to accepting the improvements for public maintenance.  
(1997 Code, § 36.39) (Ord. 1983-3B, passed - -)

**§ 152.091 COMPLETED CONSTRUCTION NOTIFICATION.**

When the subdivider has completed construction of the improvements he shall notify the Board and Commission by letter of this fact and formally request a final inspection by the town and county inspecting officials. In this letter he shall briefly describe all the improvements, and he shall enclose 4 copies of the

subdivision plan which shows these improvements as installed. No later than 14 days after the receipt of this letter by the Board and Commission, weather conditions permitting, the town and county inspecting officials shall make their inspection.

(1997 Code, § 36.40) (Ord. 1983-3B, passed - -)

#### **§ 152.092 RECOMMENDATION FOR ACCEPTANCE.**

Before acceptance of subdivision improvements, the Board or authorized official and, if applicable, the County Surveyor and the County Highway Supervisor shall inspect the improvements as described above and submit a report to the Board and/or Board of County Commissioners, whichever is applicable, on the condition of the improvements and a recommendation for their action thereon.

(1997 Code, § 36.41) (Ord. 1983-3B, passed - -)

#### **§ 152.093 WRITTEN NOTIFICATION.**

No later than 7 days after the final inspection of the subdivision improvements, the subdivider shall be notified by the Board in writing of the results of the inspection.

(1997 Code, § 36.42) (Ord. 1983-3B, passed - -)

### ***RECORDS OF PLATS AND ENFORCEMENTS***

#### **§ 152.110 TERM.**

The plat of any proposed subdivision shall be recorded for taxation purposes within 1 year of the final approval date of the Commission, in the office of the Town Clerk-Treasurer and in the office of the Recorder of Adams County, Indiana.

(1997 Code, § 36.43) (Ord. 1983-3B, passed - -)

#### **§ 152.111 PRE-RECORDING APPROVAL.**

After the enactment of this chapter, no plat of any subdivision shall be permitted to be recorded by the Town Clerk-Treasurer or the County Recorder of Adams County, Indiana, and no plat of any subdivision shall have any validity until it is approved as prescribed by this chapter.

(A) It shall be the duty of the Commission to enforce the provisions of this chapter in the manner and form and with the powers provided in the laws of the state.

(B) All departments, officials and employees of the town which are vested with the duty of authority to issue permits shall issue no permit for any use, building or purpose if the same would be in conflict with the provisions of this chapter.

(1997 Code, § 36.44) (Ord. 1983-3B, passed - -)

**§ 152.998 VIOLATIONS.**

The erection, construction, enlargement, conversion, moving or maintenance of any structure and the use of any land or structure which is continued, operated or maintained contrary to any provisions of this chapter is declared to be a nuisance, in violation of this chapter and unlawful. The Board or Commission may institute a suit for injunction in the circuit court of Adams County to restrain any person or governmental unit from violation of any provision of this chapter and to cause the violation to be prevented, abated or removed. The action may also be instituted by any property owner who may be especially damaged by the violation of any provision of this chapter. The remedies provided for in this section shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

(1997 Code, §§ 36.46, 36.47) (Ord. 1983-3B, passed - -) Penalty, see § 10.99



## CHAPTER 153: ZONING CODE

### Section

#### *General Provisions*

- 153.001 Basis for establishing
- 153.002 Short title
- 153.003 Definitions
- 153.004 Building and uses affected by zoning
- 153.005 Continuance of nonconforming buildings or uses
- 153.006 Amortization of nonconforming uses or buildings
- 153.007 Nonconformance due to reclassifications
- 153.008 General use provisions
- 153.009 General area provisions
- 153.010 General height provision
- 153.011 Contingent uses (all districts)
- 153.012 Special exception; specified zones

#### *Zones; Regulations*

- 153.025 Establishment of zones
- 153.026 Zone and district boundaries
- 153.027 Flood zones, creation of
- 153.028 F2 Flood Plain Zone
- 153.029 A Agricultural Zone
- 153.030 R1 One-Family Zone
- 153.031 R2 Multi-Family Zone
- 153.032 B1 Neighborhood Business Zone
- 153.033 B2 Rural Business Zone
- 153.034 B3 General Business Zone
- 153.035 B-P Planned Business Centers
- 153.036 I-1 Light Industrial Zone
- 153.037 I-2 Heavy Industrial Zone
- 153.038 I-P Planned Industrial Districts
- 153.039 PR Park and Recreation Zone and District

*Exceptions and Modifications*

- 153.050 Height
- 153.051 Area and yards

*Off-Street Parking and Loading Provisions*

- 153.065 Off-street parking
- 153.066 Distance measurements
- 153.067 Mixed uses
- 153.068 Collective parking facilities
- 153.069 Off-street loading
- 153.070 Public parking area
- 153.071 Permanency of spaces provided

*Advertising Devices*

- 153.085 Improvement location permit
- 153.086 Exceptions
- 153.087 Area and location

*Administration and Enforcement*

- 153.100 Zoning Administrator
  - 153.101 Improvement location permit
  - 153.102 Certificate of occupancy
  - 153.103 Permit issuance
  - 153.104 Enforcement
  - 153.105 Board of Zoning Appeals
  - 153.106 Amendments
- 
- 153.999 Penalty

**GENERAL PROVISIONS****§ 153.001 BASIS FOR ESTABLISHING.**

The zoning regulations and districts as herein set forth are made in accordance with a Comprehensive Master Plan in order that adequate light, air, convenience of access, and safety from fire, flood and other

danger may be secured; that congestion in the public streets may be lessened or avoided; and that the public health, safety, comfort, morals, convenience and general public welfare may be promoted. They are made with reasonable regard to existing conditions, the character of buildings erected in each district, the most desirable use for which the land in each district may be adapted and the conservation of property values on all land under the jurisdiction of this chapter.  
(1997 Code, § 32.1) (Ord. 1967-2, passed - -)

### § 153.002 SHORT TITLE.

This chapter shall be known and may be cited as "The Geneva, Indiana, Zoning Ordinance."  
(1997 Code, § 32.2) (Ord. 1967-2, passed - -)

### § 153.003 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words used in the present tense include the future, the singular includes the plural and the plural the singular, and the word **LOT** includes the word **PLOT**" The word **USED** includes **DESIGNED** or **INTENDED TO BE USED**. The word **SHALL** is mandatory and not optional. Unless otherwise specified, all distances shall be measured horizontally, in any direction.

**ACCESSORY BUILDING AND USE.** A subordinate building located on the same lot with the main building, or a subordinate use of land, either of which is customarily incidental to the main building or to the principal use of the land. Where a substantial part of the wall of an accessory building is a part of the wall of the main building or where an accessory building is attached to the main building in a substantial manner as by a roof, the accessory building shall be counted as part of the main building.

**ACCESSORY LIVING QUARTERS.** Living quarters within an accessory building, for the sole use of persons employed on the premises; such quarters having no kitchen facilities and not rented or otherwise used as a separate dwelling.

**ADVERTISING DEVICE OR DEVICES.** Any billboard, sign, notice, poster, display, emblem, or any structure for supporting the device.

**APARTMENT HOTEL.** An apartment house which provides services for the use of its tenants, which are usually furnished by hotels, but the privileges of these services are not available to the public.

**BOARD.** The Board of Zoning Appeals of the town.

**BUILDING.** Any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals or chattel. When any portion thereof is completely separated from every other portion thereof by a division wall without openings, then each such portion shall be deemed to be a separate building. At no time shall this definition be construed to include mobile homes.

**BUILDING, DETACHED.** A building having no party wall in common with another building.

**BUILDING, SEMI-DETACHED.** A building having 1 party wall common with an adjacent building.

**BUILDING, HEIGHT OF.** The vertical distance measured from the adjoining street centerline grade at a point opposite the center of the principal frontage of the building to the highest point of ceiling of the top story in the case of a flat roof; to the deck line of a mansard roof; and to the mean height level between the eaves and ridge of a gable, hip or gambrel roof. Where buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished lot grade at the front of the building.

**BLOCK FRONTAGE.** All the property fronting on one side of a street between intersecting or intercepting streets or between a street and right-of-way, end of dead-end street or city boundary measured along the street line.

**BUILDING, NONCONFORMING.** A legally existing building which fails to comply with the regulations set forth in this chapter applicable to the district in which this building is located.

**BUILDING LINE.** The line nearest the front and across a lot establishing the minimum open space to be provided between the front line of the building foundation and the front lot line. The front line of the foundations of enclosed porches or vestibules if nearer the front lot line than the main foundations.

**CAMP GROUND AND/OR MOBILE HOME PARK.** Any area or tract of land used for occupancy by tents, moveable or temporary dwellings, rooms, sleeping quarters or mobile homes of any kind. Two or more such units shall constitute a camp ground or mobile home park.

**CEMETERY.** Land used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums and mortuaries when operated in conjunction with and within the boundary of the cemetery.

**CERTIFICATE OF OCCUPANCY.** A certificate issued by the Zoning Administrator stating that the occupancy and use of land or a building or structure referred to therein complies with the provisions of this chapter.

**COMPACT HOME.** A portable structure designed for year-around living, 16 feet or more wide, with the 4 outside walls being supported by a permanent foundation.

**COURT.** An open unoccupied space on the same lot with a building or group of buildings and bounded on 3 or more sides by the building or buildings. The width of any court is its least horizontal dimension measured between opposite walls. The length of any court is its greatest horizontal dimension measured at right angles to its width.

**DUMP.** Any premises used primarily for disposal by abandonment, discarding, dumping, reduction, burial, incineration, or any other means and for whatever purpose, of garbage, sewage, trash, refuse, waste material of any kind, junk, discarded machinery, vehicles or parts thereof.

**DWELLING.** A structure or building or portion thereof, used exclusively for residential occupancy, including 1-family and multiple dwellings, but not including hotels, lodging or boarding houses or tourist homes.

**DWELLING, ONE-FAMILY.** A structure used for occupancy by 1 family.

**DWELLING, TWO-FAMILY.** A building used for occupancy by 2 families living independently of each other.

**DWELLING, MULTIPLE.** A building or portion thereof used for occupancy by 3 or more families living independently of each other.

**DWELLING, ROW.** A building having a party wall on each side in common with an adjoining building unless it is situated as the outermost building; in the latter case, it will have a party wall on one side only.

**DWELLING UNIT.** A dwelling or a portion of a 2-family, multi-family, or row dwelling or of an apartment hotel used by 1 family for cooking, living and sleeping purposes.

**EDUCATIONAL INSTITUTION.** Pre-primary, primary or grade, public, parochial or private school, high school, preparatory school or academy, public or founded or owned or conducted by or under the sponsorship of a religious or charitable organization; private preparatory school or academy furnishing courses of instruction substantially equivalent to the courses offered by public high schools for preparation of admission to college or universities which award B.A. or B.S. degrees; junior college, college or university, public or founded or conducted by or under the sponsorship of a religious or charitable organization, or private when not conducted as a commercial enterprise for the profit of individual owners or stockholders. This definition shall not be deemed to include trade or business school as defined in this section.

**ESSENTIAL USES.** Transmission lines, distribution systems and all appurtenances constructed and maintained for or by a utility company, either private or governmental.

***FAMILY.*** One or more persons living as a single housekeeping unit, as distinguished from a group occupying a hotel, club, fraternity, or sorority house. A ***FAMILY*** shall be deemed to include necessary servants.

***FLOOD PLAIN.*** The areas adjoining any river or stream which have been, or may be expected hereafter to be, covered by floodwater as established from data supplied by the Division of Water of the Indiana Department of Natural Resources.

***FLOODWAY.*** The channel of a river or stream, and those portions of the flood plains adjoining the channels, which are required to efficiently carry the discharge of flood water or flood flow of any river or stream.

***FLOOR AREA (FOR DETERMINING FLOOR AREA RATIO).*** For the purpose of determining the floor area ratio, the ***FLOOR AREA*** of a building is the sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the center line of walls separating 2 buildings. The ***FLOOR AREA*** of a building shall include basement floor area when more than 1/2 of the basement height is above the finished lot grade level at the front of the building, interior balconies and mezzanines, and enclosed porches, and floor area devoted to accessory uses. However, any space devoted to off-street parking or loading shall not be included in the floor area.

***GARAGE, PRIVATE.*** A detached accessory building or portion of a main building, used for the storage of self-propelled vehicles where the capacity does not exceed 3 vehicles, or not more than 2 vehicles per family housed in the building to which the garage is accessory, whichever is the greater; not more than 1/3 the total number of vehicles stored in the garage shall be commercial vehicles. Storage space for not more than 3 vehicles may be rented for vehicles of non-occupants of the building to which the garage is accessory.

***GARAGE, PARKING.*** Any building, except those herein defined as a private garage, used exclusively for parking of self-propelled vehicles, and with not more than 2 pumps for the incidental sale of gasoline.

***HOME OCCUPATION.*** Any use customarily conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof, and in connection with which there is no commodity sold upon the premises except that which is produced by or is incidental to such home occupation, and not more than 2 persons are engaged in the occupation. The uses as barber shop, beauty parlor, and tourist home may be deemed home occupations.

***HOSPITAL.*** Sanitarium, sanatorium, preventorium, clinic, provided the institution is operated by, or treatment given under, direct supervision of a physician licensed to practice by the state.

**HOSPITAL, ANIMAL.** A lot, building, structure, enclosure or premises whereon or wherein 3 or more dogs, cats, and other domestic animals are kept or maintained and which is operated by, or the treatment therein is under direct supervision of, a veterinarian licensed to practice by the state.

**HOTEL.** A building or portion thereof used for the more or less temporary occupancy of individuals who are lodged with or without meals and in which provision for cooking is made primarily in a central kitchen and not in the individual rooms or suites.

**IMPROVEMENT LOCATION PERMIT.** A permit issued by the Town Board or its duly authorized representative, stating that the proposed erection, construction, enlargement or moving of a building or structure referred to therein complies with the provisions of this chapter.

**JUNK YARD, INCLUDING AUTOMOBILE WRECKING AND STORAGE.** Any lot, building, structure, enclosure, premises, or parts thereof used for the storage, keeping or abandonment of any worn out, cast off, or discarded or abandoned article, material, vehicle, automobile, and machinery or parts thereof, which is ready for destruction or sale or has been collected or stored for salvage or conversion to some use, including scrap metal, paper, wood, cordage or other waste or discarded materials, articles, vehicles, automobiles and machinery or parts thereof, or vehicles or automobiles that are inoperable or incapable of movement by their own locomotion or power, or vehicles or automobiles without a valid current state registration and license plate issued for the automobile or vehicle and to the occupant, owner, purchaser, lessor, lessee or tenant of any lot, building, or structure therein or thereon situated.

**JURISDICTION.** All of the Town of Geneva and that portion of the county lying outside of and immediately adjacent to its corporate limits. A drawing representing its external limits is on file in the office of the Adam's County Recorder. Exceptions as provided in I.C. 36-7-4-205, as is now or may hereafter be in effect.

**KENNEL.** A lot, building, structure, enclosure, or premises whereon or wherein dogs or cats are maintained, boarded, bred, kept, or cared for, in return for remuneration, or are kept for the purpose of sale, or are groomed, trained, or handled for others.

**LODGING HOUSE (ROOMING HOUSE).** A building with more than 2, but not more than 10, guest rooms where lodging of a permanent nature, with or without meals, is provided for compensation.

**LOT.** A parcel of land defined by metes and bounds or boundary lines in a recorded deed or on a recorded plat, fronting on a legally dedicated public thoroughfare. In determining lot area, no part thereof within the limits of the proposed street rights-of-way shall be included.

**LOT, CORNER.** A lot abutting 2 or more streets at their intersection.

**LOT FRONT.** That part of a lot adjacent to and parallel with the street. The front of a corner lot shall be determined, at the time of application for the improvement location permit, by either the owner, builder, developer or their agent and the Zoning Administrator. Once the front is determined, the structure shall then be erected in conformity with the zoning and the subdivision ordinances.

**LOT LINES.** Lines bounding a lot, as hereinafter described.

(1) **LOT LINE, FRONT.** The line running along the front of the lot and separating it from the street. In this chapter, the **FRONT LOT LINE** may be called the **FRONT STREET LINE**. In a through lot both lines abutting the streets are deemed **FRONT STREET LINES**.

(2) **LOT LINE, REAR.** The lot line generally opposite and parallel to the front street line, except in a through lot. If a rear lot line is less than 10 feet long or the lot comes to a point at the rear, the rear lot line is assumed to be a line at least 10 feet long, lying wholly within the lot, parallel to the front street line or, if the front street line is curved, parallel to the chord of the arc of the front street line.

(3) **LOT LINE.** Any lot line other than a front street line or a rear lot line. A side lot line separating the lot from the street is a side street line.

**LOT, THROUGH.** A lot having frontage on 2 parallel or approximately parallel streets.

**LOT WIDTH.** The distance parallel to the front of a building erected or to be erected, measured between side lot lines at the building line.

**MASTER PLAN.** The complete plan, or any of its parts, serving as a guide for the development of the town, prepared by the Commission and adopted by the Town Board, in accordance with the authority conferred by state law, as is now or may hereafter be in effect.

**MOBILE HOME.** A 1-family structure designed for the transportation after fabrication on streets and highways on its own wheels or on flatbed or other trailers and arriving at the site where it is to be occupied as a dwelling, complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on jacks or permanent foundations, connections to utilities and the like.

**MOBILE HOME PARK.** An area of land used for the parking of 2 or more mobile homes which are being used for dwelling purposes.

**MOTEL.** A permanent building or group of buildings containing rooms without cooking facilities, used, rented, or hired out for the more or less temporary occupancy of overnight guests.

**MOTOR VEHICLE.** Includes automobiles, trucks, tractors, trailers, semi-trailers, airplanes, buses and farm implements, whether self-propelled or designed to be pulled, pushed or carried by another motor vehicle.

**NET SITE AREA.** The entire land area within the boundaries of a site, including the area of any existing streets, alleys, or rights-of-way which are included in the legal description of the site.

**NONCONFORMING USE.** A legally existing use of land or building which fails to comply with the regulations set forth in this chapter applicable to the district in which the use is located.

**PARKING AREA, PUBLIC .** An open area, other than a street, used for the temporary parking of more than 4 automobiles and available for public use whether free, for compensation or an accommodation for clients or customers.

**MOBILE HOME LOT.** The area of land in a mobile home park intended for the parking of 1 mobile home.

**PARKING SPACE (OFF-STREET), ONE.** A space on private land accessible from a street or alley, used for the purpose of temporarily parking a motor vehicle.

**RECREATIONAL VEHICLE.** A temporary dwelling for travel, recreation and vacation use, including, but not limited to travel trailer, pickup coach, motor home, camping trailer, and tent.

**RECREATIONAL VEHICLE PARK.** An area of land used for the parking of 2 or more recreational vehicles which are being used for temporary dwelling purposes.

**SANITARY LANDFILL.** The disposal of garbage by the trench and cover method or fill and borrow method. In the first case, an excavation will be made and the garbage placed in the excavation and covered with the dirt which was removed. In the second case, the fill may be made in a low area and dirt borrowed from higher ground will be spread over the top of the garbage.

**SIGN.** Any advertisement, announcement, direction or communication produced in whole or in part by the construction, erection, affixing, or placing of a structure on any land or on any other structure, or produced by painting on or posting or placing any printed, lettered, pictured, figured or colored material on any building, structure, or surface. Signs placed or erected by public agencies for the purpose of showing street names or traffic directions or regulations or for other governmental purposes or signs which are part of the architectural design of the building shall be included herein.

**STORY.** That portion of a building included between the upper surface of any floor and the upper surface of the floor next above; also any portion of a building used for human occupancy between the topmost floor and the roof. A basement shall not be counted as a **STORY** unless more than 1/2 of the basement height is above grade level at the front of the building.

**STREET.** A right-of-way, other than an alley, dedicated or otherwise legally established to the public use, usually affording the principal means of access to abutting property. A **STREET** may be designated

as a highway, thoroughfare, parkway, boulevard, road, avenue, lane, drive, or other appropriate name. The arterial thoroughfares and primary and secondary streets are designated on the Community Guide Plan of the Master Plan for Geneva, Indiana. For the purpose of this chapter, streets shall be classified as follows:

(1) **ARTERIAL THOROUGHFARES.** This type of facility serves mainly to move through traffic; Indiana and U.S. marked routes, as well as some county roads and important intra-city streets are considered under this classification. Where a highway is a non-limited access route, these facilities also perform a secondary function of providing direct access to abutting land and thus interconnect principal traffic generators.

(2) **PRIMARY (MAJOR) ROUTES.** These facilities serve to connect cities with each other as well as to link smaller towns or settlements with the arterial thoroughfares system. **PRIMARY ROUTES** provide access to abutting land and generally serve all principal traffic generators.

(3) **SECONDARY (CONNECTOR) ROADS.** These facilities serve intra-city movements of traffic, such as that moving between a subdivision and a major street. The principal difference between the connector road and streets or roads of higher classification is the length of trip each principally serves. They are intended to supply the abutting property with the same degree of land service as the local street, while at the same time serving larger volumes of traffic.

(4) **LOCAL (RESIDENTIAL) STREETS.** The sole function of these streets is to provide access to the immediately adjacent property. Local access streets are intended to carry low volumes of traffic.

(5) **MARGINAL ACCESS STREET.** A street designed to connect not more than 2 streets, and which normally parallels an arterial thoroughfare, or a primary or secondary street, and is not separated from the thoroughfare or street by a lot or tier of lots, and which is specifically so designated and approved as such on the plot of the subdivision.

**STRUCTURE.** Anything constructed, erected, or placed which requires location on the ground or attachment to something having a location on the ground. Devices used for the support of wires and appurtenances supplying public utility services shall not be considered as structures under this chapter.

**SUBDIVISION.** The division of any parcel of land, after the enactment of this chapter, shown as a unit, as part of a unit, or as contiguous units on the last preceding transfer of ownership thereof, into 3 or more parcels, or lots, any 1 of which is less than 5 acres in area, in any 12 months period of time, for the purpose, whether immediate or future, of transfer of ownership, or improvement of 1 or more of the lots or parcels of land for residential, commercial, or industrial structures or groups of structures. All division of land meeting the above described definition of a subdivision shall have, after the enactment of this chapter, a plot recorded in the office of the County Recorder; the plat shall comply with all

provisions of this chapter and any amendments hereto. Where no new streets or roads are involved, divisions of land for agricultural purposes, divisions of property by testamentary or intestate provisions, or divisions of property upon court order shall not be considered subdivisions.

***SUBDIVISION, MOBILE HOME.*** A subdivision designed exclusively for use only by mobile homes and compact homes, in which the homes and the land are owned by the occupant.

***TOURIST HOME.*** A building in which more than 1 but not more than 5 guest rooms are used to provide or offer overnight accommodations for transient guests for compensation.

***TRADE OR BUSINESS SCHOOL.*** Secretarial school or college; business school or college when not public and not owned or conducted by or under the sponsorship of a religious or charitable organization, school conducted as commercial enterprise for teaching instrumental music, dancing, barbering or hair dressing or for teaching industrial skills in which machinery is employed as a means of instruction. This definition shall not be deemed to include educational institution as defined in this section.

***USE.*** The employment or occupancy of a building, structure or land for a person's service, benefit or enjoyment.

***USE, OPEN.*** The use of a lot without a building or dwelling, or including a building or dwelling incidental to the open use with a ground floor area equal to 5% or less of the area of the lot.

***YARD.*** A space on the same lot with a main building, open, unoccupied and unobstructed by buildings or structures from the ground to the sky, except as otherwise provided in this chapter.

***YARD, FRONT.*** A yard extending across the full width of the lot, the depth of which shall be the least distance between the front lot line and the front of the main building.

***YARD, REAR.*** A yard extending the full width of the lot between the rearmost main building and the rear lot line, the depth of which shall be the least distance between the rear lot line and the rear of the main building.

***YARD, SIDE.*** A yard between the main building and the side lot line, extending from the front yard or front lot line where no front yard is required, to the rear yard. The width of the required side yard shall be measured horizontally and perpendicularly from the nearest point of the side lot line toward the nearest part of the main building.

***ZONING ADMINISTRATOR.*** The officer designated and authorized by the Commission or the Town Board to enforce the zoning requirements.

***ZONING LOT.*** A single tract of land located within a single block which (at the time of the filing for a zoning permit) is designated by its owner or developer as a tract to be used, developed or built upon as

a unit, under single ownership or control. Therefore, a **ZONING LOT** may or may not coincide with a lot of record. The **ZONING LOT** shall have adequate frontage on an improved dedicated roadway of adequate width.

(1997 Code, § 32.3) (Ord. 1967-2, passed - -)

#### **§ 153.004 BUILDING AND USES AFFECTED BY ZONING.**

No building, dwelling, or structure, or land, except buildings, dwellings, or land incidental to agricultural operations, shall hereafter commence to be used unless erection has been started prior to the enactment of this chapter. No building or dwelling or part thereof shall be erected, moved or altered unless in conformity with the regulations of this chapter. The placing of a permanent foundation, or the legal execution of architectural or construction contracts, shall constitute the starting of the erection of a building, dwelling, or structure.

(1997 Code, § 32.4) (Ord. 1967-2, passed - -)

#### **§ 153.005 CONTINUANCE OF NONCONFORMING BUILDINGS OR USES.**

##### *(A) Nonconforming buildings or structures.*

(1) *Maintenance permitted.* A nonconforming structure lawfully existing upon the effective date of this chapter may be maintained.

(2) *Repairs and alterations.* Repairs and alterations may be made to a nonconforming building or structure, provided that no enlargement shall be made.

##### *(3) Additions, enlargements or moving.*

(a) A structure nonconforming as to use, height, yard requirements or lot area per dwelling unit shall not be added to or enlarged in any manner unless the structure, including the addition or enlargement, is made to conform to the use, height, yard, and area requirements of the zone in which it is located.

(b) No nonconforming building or structure shall be moved in whole or in part to any other location on the lot unless every portion of the building or structure is made to conform to all the regulations of the zone in which it is located.

##### *(B) Nonconforming use of buildings or structures.*

(1) *Continuation and change of use.* Except as otherwise provided in this chapter:

(a) The nonconforming use of a building or structure, lawfully existing at the time this chapter became effective, may be continued;

(b) The nonconforming use of a building or structure may be changed only to a use of the same or more restricted classification.

(2) *Expansion prohibited.* A nonconforming use of a building or structure designed for a conforming use shall not be expanded or extended into any other portion of the conforming building or structure nor changed except to a conforming use.

(a) A nonconforming use on a part of a lot shall not be expanded or extended into any other portion of the lot.

(b) A nonconforming use of a building or structure designed for such use may be expanded to include all of the area nonconforming at the time of passage of this chapter.

(C) *Nonconforming variance permitted by Board of Zoning Appeals.* The Board of Zoning Appeals may authorize, upon appeals in specific cases, the variance from the terms of this section as will not be contrary to the public interest, where, owing to a special condition, a literal enforcement of the provisions of this section will result in unnecessary hardship, and so that the spirit of this section shall be observed and substantial justice done; provided, however, that no action shall be taken or decision made except after public hearing.

(1997 Code, § 32.5) (Ord. 1967-2, passed - -)

### **§ 153.006 AMORTIZATION OF NONCONFORMING USES OR BUILDINGS.**

(A) *Discontinuance.* Whenever a nonconforming use has been discontinued for a period of 12 months, the use shall not thereafter be established and any future use shall be in conformity with the provisions of this chapter, except as otherwise noted in division (B) of this section.

(B) *Discontinuance seasonal trade.* Whenever a nonconforming use dependent on seasonal trade has been discontinued for a period of 14 months, the use shall not thereafter be established and any future use shall be in conformity with the provisions of this chapter.

(C) *Damaged building.* No building damaged by fire or other causes to the extent that its restoration will cost more than double its assessed valuation shall be repaired or rebuilt except to conform to the provisions of this chapter.

(D) *Open use.* Any nonconforming open use of land lawfully existing upon the effective date of this chapter and not previously designated as a nonconforming open use of land by any prior zoning ordinance shall be discontinued or be made conforming on or before 5 years after the effective date of this chapter.

Any nonconforming open use of land that has been previously zoned as a nonconforming open use of land with a 5 year amortization period established shall be discontinued on or before the date as established under the previous zoning jurisdiction.

(1997 Code, § 32.6) (Ord. 1967-2, passed - -)

### § 153.007 NONCONFORMANCE DUE TO RECLASSIFICATIONS.

The provisions of §§ 153.005 and 153.006 shall also apply to buildings, structures, land or uses which hereafter become nonconforming due to any reclassification of zones under this chapter or any subsequent change in the regulations of this chapter, and any time periods specified for discontinuance of nonconforming uses shall be measured from the date of the reclassification or change.

(1997 Code, § 32.7) (Ord. 1967-2, passed - -)

### § 153.008 GENERAL USE PROVISIONS.

(A) *Conformance and permits required.* No building or structure shall be erected, reconstructed, enlarged or moved for any use other than that which is permitted in the zone in which the building, structure or land is located, nor shall any building, structure or land be used for any other use than is permitted in the zone in which it is located.

(B) *Zone group classification.* Whenever the terms “F. Zone, A. Zone, R. Zone, B. Zone, or I. Zone” are used, they shall be deemed to refer to all zones containing the same letters in their names; for example, B. Zone shall include the B-1, B-2, and B-3 zones.

(C) *Temporary buildings, structures and mobile homes.*

(1) No temporary building or temporary structure shall be erected, reconstructed, enlarged, or moved on to any lot, plot, or tract of land other than for agricultural purposes or as a temporary construction field office unless it conforms with this chapter.

(2) (a) A mobile home may be moved on to a lot, plot, or tract of land and be used as a temporary residence for a period of 1 year during the construction time of a permanent residence on the same lot, plot, or tract. Prior to the moving of any mobile home onto any lot, plot, or tract for said purpose, the owner shall obtain a special exception grant from the Board of Zoning Appeals; the grant shall run for a period of 1 year. Upon expiration, the grant may be extended for 1 additional year by the Zoning Administrator upon adequate showing by the owner that the construction of the residence has not progressed to a livable stage due to conditions beyond his control. Only 1 such extension shall be allowed for the grant; after the final expiration of the grant, the mobile home shall be vacated and removed within 30 days of the expiration date.

(b) The temporary residence shall comply with all county and state health requirements which would be imposed upon a permanent residence on the same lot, plot, or tract.

(3) A mobile home or travel trailer is permitted as a temporary accessory use without regard to the other provisions of this chapter except as specified in this subsection, and providing that the following conditions are met:

(a) The mobile home or travel trailer shall be permitted only on property having an existing permanent dwelling;

(b) The mobile home or travel trailer shall be occupied by a member of the family (father, mother, son or daughter, and the like) residing in the permanent dwelling; or by an employee of the resident in the permanent dwelling;

(c) The mobile home or travel trailer shall not be permitted to encroach on the required yard or setback as specified by the zone in which it is located:

(d) The mobile home or travel trailer shall not be moved onto a property unless an improvement location permit has been issued and it shall not be used for dwelling purposes until a certificate of occupancy has been issued;

(e) The application for the improvement location permit and the certificate of occupancy shall be accompanied by a letter from the County Board of Health stating that the proposed method of water supply and sanitary waste disposal meets the Board's requirements;

(f) The Zoning Administrator has the authority to issue the improvement location permit and certificate of occupancy if the above and all other applicable regulations and requirements are met.

(4) A mobile home may be moved onto a lot, plot or tract of land and be used as a dwelling unless that lot is situated in a mobile home park as defined in this chapter. Prior to moving any mobile home onto any lot in a mobile home park, the owner or the owner's agent shall first obtain an improvement location permit. The Zoning Administrator may issue the permit subject to the following conditions:

(a) Each mobile home shall be located on a lot in a mobile home park and shall be the only principal structure on the lot;

(b) The minimum lot and yard requirement shall be the same as required in § 153.012;

(c) Each mobile home shall contain a flush toilet, sleeping accommodations, a tub or shower bath, kitchen facilities and plumbing and electrical connections designed for and attached to appropriate external systems;

(d) Personal goods and articles, other than cars, fuel tanks, boats, and similar items too large to reasonably enclose shall be stored on the lot only in a completely enclosed structure;

(e) All health and sanitary regulations of the Adams County and the Indiana State Boards of Health must be met and complied with.

(D) *Compact homes.* In any district in which compact homes are permitted, the following minimum requirements shall apply:

(1) Each compact home shall be located on a lot and shall be the only principal structure on the lot;

(2) A compact home shall comply with the minimum lot and yard requirements of the district in which it is located;

(3) The wheels shall be removed from each compact home;

(4) All compact homes shall be supported under all exterior walls by a permanent foundation completely enclosing the undercarriage.

(1997 Code, § 32.8) (Ord. 1967-2, passed - -; Am. Ord. 1980-8, passed - -)

### § 153.009 GENERAL AREA PROVISIONS.

Except as hereinafter provided, no building or structure shall be erected on a lot unless the building, combined existing structure plus additions, conforms with the area regulations of the zone in which it is located.

(A) *Reduction of lot area.* No lot area shall be so reduced, diminished and maintained that the yards, other open space, or total lot area shall be smaller than prescribed by this chapter, nor shall the density of population be increased in any manner except in conformity with the regulations herein established.

(B) *Recorded lots less than minimum area.* Lots of record at the time of the enactment of this chapter which have less than the minimum area requirements for residential use may nevertheless be used for any use permitted therein, except that for dwellings, the lot must have a width of at least 60 feet, and an area of at least 7,500 square feet.

(C) *Yards apply to only one building.* No required yard or other open space around an existing building, or which is hereafter provided around any building for the purpose of complying with the provision of this chapter, shall be considered as providing a yard or open space for any other building; nor shall any yard or other required open space on an adjoining lot be considered as providing a yard or open space on a lot whereon a building is to be erected.

(D) *Only one main building on a lot.* Every building hereafter erected shall be located on a lot as herein defined. In no case shall there be more than 1 residential building and its accessory buildings on 1 lot except a farm tenant dwelling may be erected on the same tract as the main farm dwelling. Row dwellings or group housing may be considered as 1 main residential building.

(E) *Corner setback.* At street intersections of an angle less than 60 degrees, shrubs or structures over 3.5 feet high will not be placed between the intersections of the street lines and 10 feet from the building line.

(F) *Front yards on a through lot.* At each end of a through lot there shall be a front yard of the depth required by this chapter for the zone in which each street frontage is located, and 1 of the front yards may serve as a required rear yard.  
(1997 Code, § 32.10) (Ord. 1967-2, passed - -)

#### **§ 153.010 GENERAL HEIGHT PROVISION.**

Except as hereinafter provided, no building or structure shall be erected, enlarged, or reconstructed to exceed the height limit established for the zone wherein the building or structure is located.  
(1997 Code, § 32.11) (Ord. 1967-2, passed - -)

#### **§ 153.011 CONTINGENT USES (ALL DISTRICTS).**

The contingent uses hereinafter set forth shall be permitted by the Board, only after public hearing, in any district where the uses are essential or desirable to the public convenience or welfare or if the refusal of this permit would create an undue hardship on the applicant. No permit for a contingent use shall be granted if the Board shall find that the use is in conflict with any plan duly adopted by ordinance, or if the Board determines that the proposed use will be detrimental to the surrounding area. In the exercise of its approval the Board may impose such additional conditions regarding the location, character, and other features of the proposed building, structure, or use as may be reasonably required to further the purpose of this chapter.

(A) *The permitted contingent uses are identified as follows.*

(1) An airport or similarly designed area for the landing and taking off of aircraft; provided that:

(a) The proposed location has been approved by the Commission as to compatibility with the Master Plan for the physical development of the town;

(b) The area and the arrangement of all improvements shall be sufficient, for the class of airport proposed, to meet the requirements of the Federal Aviation Agency, the Aeronautic Administration of Indiana, and any other rightfully involved governmental agency;

(c) Any proposed buildings, hangars, or other structures shall be at least 100 feet from any street or lot line;

(d) No application shall be considered, unless it is accompanied by a plan, drawn to scale, showing the proposed location of the airport; boundary lines; dimensions; names of owners of abutting properties; purposed layout of runways, landing strips or areas, taxi strips, aprons, roads, parking areas, hangars, buildings, and other structures, and facilities; the location and height of all buildings, structures, trees, and overhead wires falling within the airport approach zones and less than 500 feet distant from the boundary lines of the airport; other pertinent data, such as topography and grading plan, drainage, water, and sewerage, and the like.

(2) Cemetery.

(3) Governmental installation not otherwise permitted.

(4) A hospital, nursing home, sanitarium or asylum which does not treat mental, drug or alcoholic patients.

(5) Medical health center or clinic, with parking provided as specified by this chapter.

(6) Public utility facilities, such as: radio and television transmitter stations and towers; petroleum and natural gas transmission lines, pumping stations and facilities; electric substations and telephone exchanges where not otherwise permitted by this chapter; railroad lines; classification yards and terminals; and other similar uses of a public utility or public service nature; including structures and appurtenances for their enclosure, maintenance and operation.

(7) Educational institution, including churches.

(8) Fairground.

(9) Nonprofit recreational establishments or uses.

(10) Private school.

(11) Golf course.

(B) *Authorization for continuance.* All contingent uses which existed upon the effective date of this chapter shall be regarded as conforming uses and may be continued, except that major changes in layout, expansions, or extensions to the uses shall be subject to Board review and approval as required for contingent use.

(1997 Code, § 32.12) (Ord. 1967-2, passed - -)

**§ 153.012 SPECIAL EXCEPTION; SPECIFIED ZONES.**

The special exceptions hereinafter set forth shall be permitted by the Board, only after public hearing, in the zones indicated in division (A) of this section, where the uses are essential or desirable to the public convenience or welfare or if the refusal of this permit would create an undue hardship on the applicant. No permit for a special exception shall be granted if the Board shall find that the use is in conflict with any plan duly adopted by ordinance, or if the Board determines the proposed use will be detrimental to the surrounding area. In the exercise of its approval, the Board may impose such additional conditions regarding the location, character, and other features of the proposed building, structure or use as may be reasonably required to further the purposes of this chapter.

(A) *The Board may permit.*

(1) *Animal hospitals, veterinary clinics, animal boarding places and kennels.* In any A or F-2 zone, a veterinary clinic, animal hospital, animal boarding place, or kennel, provided that no part of any building, pen, or run shall be within 300 feet of any adjoining residence.

(2) *Antique shop.* In any A zone, an antique shop, provided that any outdoor display of articles for sale shall be at least 50 feet from any street or property line.

(3) *Boarding and/or rooming house.* In any A and R-1 zone, the temporary use for a period of not more than 3 years, subject to renewal of a single-family dwelling for a boarding and/or rooming house upon a finding by the Board that the rooming house will not constitute a nuisance because of sidewalk or street traffic, noise or type of physical activity, and that the use will not tend to affect adversely the use and development of adjoining properties or the immediate neighborhood.

(4) *Child care home.* In any A, R-1, and R-2 zone, a child care home or nursery school upon a finding by the Board that the use will not constitute a nuisance because of traffic, number of children being cared for, noise or type of physical activity.

(5) *Dumps, sanitary landfills and incinerators.* In any A, F-2, or 1-2 zone, a dump, sanitary landfill and/or incinerator, upon a finding that the use will not constitute a nuisance because of traffic, noise, odors, smoke, or physical activity, provided that the area and setback requirements as specified by the Boards are complied with, provided that it meets the approval of the County Board of Health and the Indiana Department of Natural Resources.

(6) *Hospital, nursing home, sanitarium, asylum or other institution.* In any A and R-2 zone, a hospital, nursing home, sanitarium, asylum or other institution which cares for mental, drug, or alcoholic patients or is a penal or correctional institution, subject to the conditions that:

(a) No part of any building in which inmates or patients are housed is, or is proposed to be, located less than 300 feet from any bounding lot or street line;

**Geneva - Land Usage**

- (b) Adequate off-street parking space is provided;
- (c) Protective man-proof fencing is provided where necessary.

(7) *Limited office uses in residential zones as a transitional use.* In any R-2 zone, a dwelling on any lot or parcel of land immediately abutting along its side lot line or lying directly opposite across a street from any commercial or industrial district may be used for limited office purposes, provided that the use is in accordance with the following requirements:

(a) The uses shall be confined to the offices of doctors, dentists, lawyers, accountants, realtors, engineers, and similar professional persons;

(b) The uses shall not change or alter the exterior characteristic of the premises and no name place or other sign exceeding 2 square feet in area shall be displayed on the premises;

(c) Wherever possible, in the opinion of the Board, all entrances, driveways, walks, parking areas, and signs incidental to the use shall be located on the side of the building nearest to the commercial or industrial zone.

(8) *Recreational establishments and uses in any F, A, B or I Zone.*

(a) Buildings and structures for clubs, fraternal organizations, lodges, youth organizations, adult organizations, fishing ponds, picnic groves, and private recreational developments all conducted for profit. The use of firearms is permitted if adequate precautions are taken to safeguard the public.

(b) Transient amusement enterprise, medicine show, or circus, the chief activity of which is carried on for gain or profit.

(9) *Special uses allied with agriculture.*

(a) In any A zone, a trucking operation primarily engaged in commercial transportation of agricultural products other than those raised on the premises, feed mills where grain is processed on a commercial basis, poultry dressing establishments and animal slaughter houses where animals other than those raised on the premises are processed on a wholesale basis, commercial welding shops, livestock sales, auction barns, commercial dairy for the processing, packaging and distribution of dairy products, fertilizer blending and sales operations, and farm equipment sales.

(b) In any A, F-2, and R-2 zone, a greenhouse and/or plant nursery, provided retail sales are limited to the sale of plants and the commodities used in the direct care of plants.

(10) *Sand, gravel, or clay pits; rock or stone quarries; mining; removal of earth or topsoil.* In any zone, the use of vacant land for the removal of natural material or deposits, including, but not limited to, sand, gravel, clay, rock or stone, earth or topsoil; all such uses shall be subject to the following:

- (a) All applications for the uses shall be accompanied by a map or plat showing the area proposed to be included in the extraction or removal of material; and a final grading plan which shows the existing ground elevations of the site and the land immediately adjacent thereto, the location and elevation of all bounding streets or roads, and the final elevations of the site at the termination of the operation with respect to the elevations of the immediately adjacent land and bounding streets or roads;
- (b) Unless the Board specifies otherwise, the areas exposed by the operation shall not have a final cut slope of steeper than 3 feet horizontal to 1 foot vertical distance and shall be left suitable for development purposes in accordance with the final grading plan approved by the Board;
- (c) Unless otherwise permitted by the Board of Zoning Appeals, temporary operating cut slopes steeper than 1 foot horizontal to 1 foot vertical shall in no case be brought closer to an exterior property line, right-of-way line of any street, road, way, or alley, as existing or as proposed in the Master Plan than 50 feet where a sight screen is provided or 75 feet in the case where no provision is made for sight screening;
- (d) Explosives shall be used only between sunup and sundown, except in case of an emergency;
- (e) All buildings, structures or equipment shall be entirely removed from the property within 1 year after the expiration of the permit;
- (f) Dikes or other barriers and drainage structures shall be provided to prevent silting of natural drainage channels or storm drains in the area surrounding the uses;
- (g) Where required by the Board, final cut slopes shall be treated to prevent erosion; topsoil shall be replaced on the slopes to support vegetation; ground cover shall be planted within 12 months after a cut slope is excavated to its final position; and the ground cover shall be maintained for a period of time sufficient to provide vegetation of a density that will prevent erosion;
- (h) Where required, suitable plant material shall be placed and maintained to screen slopes from public view. There shall be no open storage of discarded machinery, trash or junk which would present an unsightly appearance;
- (i) Quarries and sand and gravel pits shall be operated so as to keep dust and noise to a minimum, and access roads shall be maintained as dust-free surfaces from the public street to within 100 feet of the loading point within the quarry or sand and gravel pit when adjacent properties are used or zoned for residential purposes;
- (j) Vehicles carrying materials from quarries or sand and gravel pits shall be loaded in such manner as to prevent spilling rock, gravel, sand or other materials of a mineral nature while in transit upon roads and highways;

(k) Quarry or sand and gravel pit excavations which may penetrate near or into a usable water-bearing stratum shall be conducted in such a manner that any such stratum so approached or encountered will not be subject to pollution or contamination either during quarrying operations or the excavation of a sand and gravel pit or subsequent to the abandonment of the quarry or sand and gravel pit.

(11) *Sawmill*. In any F-2 or A zone, a sawmill, for a period of not more than 3 years subject to renewal, for the cutting of timber grown in the immediate area, provided that no saw or other machinery shall be less than 100 feet from any lot or street line and that all power saws and machinery will be secured against tampering or locked when not in use.

(12) *Tourist home*. In any A and R-2 zone, a tourist home, provided that the use will meet all other applicable governmental regulations.

(13) *Mobile home park*. A mobile home park and its accessory uses may be permitted in B-2, B-3, and I-1 zones. They may also be permitted in A, R-1, and R-2 zones only when the proposed mobile home park site is at least 300 feet from existing residences. After a public hearing, the decision of the Board of Zoning Appeals shall determine whether or not the proposed site may be used for the purpose intended. The following requirements shall be fulfilled in all mobile home parks located in the town, approved subsequent to the adoption of this chapter.

(a) *Procedure*.

1. An applicant for a mobile home park shall apply, therefore, to the Board upon the prescribed forms. The application shall be filed with the Zoning Administrator and shall be accompanied by a preliminary development plan for the entire tract involved, together with supporting data thereof.

2. Upon receipt of the application, development plan and data, the administrator shall forward the same to the Plan Commission, the Commission shall review the plan and data for adequacy of the lot size, street design, utilities size and design, and if approval of the plan is given, a hearing shall be scheduled by the applicant, before the Board of Zoning Appeals, asking that the Board grant a special exception for the proposed use.

3. The Commission shall consider all comments and shall review the proposed development plan and supporting data upon the basis of the requirements of this chapter. Thereafter, the commission shall take action as follows:

a. If it shall find that the plan meets the requirements of this chapter, it shall approve the same as the final development plan;

b. If it shall find that the plan does not comply with the requirements of this chapter and is not susceptible of alteration, change or amendment to meet the requirements, the Commission shall disapprove the same.

4. In the event the developer proposes to develop the tract by sections, the developer shall submit all data and final development plans for the section to be developed. The Commission shall not approve any further development plans for any section or sections of the tract until all improvements serving the previously approved section or sections are completely installed as approved. The first section submitted to the Commission shall include a minimum of 25% of the total proposed development.

(b) *Development Plan.* The owner or developer of the tract of land shall have prepared a development plan for the entire tract which shall include the following:

1. Proposed name of the mobile home park;
2. Location by township, section, or other legal description;
3. Name and address of the developer;
4. Date, scale, and north point;
5. Location, widths, and names of all existing platted streets or other public ways, railroads and utility rights-of-way, parks, and other public open spaces, existing buildings and structures within and adjacent to the tract;
6. Adjoining boundary lines of all adjacent land uses, describing the land uses, showing the name of the developer or owner, or some other means of identification;
7. Layout of proposed streets, their widths, also the widths of alleys, crosswalkways, and easements;
8. Layout of proposed lots, their numbers and dimensions;
9. Parcels of land intended for public use;
10. Mobile home limit lines;
11. Contours at intervals of not more than 5 feet;
12. Location and type of easements;
13. Information as to any agreements which have been entered into with the owners of other property within the neighborhood in which the proposed mobile home park is located as to general plans for the entire neighborhood;
14. Such other data as the Plan Commission may by rule require. Any such rule shall be adopted by Commission resolution only after a public hearing.

(c) *Development Plan requirements.* In determining the approval or disapproval of a proposed Development Plan and supporting data, the Commission shall be governed by the following:

1. The tract to be developed shall contain a minimum of 5 acres exclusive of all existing or proposed road rights-of-way;
2. Lot area and dimensions:
  - a. Minimum lot width shall be 35 feet, measured perpendicular to the side lot line;
  - b. The minimum lot area for a mobile home shall be 3,000 square feet, which shall require an on-street parking area for all vehicles in the park and a playground for children, allowing a minimum of 200 square feet of play area per mobile home lot. A lot size of 3,300 square feet may be adopted with a choice of on-street parking area or playground and/or a lot size of 3,600 square feet may be adopted with no on-street parking area or playground . In the event on-street parking is not provided, one off-street parking space shall be provided on each lot. One parking space per each 4 lots shall be provided by the developer in addition to the above requirements.
3. The setback line for the mobile home park front yard shall meet the provisions of § 153.029(C). The park side and rear yard shall be at least 30 feet in width and shall include a dense evergreen screen planting, of at least 6 feet in height after one full growing season, when adjoining property is zoned or used for residential purposes. When the park is adjacent to an arterial thoroughfare, the park yard fronting on the thoroughfare shall be landscaped and maintained.
4. Location of mobile home on lot shall be as follows:
  - a. Minimum front yard from hitch to lot line shall be 2 feet; in the case of a removed hitch, the minimum front yard from trailer to front lot line shall be 2 feet;
  - b. Minimum side yard shall be 4 feet;
  - c. Minimum rear yard shall be 8 feet;
  - d. Minimum distance between mobile homes shall be 20 feet; minimum distance between any additions to or projections of a mobile home and the next adjacent mobile home shall be 10 feet. In the event the complete mobile home is in excess of 14 feet in width, the minimum distance between mobile homes shall be 10 feet. In any event, the aggregate total of side yards shall not be less than 10 feet.
5. Provision must be made, in every mobile home park, for a street in front of every lot. The street surface shall be of the all-weather type with a traffic surface of not less than 20 feet in width, properly crowned and graded. When off-street parking is not utilized, a parking surface of 8 feet

in width shall be provided along each side of the traffic surface. When the streets come in contact with any public roads or highway, reinforced concrete sewer pipe with cemented joints or continuous iron or steel pipe shall be installed to provide drainage. The cost of the pipe shall be defrayed by the owner or operator of the park and the installation shall be approved by the Town Engineer or appointed official. All streets within the park must be accessible for traffic at all times and shall be maintained in first-class condition. Streets in any mobile home park may be accepted into the town street system; however, if they do not meet the town specifications, the operator shall provide for their maintenance.

6. Sidewalks of a 30 inch minimum width shall be provided by the developer; the sidewalks shall serve each lot and mobile home.

7. Street lighting shall be provided by the developer. The light value on all occupied streets shall be a minimum of one-tenth foot candle.

(d) *Water supply.* Water supply shall be from a municipal water service or from approved and protected driven wells that meet all test requirements, provided with tight, elevated concrete platforms and which will not be subject to overflow or surface drainage. The source and supply of the water for human consumption must meet all the requirements of the Adams County and State Boards of Health. The use of open wells, springs, cisterns, or open storage tanks for human consumption is unlawful and shall constitute a violation of the terms of this chapter.

(e) *Waste and garbage disposal.*

1. Mobile home parks must be kept in clean and sanitary condition and provided with suitable covered metal receptacles for garbage, waste, litter, and trash. Receptacles must be emptied once a week and the contents of same must be disposed of immediately by incineration or other approved means as a regular collection by a garbage disposal service.

2. Liquid wastes from mobile homes shall be collected by a sewage system which has a trapped outlet available to each lot or unit plot and which shall discharge into an approved sewage disposal system. The use of buckets as a depository for waste is unlawful.

(f) *Sewage treatment and sewage disposal.* Primary treatment of all sewage shall be through a sewage disposal process which meets all county and state health requirements. If septic tanks are used, a percolation test will be required meeting the specifications of the County and State Sanitation Code. If a sewage disposal plant or lagoon is used, the system must be approved by the Adams County and State Boards of Health. Every mobile home park shall provide 1 or more service buildings based upon the requirements set forth in I.C. 16-41-27 and amendments thereto. Supervision and maintenance of the mobile home park shall comply with I.C. 16-41-27 and amendments thereto.

(g) *Operating condition of mobile homes.* All mobile homes occupying any lot in the town must be kept in such operating condition that they may be removed or placed in transit within 24 hours upon legal service of the Town Marshal or other law enforcement officer.

**Geneva - Land Usage**

(h) *Registration requirements for owners and operators.* Every person proposing the expansion of an existing or creating a mobile home park shall apply to the Geneva Plan Commission for an improvement location permit and shall furnish such relevant information, plans and specifications as will enable the aforesaid Board to pass on the eligibility of the mobile home park.

(i) *Forms required for operators and tenants.*

1. Every owner, agent, lessee, person, firm, or corporation that operates or manages any area, tract, subdivision, or any part thereof for use as a mobile home park shall file, with the Geneva Plan Commission at the time of opening the park for occupancy, a mobile home park registration. The form shall be furnished by the Commission.

2. The owner or operator or agent of the owner or operator, before renting or leasing any unit plot, shall complete the mobile home registration form which shall be furnished by the Commission. An original and 5 copies of the form will be filled out and distributed with 1 completed form to each of the following:

- a. The mobile home park operator;
- b. The State Board of Health;
- c. The Geneva Plan Commission;
- d. The School Superintendent of the district in which the park is situated;
- e. The Geneva Town Marshal;
- f. The Adams County Board of Health.

3. The copies of this form are all to be made out in full and properly signed and distributed as indicated. The failure to furnish these records as prescribed shall constitute a misdemeanor within the terms of this chapter.

(14) *Camp grounds.* Camp grounds may be permitted in any B-2, B-3, and I-1 zones. They may also be permitted in the A and R-2 zones, only when the site is at least 300 feet from existing adjacent residences. They may be permitted in the F-2 zone providing they receive approval from the Indiana Department of Natural Resources, Division of Water, prior to the Board's approval. After a public hearing, the decision of the Board of Zoning Appeals shall determine whether or not the proposed site may be used for the purpose intended.

(15) *Community unit projects.* The owner or owners of any tract of land may submit to the Board a subdivision plot along with an application for a variance to permit the use and development of the land

for mixed dwelling purposes. The Plan Commission shall advertise and hold a public hearing on the subdivision plat. After the public hearing by the Commission, shall be submitted to the Board of County Commissioners for consideration. The considerations for approval and recommendation by the Plan Commission shall be that:

- (a) The property adjacent to the area included in the plat will not be adversely affected;
- (b) The plan is consistent with the intent and purpose of this chapter to promote health, safety, morals, and general welfare of the community;
- (c) The buildings shall be used for single-family dwellings of the usual type, or of the cluster-type development, duplexes, 3 and 4 family dwellings, row houses or apartments, condominiums, and usual accessory uses, such as garages, parking areas, storage space, administrative buildings, and community activities, including churches;
- (d) The area shall be provided with community or town sewers and a water system providing fire protection;
- (e) The average lot area per family and minimum yard shall be as follows:
  - 1. Single-family dwellings: 7,000 square feet;
  - 2. Cluster development: overall density shall not exceed that of the zone in which the land occurs. The houses in the proposed subdivision shall be grouped in clusters. The minimum lot area shall be 2/3 of the minimum normally required in the zone in which the land is located. The remaining 1/3 shall be utilized as open space for recreational purposes, provision for the maintenance of the area shall be provided by the developer;
  - 3. Two-family dwellings: 10,000 square feet, or 5,000 square feet per dwelling unit;
  - 4. Row houses and low apartments not to exceed 35 feet in height: 10,000 square feet for the first 2 units and 4,000 square feet for each additional unit.
- (f) Provisions shall be made for sufficient utility easements to service the property;
- (g) Sufficient parking facilities shall be provided as in § 153.070. In case parking lots are provided, the following shall be required:
  - 1. There shall be a setback from the street conforming to the requirements of the zone in which the lot is located;
  - 2. The area around the improvement shall be landscaped;

3. There shall be a solid wall or screen planting at least 3-1/2 feet in height along the street and any side adjoining residential property, provided it is not in violation with the provisions of § 153.009;

4. The improvement shall be at least 10 feet from any property line and 25 feet from any building.

(h) After consideration by the Commission, the plat along with any recommendations shall be returned to the Board of Zoning Appeals. If the Board approves the plat, improvement location permits and certificates of occupancy may be issued.

(B) *Considerations for any special exceptions.* In considering a petition for any permitted special exception, the Board shall give due regard to the following factors as they will apply to the particular situation:

(1) The location and size of the use; the nature and intensity of the operations involved in or conducted in connection with it; its site layout, including parking space requirements; and its relation to streets giving access to it so that vehicular traffic to and from the use will not create undue hazards to the normal traffic of the vicinity, taking into account among other things vehicular turning movement in relation to routes of traffic flow, relation to street intersections, sight distances, and relation to pedestrian traffic;

(2) The nature, location, size, and site layout of the use so that it will be harmonious to the district in which it is situated.

(C) *Authorization for continuance.*

(1) All special exceptions, except dumps, sanitary landfills and incinerators, which existed upon the effective date of this chapter and which are located in a district which would permit the use in accordance with the provisions of this section, shall be regarded as conforming uses and may be continued, except that major changes in layout, expansion or extension to the uses shall be subject to Board review and approval as required for special exception.

(2) All special exceptions hereafter authorized by the Board in accordance with the provisions of this section shall be regarded as conforming uses and may be continued, except that major changes in layout, expansion or extension to the use shall be subject to Board review and approval as required for special exceptions.

(1997 Code, § 32.13) (Ord. 1967-2, passed - -)

**ZONES; REGULATIONS**

**§ 153.025 ESTABLISHMENT OF ZONES.**

(A) For the purposes of this chapter, all land falling within the jurisdiction of this chapter is divided into 12 zones and districts designated as follows:

- F2 Flood Plain Zone
- A Agricultural Zone
- R1 One-Family Zone
- R2 Multi-Family Zone
- B1 Neighborhood Business Zone
- B2 Rural Business Zone
- B3 General Business Zone
- B-P1 Planned Neighborhood Business District
- B-P2 Planning General Business District
- I-1 Light Industrial Zone
- I-2 Heavy Industrial Zone
- I-P Planned Industrial District.
- PR Park and Recreation Zone and District

(B) The above zones and districts and the boundaries of the zones and districts are established as shown on the maps entitled “Geneva Zoning Map” dated 19\_\_\_\_, and “Geneva Zoning Map Jurisdictional Area,” dated \_\_\_\_\_, 19\_\_\_\_, which accompanies this chapter and are on file in the offices of the Clerk-Treasurer and the Commission. The maps and all explanatory matter thereon are adopted and made a part of this chapter.

(C) Lands which may hereafter become incorporated areas of the city or within its jurisdictional limits shall be included in the A zone until changed by amendment to this chapter. (1997 Code, § 32.14) (Ord. 1967-2, passed - -; Am. Ord. 1976-2, passed - -)

**§ 153.026 ZONE AND DISTRICT BOUNDARIES.**

(A) Unless otherwise indicated, the zone boundary lines are land lines, the center lines of streets, parkways, alleys or railroad rights-of-way, or such lines extended. Other lines within blocks are rear or side lot lines or such lines extended.

(B) Where the physical layout existing on the ground varies from the layout as shown on the Zoning Map, the Zoning Administrator of the Commission shall interpret the map according to the reasonable intent of this chapter. (1997 Code, § 32.15) (Ord. 1967-2, passed - -)

**§ 153.027 FLOOD ZONES, CREATION OF.**

Flood zones are created to protect the public health and to reduce the financial burdens which may be imposed on the community, its governmental units, and its individuals as a result of improper use of lands having excessively high water tables or which are subject to frequent and periodic floods. The boundaries of these zones are based upon prior flood elevations as determined from information on file in the office of the Indiana Department of Natural Resources, Division of Water.

(A) *Provisions.* The provisions of these zones are intended to further locally the purpose of I.C. 14-28-1.

(B) *Reclassification.* The floodway or flood plain of any river or stream located in Geneva, Indiana, shall be considered for reclassification from time to time. The reclassification shall be made by the Plan Commission in conjunction with the Town Board, and a record of the reclassification shall be kept on file in the offices of the Clerk-Treasurer and the Plan Commission. In making the reclassification, the boards shall take into consideration the nature of the situation (past, and present experiences or future projections) and current information furnished by the Indiana Department of Natural Resources. Final action on any reclassifications shall be made in accordance with the provisions set forth in this chapter. (1997 Code, § 32.16) (Ord. 1967-2, passed - -)

**§ 153.028 F2 FLOOD PLAIN ZONE.**

The following regulations and the regulations contained herein shall apply in the F2 Flood Plain Zone.

(A) *Alterations.* Hereafter it shall be unlawful to erect, remodel, or alter any permanent structure in or on the flood plain unless the ground floor elevation shall be constructed above flood height, which elevation shall be determined from information supplied by the Indiana Department of Natural Resources, a copy of the information shall be on file in the records of the Plan Commission. No permit shall be issued in any flood plain until the Indiana Department of Natural Resources or the Plan Commission, or both, indicates their approval in writing.

(B) *Obstruction.* Any structures permitted shall be placed on the lot so as to offer the minimum obstruction to the flow of water and shall be firmly anchored to prevent the structure from floating away and thus threatening to further restrict bridge openings and other restricted sections of the river or stream.

(C) *Filling.* Filling and regrading of land situated in a flood plain shall be permitted only when the filling and regrading is approved by the Plan Commission and Board of Zoning Appeals in compliance with the recommendations of the Indiana Department of Natural Resources.

(D) *Permitted uses as follows or uses of a similar type.*

(1) Advertising device if improvement location permit is first obtained.

(2) Boat docks (private and commercial).

(3) One-family dwelling when in compliance with this section and when in conformity with the height, lot area and yard requirements stated in § 153.029.

(4) Forestry.

(5) General agricultural operations.

(6) Loading and unloading areas, parking lots, storage of motor vehicles (used and new) for not more than one 24 hour period.

(7) Mineral extraction.

(8) Public and private park and recreation areas (open type).

(9) Storage yards for equipment and material in movable containers and not subject to major damage by floods, provided the uses are permitted in an immediately adjoining zone, but this shall not be construed to include acids, caustics, flammable liquids, trash, rags, bottles, scrap metal or any other materials commonly referred to as junk or garbage.

(10) Any other uses customarily accessory or incidental to the above uses.

(11) Essential uses.

(1997 Code, § 32.17) (Ord. 1967-2, passed - -)

### **§ 153.029 A AGRICULTURAL ZONE.**

The following regulations and the regulations contained in §§ 153.002 through 153.012 and §§ 153.065 *et seq.* shall apply in the A Agricultural Zone.

(A) *Permitted uses as follows or uses of a similar type.*

(1) Any use permitted in the F2 Flood Plain Zone except § 153.028(D)(9).

(2) One-family detached dwelling and dwellings for tenants employed on the farm and two-family dwelling.

(3) Park, playground or community center, owned and operated by a local community association for subdivisions or neighborhoods.

(4) Noncommercial institutions.

## Geneva - Land Usage

(5) Stands for the retail sale of agricultural products or commodities raised on the premises. Off-street parking shall be provided in accordance with § 153.070.

(6) Accessory buildings and uses customarily incidental to any of the above uses, including home occupation, provided that the residential character of the dwelling is not changed and that there shall be not more than one assistant employed.

(7) Professional office in a one-family dwelling, provided that the use is incidental to the main use as a dwelling and further provided that the use is limited to a person actually residing in the dwelling.

(8) Name plate and advertising devices, provided that they shall be erected in accordance with the provisions of advertising devices.

(9) Riding stable of a private, noncommercial nature on at least 3 acres of land.

(10) Swimming pool, provided that they are enclosed by an animal proof fence not less than 3 feet in height and further provided they are constructed and maintained in agreement with all County and State Board of Health laws.

(11) Compact homes in accordance with § 153.008(D).

(12) Mobile homes when in accordance with § 153.008(C)(4)(a), (b), (c), (d), and (e).

(B) *Height.*

(1) *Maximum height of dwelling.* Maximum height of a dwelling shall be 2-1/2 stories, not to exceed 35 feet.

(2) Exceptions to height regulations are provided for in § 153.050.

(C) *Lot area and yards.*

(1) *Lot area.*

(a) Except as hereinafter provided, no residential structure shall be erected or altered in any A Agricultural Zone unless the structure, when completed, shall be in conformity with the following requirements; unless additional lot area is required to be in conformity with the Subdivision Control Ordinance "Town of Geneva Ordinance No. \_\_\_\_\_, 19 \_\_\_\_."

	<i>Minimum Width at Front Building Line</i>	<i>Minimum Net Site Area (sq. ft.)</i>	<i>Required Lot Area per Dwelling Unit: No. of Units and Sq. ft. per Unit</i>	
If served by individual well and septic tank	120'	21,780	1	18,180
If served by public or other approved community sewer system	100'	15,000	1	12,000
			2	8,000

(b) Required lot area shall be exclusive of proposed right-of-way.

(2) *Front yard.* There shall be a front yard between the building line and the highway and street proposed right-of-way lines as shown on the Thoroughfare Plan and by the town road resolutions as follows:

<i>Type of Thoroughfare</i>	<i>Setback Distance</i>
Arterial	75 feet
Primary	70 feet
Secondary	60 feet
Section and half section line	40 feet
Local (residential)	30 feet

(3) *Side yard.*

(a) There shall be 2 sides for each lot, the minimum width of either and the aggregate width of both shall be as follows:

	<i>Minimum Width of One Side Yard</i>	<i>Aggregate Width of Both Yards</i>
If served by individual septic tank and well	15 feet	30 feet
More than one dwelling unit	Above plus 2 feet per additional unit	Above plus 4 feet per additional unit

	<i>Minimum Width of One Side Yard</i>	<i>Aggregate Width of Both Yards</i>
If served by public or other approved community water and sewer system	10% of the lot width or 10 feet whichever is less	25% of the lot width or 25 feet whichever is less
More than one dwelling unit	Above plus 2 feet per additional unit	Above plus 4 feet per additional unit

(b) The side street, side yard of any corner lot shall be not less than 25 feet.

(4) *Rear yard.* There shall be a rear yard of not less than 25% of the depth of the lot.

(5) *Lot coverage.* Not more than 20% of the area of a lot may be covered by buildings and structures.

(6) *Exceptions.* Exceptions to yard regulations are provided for in § 153.051.

(D) *Building size.* No building shall be erected for residential purposes having a floor area of less than 760 square feet per primary dwelling unit, exclusive of unenclosed porches, terraces, and garages. Additional units shall have a minimum of 480 square feet per each additional unit. (1997 Code, § 32.18) (Ord. 1967-2, passed - -)

**§ 153.030 R1 ONE-FAMILY ZONE.**

The following regulations and the regulations contained in §§ 153.003 through 153.012 and §§ 153.065 *et seq.* shall apply in the R1 One-Family Zone.

(A) *Permitted uses as follows or uses of a similar type.*

(1) Any use permitted in § 153.028 excepting permitted use D1, D6, and D9.

(2) One-family detached dwelling.

(3) Park, playground, or community center owned and operated by a local community association for subdivisions or neighborhoods.

(4) Swimming pools as specified under the conditions of Agricultural Zone regulations, § 153.029(A)(10).

(5) Accessory buildings and uses customarily incidental to any of the above uses, including home occupation, provided that the residential character of the dwelling is not changed and that there shall be not more than 1 assistant employed.

(6) Name plate or advertising devices, provided they shall be in accordance with the provisions of advertising devices.

(B) *Height.*

(1) *Maximum height of dwellings.* Maximum height of dwelling shall be 2 stories, not to exceed 25 feet.

(2) *Exceptions.* Exceptions to height regulations are provided for in § 153.030.

(C) *Lot area and yards.*

(1) *Lot area.* Except as hereinafter provided, no residential structure shall be erected or altered in any R1 One-Family Zone unless the structure when completed shall be in conformity with the following requirements.

	<i>Minimum Width at Front Building Line</i>	<i>Minimum Net Site Area (Sq. Ft.)</i>	<i>Required Lot Area (Sq. Ft.)</i>
If served by individual well and septic tank	120'	21,780	18,180
If served by public or other approved community sewer system	75'	12,000	9,750
If served by public or other approved community sewer and water system	60'	9,600	7,200

(2) *Front yard.* Same as required in A Zone, § 153.029(C)(2)).

(3) *Side yard.* Each lot, except as otherwise specified, shall have 2 side yards either having a width of not less than 10% of the width of the lot; the aggregate width of both side yards on any lot shall be not less than 25% of the width of the lot.

(4) *Rear yard.* There shall be a rear yard of not less than 25% of the depth of the lot.

(5) *Lot coverage.* Not more than 35% of the area of the lot may be covered by buildings or structures.

(6) *Exceptions.* Exceptions to yard regulations are provided for in § 153.051.

(D) *Building size.* No building shall be erected for residential purposes having a floor area of less than 720 square feet, exclusive of unenclosed porches, terraces and garages.

(1997 Code, § 32.19) (Ord. 1967-2, passed - -)

### § 153.031 R2 MULTI-FAMILY ZONE.

The following regulations and the regulations contained in §§ 153.003 through 153.012 and §§ 153.065 *et seq.* shall apply in the R2 Multi-Family Zone.

(A) *Permitted uses as follows or uses of a similar type.*

(1) Any use permitted in R1 One-Family Zone.

(2) Two-family dwellings.

(3) Row or multiple dwellings.

(4) The following special exceptions shall be permitted if their location is first approved by the Board as provided for in §§ 153.011 and 153.031:

(a) Lodging house, tourist home, or tourist cottage;

(b) Doctor's office;

(c) Nursing or rest home.

(5) Name plate or advertising devices, provided that they shall be erected in accordance with the provisions of advertising devices.

(B) *Height.*

(1) *Maximum height.* Maximum height of dwellings shall be 2 stories not to exceed 25 feet.

(2) *Exceptions.* Exceptions to height regulations are provided for in § 153.051.

(C) *Lot area and yards.*

(1) *Lot area for 1-family.* Every lot used for 1-family dwelling purposes shall have a minimum lot area as prescribed in § 153.030(C)(1).

(2) *Lot area for 2-family.* Every lot used for 2-family dwelling purposes shall have a minimum lot area as prescribed in § 153.029(C)(1).

(3) *Lot area for multi-family.* Every lot used for 2-family dwelling purposes shall have a minimum lot area as follows:

	<i>Minimum Width at Front Building Line</i>	<i>Minimum Net Site Area (Sq. Ft.)</i>	<i>Minimum Lot Area per Dwelling Unit (Sq. Ft.)</i>
For the first 2 units if served by individual well and septic tank	120'	21,780	9,100
	Plus		
For each additional unit	10'	Variable	4,000
For the first 2 units if served by public or other approved community sewer system	100'	15,000	6,000
	Plus		
For each additional unit	6'	Variable	3,000

(4) *Front yard.* Same as required in A Zone, § 153.029(C)(2).

(5) *Side yards.* Each lot, except as otherwise specified, shall have 2 side yards either having a width of not less than 6 feet; the aggregate width of both side yards on any lot shall be not less than 20% of the width of the lot.

(6) *Rear yard.* Same as required in R1 Zone, § 153.030(C)(4).

(7) *Lot coverage.* Same as required in R1 Zone, § 153.030(C)(5).

(8) *Exceptions.* Exceptions to yard regulations are provided for in § 153.051.

(D) *Building size.* Same as required in A Zone, § 153.029(D).  
(1997 Code, § 32.20) (Ord. 1967-2, passed - -)

### § 153.032 B1 NEIGHBORHOOD BUSINESS ZONE.

The following regulations and the regulations contained in §§ 153.002 through 153.012 and §§ 153.065 *et seq.* shall apply in the B1 Neighborhood Business Zone.

(A) *Permitted use.*

(1) Any use permitted in the R2 Multi-Family Zone which is in conformity with the lot area and yard requirements.

(2) The following uses or uses of similar type, provided that they are conducted wholly within a building, except for off-street loading of delivery vehicles which are incidental thereto as required in §§ 153.065 *et seq.*:

- (a) Bank;
- (b) Barber shop or beauty parlor;
- (c) Book or stationary store;
- (d) Cleaning establishment using cleaning fluid which is nonexplosive and noninflammable;
- (e) Club, lodge (nonprofit) or fraternal association;
- (f) Confectionery store;
- (g) Custom dressmaking or millinery shop;
- (h) Department, furniture or radio store;
- (i) Drug store;
- (j) Florist or gift shop;
- (k) Greenhouses and nurseries;
- (l) Grocery, fruit or vegetable store;

- (m) Hardware or electric appliance store;
- (n) Jewelry store;
- (o) Medical or dental clinic or laboratory;
- (p) Meat market or delicatessen;
- (q) Music store or newsstand;
- (r) Office, business or professional;
- (s) Photographer;
- (t) Repair of appliances and small equipment, provided that any repair shall be conducted and confined wholly within a building;
- (u) Restaurant, tea room or café (excluding drive-ins);
- (v) Shoe store or shoe repair shop;
- (w) Sign painting or tire shop, provided all activities shall be conducted wholly within a building;
- (x) Tailor, clothing or wearing apparel store;
- (y) Theater other than “Drive-In”;
- (z) Variety store;
- (aa) Other retail business and service establishments, not specifically referred to in this chapter, selling new merchandise exclusively.

(3) *Automobile service stations.* Automobile service stations shall be permitted in accordance with Chapter II of “Rules and Regulations of the State Fire Marshall Regulating the Use, Handling, Storage, and Sale of Flammable Liquids in the State of Indiana,” provided that any tire or tube repairing, battery charging and storing of merchandise or supplies are conducted wholly within a building. Plans for the erection or structural alteration of an automobile service station shall be approved by the Commission. The Commission may require such change therein in relation to yards, location of pumps and buildings, and construction of buildings as it may deem best suited to insure safety, to minimize traffic difficulties and to safeguard adjacent properties.

(4) *Advertising devices.* Advertising devices shall be permitted, provided that they shall be erected in accordance with the provisions of §§ 153.085 *et seq.*

(5) *Incidental uses.* Uses customarily incidental to any of the above uses and accessory buildings shall be permitted when located on the same lot.

(6) *Public parking areas.* Public parking areas shall be permitted for the exclusive use of the patrons of the stores, shops or businesses in the immediate business zone when located and developed as required in §§ 153.065 *et seq.*

(B) *Height.*

(1) *Maximum height.* Maximum height of structures shall be 3 stories.

(2) *Exceptions.* Exceptions to height regulations are provided for in § 153.030.

(C) *Yards.*

(1) *Front yard.* Same as required in A Zone, § 153.029(C)(2).

(2) *Side yards.*

(a) Where the side of a lot in the B Zone abuts upon the side of a lot in an R Zone, there shall be a side yard of not less than 4 feet for each story of height; but the side yard shall not be less than 6 feet in width. In all other cases, a side yard for a business building shall not be required; but if provided, it shall not be less than 4 feet in width.

(b) When used for residential purposes on the first floor, the side yard shall be the same as required in R2 Zone, § 153.031(C)(4).

(3) *Rear yard.* Where the B Zone abuts an R Zone, there shall be a rear yard of not less than 20% of the depth of the lot; but the rear yard need not exceed 20 feet. In all other cases no rear yard shall be required; but if provided, it shall not be less than 4 feet in depth.

(4) *Exceptions.* Exceptions to yard regulations are provided for in § 153.051.  
(1997 Code, § 32.21) (Ord. 1967-2, passed - -)

**§ 153.033 B2 RURAL BUSINESS ZONE.**

The following regulations and the regulations contained in §§ 153.085 *et seq.* shall apply in the B2 Rural Business Zone.

(A) *Permitted uses.*

(1) Any use permitted in the B1 Neighborhood Business Zone, provided that B1 uses shall be subject to the same limitations and controls, as specifically set forth in the B1 zone, § 153.032.

(2) The following uses or uses of a similar type pertinent to farm commodities; provided where they are within 150 feet of a lot of a residential zone or use, they shall be conducted wholly within the building or within an area screened on all sides by a masonry wall, compact evergreen planting, or uniformly painted ornamental wood fence (not less than 6 feet in height) which shall be maintained between the use and adjoining residential zones except for off-street loading and delivery vehicles which are incidental thereto as required in §§ 153.065 *et seq.*

(a) Agricultural implements, automobile or trailer sales or repair, provided that any display or storage area shall be developed as required in Section 9; any incidental repair of implements, automobiles, or trailers shall be conducted and confined wholly within a building.

(b) Building material sales yard, including the sale of lumber (where no millwork is provided), rock, sand and gravel but excluding concrete and asphaltic concrete mixing.

(c) Farm equipment storage yard or equipment rental establishment.

(d) Feed sales.

(e) Wholesale florist, greenhouse.

(f) Poultry or rabbit killing incidental to retail sales on the premises.

(g) Underground bulk storage and fuel oil, liquified petroleum gas and gasoline in amounts not to exceed 50,000 gallon capacity.

(3) The following uses or uses of a similar type, not pertinent to farm commodities, provided they meet the requirements indicated in § 153.033(A)(2) shall be permitted:

(a) Auction hall, amusement enterprise, including billiard or pool hall, bowling alley, boxing arena, dance hall, games of skill or science, penny arcade, shooting gallery, and the like if the nearest point of the structure is not less than 200 feet from any R Zone;

(b) Drive-in business - where persons are served in automobiles from a refreshment stand, restaurant, food store and the like, provided the area is screened by a masonry wall, compact evergreen planting or uniformly pointed wood fence not less than 6 feet in height is erected and maintained between the uses and any adjoining R Zone or residential development;

- (c) Drive-in movie;
- (d) Driving tees or ranges;
- (e) Funeral parlor;
- (f) Laundry or dry cleaning establishment, including auto-laundry;
- (g) Motel;
- (h) Printing shop;
- (i) Stadium;
- (j) Pet shop.

(4) Advertising devices shall be permitted provided that they shall be erected in accordance with the provisions of §§ 153.085 *et seq.*

(B) *Height.*

(1) *Maximum height.* The maximum height of structures shall be the same as required in B1 Zone, § 153.032.

(2) *Exceptions.* Exceptions to height regulations are provided for in § 153.050(C).

(C) *Yards.*

(1) *Front yard.* Same as required in A Zone, § 153.029(C)(2).

(2) *Side yards.* Same as required in B1 Zone, § 153.032(C)(2).

(3) *Rear yard.* Same as required in B1 Zone, § 153.032(C)(3).

(4) *Exceptions.* Exceptions to yard regulations are provided for in § 153.051. (1997 Code, § 32.22) (Ord. 1967-2, passed - -)

**§ 153.034 B3 GENERAL BUSINESS ZONE.**

The following regulations and the regulations contained in §§ 153.002 through 153.012 and §§ 153.065 *et seq.*

(A) *Permitted uses.*

(1) Any use permitted in the B2 Rural Commercial Zone, provided that all B2 uses shall be subject to the same limitations and controls excepting those regarding maximum height, as specifically set forth in the B2 Zone, § 153.033.

(2) The following uses or uses of a similar type, provided that, where they are within 150 feet of a lot in a more restricted zone they shall be conducted wholly within a building, except for the off-street loading of delivery vehicles which are incidental thereto as required in §§ 153.065 *et seq.*:

(a) Any use permitted in the I-1 Zone, provided that not more than 10% of the rentable floor area of any floor of a building is devoted to the use. In determining the floor area so used, it shall be all the rentable floor area occupied by concerns engaged in the production activities exclusive of that used for offices, display, waiting rooms, or clerical work;

(b) Carpenter, cabinet, plumbing or sheet metal fabricating shops, but excluding manufacture;

(c) Wholesale merchandise storage;

(d) Pawnshop;

(e) Rescue or temporary revival mission;

(f) Trade or business school or private school operated as commercial enterprise;

(g) Art or antique shop;

(h) Second hand store;

(i) Upholstering shop;

(3) The following uses or uses of a similar type, provided that, where they are within 150 feet of a lot in a more restricted zone, they shall be conducted wholly within a building or within an area enclosed on all sides with a solid wall, compact evergreen screen or uniformly painted board fence, not less than 4 feet in height, except for the off-street loading of delivery vehicles which are incidental thereto as required in §§ 153.065 *et seq.*:

(a) Building material sales yard, including the sale of lumber, rock, sand and gravel, but excluding concrete and asphaltic concrete mixing;

(b) Contractor's equipment storage yard or plant or rental of equipment commonly used by contractors;

- (c) Draying, freighting, or trucking yard or terminal;
- (d) Feed or fuel yard.

(B) *Height.*

- (1) *Maximum height.* Maximum height of structures shall not exceed 45 feet.
- (2) *Exceptions.* Exceptions to height regulations are provided for in § 153.050.

(C) *Yards.*

- (1) *Front yard.* Same as A Zone, § 153.029(C)(2).
- (2) *Side yards.* Same as B1 Zone, § 153.032(C)(2).
- (3) *Rear yard.* Same as B1 Zone, § 153.032(C)(3).
- (4) *Exceptions.* Exceptions to area regulations are provided for in § 153.051.  
(1997 Code, § 32.23) (Ord. 1967-2, passed - -)

**§ 153.035 B-P PLANNED BUSINESS CENTERS.**

(A) *General conditions.*

(1) A B-P District may be established upon a tract of land in single ownership or under united control, provided that the preliminary development plan for a planned business center has been prepared and submitted in compliance with the regulations and requirements of this section. The tract of land involved shall be wholly or partially within 1,400 feet of the B-P symbol location.

(2) This district shall be further divided into B-P1 and B-P2 districts with requirements as listed below:

(a) If it is to be designated as a B-P1 District, the net area of land to be included and so designated shall be at least 1.5 acres in size. If to be designated as B-P2 District, the net area of land to be included shall be at least 5 acres. The net area as used herein shall not include any area within designated highways, streets, alleys, or any other public ways or public property;

(b) The area occupied by a building on a tract of land which is to be established as B-P District shall be 25% or less of the net area of the district. The location of any B-P District shall be on

property which has an acceptable relationship to major thoroughfares. The Commission must satisfy itself as to the adequacy of the thoroughfares to carry the additional traffic engendered by the development and may request a report and recommendations from the Town Engineer or appointed official;

(c) The placement of the proposed development must present the unified and organized management of building and service facilities which shall have a functional relationship to the properties and public ways comprising the planned development and shall not adversely affect the properties and the use of properties immediately adjacent to the proposed development;

(d) The requirements and regulations herein described pertaining to height, yards, setbacks, and parking and loading may be adjusted or modified by the Geneva Plan Commission before a B-P District is established so that the property in question may be developed in a reasonable manner and, at the same time, will not be detrimental to the public welfare and the interest of the community, but in keeping with the general intent and spirit of the zoning ordinance.

(3) The Geneva Plan Commission shall have the power to make and adopt such rules and regulations necessary and proper to effectuate the purpose of this section. The Plan Commission may, if it sees fit, require the developer to have made a projected shopping analysis of the surrounding trade area in which it is anticipated that the center may draw for its customers.

(4) The proponents of the planned business center shall prepare and submit a preliminary development plan to the Geneva Plan Commission for its inspection and review, upon which the Plan Commission shall hold a public hearing. Upon determination by the Commission that the preliminary plan, as prepared and submitted, meets the requirements and regulations of this section, the proponent shall prepare and submit a final development plan, which plan shall incorporate any changes or alterations suggested by the Commission. If the final development plan is found to comply with the intent of the requirements and regulations set forth in this section, the Commission shall prepare and submit to the Town Board a request for ordinance amendment, which amendment shall provide for the establishment of a B-P District in accordance with the final development plan submitted. The Town Board may request modification to the final development plan consistent with the intent and meaning of the ordinance. The preliminary and final development plans submitted shall comply with the rules and regulations adopted by the Town Board for the submission, review, and development of the planned business centers.

(5) A copy of the final development plan showing the approval of the Town Board shall be filed with the Geneva Plan Commission.

(6) Application may be made directly to the Town Board for the ordinance amendment of property for a planned business shopping center. But before taking action, the Town Board shall refer the matter to the Plan Commission for recommendations. The procedure and requirements for the submission of the plans and the information required shall be the same as though the application had been made directly to the Plan Commission and which is provided for in this section.

(7) The proponents of the planned business center shall prepare and submit a schedule of construction, which construction shall begin within a period of 1 year following the approval of the final development plan by the Town Board. Failure to begin construction as scheduled shall void the plan as approved, unless request for an extension is made by the proponents to the Plan Commission and approved by the Commission. No fee shall be charged for this request.

(8) If for any reason the plan is abandoned or if the construction is terminated after the completion of any stage and there is ample evidence that further development is not contemplated, the ordinance amendment establishing the B-P District shall be rescinded by the Town Board and the zoning of the portion which is undeveloped as a planned business center shall revert to its former classification as established by ordinance. After the final development plan has been approved and the zoning district has been created, and when, in the course of carrying out this plan, adjustments or rearrangement of the buildings, parking areas, entrances, heights, or yards, are being requested by the proponents, and the request conforms to the standards established by the approved final development plan for the area to be covered, by buildings, parking space, entrances, heights, or setbacks, and lot area requirements, the adjustments may be approved by the Board of Zoning Appeals upon application without fee and after receiving the recommendations of the Geneva Plan Commission.

(9) Not more than 1 development plan shall receive an improvement location permit per B-P symbol.

(10) The plan shall meet the following requirements as to use, height, yard space, off-street parking and loading, and all driveways or shop accessways.

(B) *Use regulations.* In any B-P1 or B-P2 District, no building or land shall be used and no building shall be erected, altered, or enlarged, which is arranged, intended or designed for other than the following uses or uses of a similar type. In any B-P District, all advertising devices shall comply with the regulations as indicated in § 153.087(D). The plans for any structure shall be submitted as part of the preliminary and final development plan.

(1) *In a B-P1 District.* The following regulations and the regulations contained in §§ 153.002 through 153.012 and §§ 153.065 *et seq.* shall apply to the B-P1 Planned Neighborhood Business District:

(a) Any use permitted in § 153.032(A)(2)(b) through (2)(aa) inclusive and (3) excepting therefrom residential use;

(b) Artists' studios;

(c) Bakery or pastry shops (retail only);

(d) Clinics, for people only;

(e) Dancing schools;

- (f) Garages (storage) for motor vehicles (no body or fender work);
- (g) Plumbing shops, no tin work nor outside storage permitted;
- (h) Public parking lots or stations for passenger cars or taxicabs;
- (i) Accessory uses customarily incidental to the uses enumerated above, including air conditioning plants and ice refrigeration plants purely incidental to a main activity permitted on the premises;
- (j) Automobile or trailer sales rooms;
- (k) Bars and cocktail lounges if they comply with the liquor ordinance and laws, including package stores;
- (l) Billiard or pool halls and bowling alleys, if the nearest point of the property is more than 200 feet from the boundary of a residentially zoned property;
- (m) Bus stations;
- (n) Business or commercial schools, not to include trade schools;
- (o) Children's day nurseries for the convenience of customers, including accessory amusement devices;
- (p) Commercial photography;
- (q) Drive-in restaurants, where persons are served in automobiles, when the nearest point of the property is more than 200 feet from the boundary of a residentially zoned or developed property and provided all work is done within the building;
- (r) Frozen food lockers for individual or family use;
- (s) Garages (public), provided the nearest point of the property is more than 200 feet from the boundary of a residentially zoned or developed property and provided all work is done within the building;
- (t) Laundrettes, washaterias, or self-service laundries, including auto laundries;
- (u) Loan and finance companies;
- (v) Office buildings;

**Geneva - Land Usage**

- (w) Cat and dog hospital or pet shop, if entirely within a building;
- (x) Pony rings, provided the animals are stabled outside of the development;
- (y) Public parking stations for commercial delivery cars or vehicles not exceeding 3/4 ton;
- (z) Wholesale sales offices and sample rooms.

(2) *In a B-P2 District.* The following regulations and the regulations contained in §§ 153.002 through 153.012 and §§ 153.065 *et seq.* shall apply to the B-P2 Planned General Business District:

- (a) Any use permitted in B-P1 District;
- (b) Battery stations;
- (c) Cat and dog hospitals, sound proofed and without outside pens;
- (d) Diaper service;
- (e) Drive-in businesses where persons are served in automobiles, such as refreshment stands, restaurants, food stores and the like, provided the nearest point of the property is more than 100 feet from the boundary of a residentially zoned or developed property;
- (f) Garages (public), provided the nearest point of the property is more than 100 feet from the boundary of a residentially zoned or developed property and provided all work is done within the building;
- (g) Manufacture of articles sold only at retail on the premises;
- (h) Miniature golf courses;
- (i) Parking stations for trucks and buses;
- (j) Plumbing or sheet metal shops;
- (k) Sign painting and sign shops;
- (l) Taxidermy establishments;
- (m) Tourist courts and motels;
- (n) Transfer and storage offices;

- (o) Accessory uses customarily incidental to the above uses;
- (p) Job printing, newspapers, lithographing and publishing.

(C) *Height, yard and area regulations.*

(1) *Height.*

- (a) In a B-P1 District, the height shall not exceed 2 stories and shall not exceed 35 feet.
- (b) In a B-P2 District, the height shall not exceed 4 stories and shall not exceed 55 feet.
- (c) If a planned business center is to be constructed in the vicinity of an airport, no building or structure shall be erected whose roof, chimney, or topmost structure or portion of a structure shall intrude into an approach zone as indicated in Civil Aeronautics Authority regulations.

(2) *Yards.*

- (a) In any B-P District, there shall be a setback from any street conforming to the requirements of the zone in which the district is located. Any structure in the B-P District shall be at least 20 feet from any other structure and 10 feet from any parking lot.
- (b) Along any property line within or adjoining an established commercial district, there shall be a setback from any building or structure of at least 10 feet unless provisions for a fire lane are not considered necessary. Along any other property line abutting or adjoining a residential zone or developed area, there shall be a setback of at least 20 feet from any building or parking lot. The planned business center shall be screened from any abutting or adjoining properties zoned or used for residential purposes, by a wall, fence, hedge or other suitable enclosure at least 3-1/2 feet in height, which shall be erected or placed at least 15 feet from the property line. The area between the wall, fence, or hedge planting shall be planted with grass and trees or shrubs. The trees, shrubs, and grass shall be properly and adequately maintained by the developer or subsequent owner.
- (c) The building line along any street shall be consistent with the building line established in the neighboring zone.

(D) *Parking and loading regulations.*

- (1) In all B-P Districts there shall be provided off-street customer parking space in the ratio of at least 10 parking spaces for each 1,000 square feet of gross floor area for each of the first 10,000 square feet of floor area. Eight additional parking spaces shall be required for each additional 1,000 square feet of gross floor area in excess of 10,000 square feet.

(2) Off-street parking space for drive-in service establishments shall be provided in addition to the parking space prescribed for all other retail facilities.

(3) Ample off-street parking space for standard loading and unloading shall be provided within the development. Light used to illuminate the parking area shall be so spaced and directed that it will not shine on adjoining streets or residential properties.  
(1997 Code, § 32.24) (Ord. 1967-2, passed - -)

### § 153.036 I-1 LIGHT INDUSTRIAL ZONE.

The following regulations and the regulations contained in §§ 153.002 through 153.012 and §§ 153.065 *et seq.* shall apply to the I-1 Light Industrial Zone.

(A) *Permitted uses.*

(1) Any use permitted in § 153.033, B-2 Rural Business Zone and I-P District, § 153.038(C), provided all the uses therein shall be subject to the same limitations and controls as specifically set forth in the B-2 Zone, § 153.033 and I-P District, § 153.038(C).

(2) The following uses or uses of a similar type, provided that, when they are within 100 feet of a lot in a more restrictive zone, they shall be conducted wholly within a building, except for off-street loading of delivery vehicles as required in §§ 153.065 *et seq.*:

(a) The manufacture, compounding, processing, packaging, or treatment of food products excepting fish and meat products, sauerkraut, vinegar, yeast, and the rendering or refining of fats and oils;

(b) The manufacture of pottery or figurines or any other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas;

(c) Automobile assembly, painting, upholstering, rebuilding, reconditioning, truck repair or overhauling, tire retreading or recapping, and battery manufacturing;

(d) Blacksmith shops, the manufacturing of machine tools, manufacturing of machinery, including agricultural, electrical machinery or equipment, office or store machines, equipment or supplies and the like, machine shops;

(e) Breweries or liquor distilleries;

(f) Foundries, casting light weight, non-ferrous, metals not causing noxious fumes or odors;

(g) Animal hospitals or kennels;

(h) Draying, freighting, or trucking yard or terminal;

(i) Chick hatcheries;

(j) Underground storage of fuel oil, liquified petroleum gas and gasoline in amounts not to exceed 120,000 gallon capacity. Above ground storage shall not exceed 50,000 gallon capacity;

(k) Warehousing.

(3) The following uses or uses of a similar type, provided the operations are carried on completely within the buildings or an area enclosed with dense screen plantings or a solid fence.

(a) Auto wrecking.

(b) Bleaching or dyeing.

(c) Stone cutting.

(d) Storage, sorting, collection, or baling of rags, paper, metal, or junk.

(4) Advertising devices shall be permitted provided they shall be erected in accordance with the provisions of §§ 153.085 *et seq.*

(B) *Height.*

(1) *Maximum height.* The maximum height of structures shall be the same as required in B3 Zone, § 153.034, provided that no building or structure nor the enlargement of any building or structure shall be hereafter erected or maintained to exceed the height requirements of an adjacent R Zone when the building or structure is within 150 feet of the adjacent R Zone.

(2) *Exceptions.* Exceptions to height regulations are provided for in § 153.050.

(C) *Yards.*

(1) *Front yard.* Same as required in § 153.029(C)(2).

(2) *Side yards.* Same as required in § 153.032(C)(2).

(3) *Rear yards.* Same as required in § 153.032(C)(3).

(4) *Exceptions.* Exceptions to yard regulations are provided for in § 153.051. (1997 Code, § 32.25) (Ord. 1967-2, passed - -)

**§ 153.037 I-2 HEAVY INDUSTRIAL ZONE.**

The following regulations and the regulations contained in §§ 153.002 through 153.012 and §§ 153.065 *et seq.* shall apply in the I-2 zone.

(A) *Permitted uses.* The following uses or uses of a similar type, provided where they are within 150 feet of a residential zone or area or business zone, they shall be contained wholly within a building or within an area enclosed on all sides with a solid wall, compact evergreen screen or uniformly painted board or metal fence which shall not allow any stored material to be viewed from the opposite side of any immediately adjacent street by a line of sight, the origin of which shall be not less than 6 feet, except for the off-street parking and loading of delivery vehicles which are incidental thereto as required in §§ 153.065 *et seq.* Any use allowed in I-1 Zone, § 153.036(A)(2), (3), and (4) may be permitted.

- (1) Acetylene gas manufacture or storage.
- (2) Agriculture.
- (3) Alcohol manufacture.
- (4) Ammonia or bleaching powder manufacturing.
- (5) Asphalt manufacturing or refining.
- (6) Boiler works, locomotive or railroad car manufacturing.
- (7) Brick, tile, terra cotta or cinder block manufacturing.
- (8) Carbon or lampblack manufacturing.
- (9) Central station light or power plant.
- (10) Coal distillation, including manufacture or derivation of the by-products.
- (11) Coke oven.
- (12) Creosote manufacture or treatment.
- (13) Furniture manufacture.
- (14) Garbage disposal.
- (15) Gas manufacture from coal or petroleum or the storage thereof.

- (16) Incinerator, industrially affiliated.
- (17) Iron or steel foundry, steel furnace or rolling mill, except smelting.
- (18) Meat products manufacture.
- (19) Oilcloth or linoleum manufacture.
- (20) Paint, oil (including linseed), shellac, turpentine, lacquer or varnish manufacture.
- (21) Planing mill.
- (22) Plastic manufacture.
- (23) Power forge.
- (24) Pyroxylin manufacture.
- (25) Railroad yards, including turntables and repair facilities.
- (26) Rubber or gutta-percha manufacture or treatment.
- (27) Soap manufacture.
- (28) Stove or shoe polish manufacture.
- (29) Tanning, curing or storage of raw hides.
- (30) Tar distillation or tar products manufacture.

(B) *Height, yard, and area regulations.* Same as I-1, § 153.036(B) and (C).  
(1997 Code, § 32.26) (Ord. 1967-2, passed - -)

**§ 153.038 I-P PLANNED INDUSTRIAL DISTRICTS.**

(A) *General conditions.*

(1) An I-P District may be established upon a tract of ground in single ownership or under unified control, provided a preliminary and final development plan for the planned industrial area has been prepared and submitted in compliance with the regulations and requirements of this section. The tract of land involved shall be wholly or partially within 1,400 feet of the I-P symbol location.

(2) *I-P Planned Industrial District.*

(a) If a tract of land is to be designated as an I-P District, it shall be at least 30 acres in area unless in accordance with a comprehensive plan for future development, the area falls into 1 of the following classifications:

1. A small area which is isolated from residential neighborhoods by railroads, parks, or natural boundaries;
2. A portion of a larger industrial district;
3. Where buffer zones may be desirable, where the established pattern assures the Plan Commission of proper control;
4. Where co-operative agreements of development interests give the Geneva Plan Commission assurance of a unified management.

(b) The area occupied by buildings on the tract of land which is established as an I-P District shall be 35% or less of the net area of the tract. The balance of the land shall be used for parking, loading, lawns, landscaping, and the like.

(c) The location of any I-P District shall be on property which has an acceptable relationship to the major thoroughfares. The Plan Commission must satisfy itself as to the adequacy of the thoroughfares to carry the additional traffic engendered by the development, and the Commission may divert truck traffic away from residential neighborhoods.

(d) The plan for the proposed development must present a unified and organized arrangement of buildings and service facilities which have a functional relationship to the properties and public ways comprising the planned development and not adversely affect the properties and the use of properties immediately adjacent to the proposed development.

(e) The requirements and regulations herein described pertaining to height, yard, setback, parking, and loading may be adjusted or modified by the Geneva Plan Commission before an I-P District is established so that the property in question may be developed in a reasonable manner and, at the same time, will not be detrimental to the public welfare and interests of the communities and will be in keeping with the general intent and spirit of the zoning ordinance.

(f) The Commission shall have power to make and adopt such rules and regulations necessary and proper to effectuate the purpose of this section. The proponents of the planned industrial center shall prepare and submit a preliminary development plan to the Geneva Plan Commission for its inspection and review upon which plan the Commission shall hold a public hearing. Upon determination by the Plan Commission that the preliminary plan, as prepared and submitted, meets the requirements and

regulations of this section, the proponent shall prepare and submit a final development plan, which shall incorporate any changes or alterations suggested by the Commission. If the final development plan is found to comply with the intent, requirements, and regulations set forth in this section, the Plan Commission shall prepare an amendment, which amendment is to provide for the establishment of an I-P District in accordance with the final development plan submitted. The Town Board may request modification to the final development plan consistent with the intent and meaning of this chapter. The preliminary and final development plan submitted shall comply with the rules and regulations adopted by the Town Board for the submission, review, and development of the planned industrial area. A copy of the final development plan, showing the approval of the Town Board, shall be filed with the Geneva Plan Commission.

(g) Application may be made directly to the Town Board for the establishing of a planned industrial area, but before taking action, the Board shall refer the matter to the Plan Commission for recommendations. The procedure and requirements for the submission of plans and the information required shall be the same as though the application had been made directly to the Plan Commission and which is provided for in this section. When the matter has been referred to the Plan Commission by the Town Board and action has been taken by the Commission, the plan, together with the recommendations of the Commission, shall be submitted to the Town Board.

(h) The proponents of the planned industrial area shall prepare and submit a schedule of construction, which construction shall begin within a period of 1 year following the approval of the final development plans by the Town Board. Failure to begin the construction as scheduled shall void the plan as approved, unless a request for an extension of time has been made by the proponents to the Plan Commission and approved by the Commission. No fee shall be charged for this request.

(i) If for any reason the plan is abandoned or if construction is terminated after the completion of any stage and there is ample evidence that further development is not contemplated, the ordinance amendment establishing the I-P District may be rescinded by the Town Board and the zoning of the portion which is undeveloped as a planned industrial area shall revert to the former classification as established by ordinance.

(j) After the final development plan has been approved the zoning district has been created, and when, in the course of carrying out this plan, adjustments for rearrangement of buildings, parking areas, entrances, heights, or yards are requested by the proponents and the requests conform to the standards established by the approved final development plan for the area to be covered by buildings, parking space, entrances, height, setback, and lot area requirements, the adjustments may be approved by the Board of Zoning Appeals upon application without fee and after receiving the recommendations of the Geneva Plan Commission.

(k) Not more than 1 development plan shall receive an improvement location permit per I-P symbol.

(l) The plan shall meet the following requirements as to use, height, yard space, off-street parking and loading, and all driveways and accessways.

(B) *Use regulations.* In the I-P District, no building or land shall be used and no building shall be erected, altered, or enlarged which is arranged, intended, or designed for other than the following uses. In any I-P District, all advertising devices shall comply with the regulations as indicated in § 153.087(E). The flat wall device indicated will not be construed to mean billboards attached or mounted upon buildings. All the plans for advertising devices shall be submitted as part of the preliminary and final development plan for the approval of the Geneva Plan Commission.

(C) *I-P Planned Industrial District.* The following uses or uses of a similar type shall be permitted when operations are conducted wholly within a building; except where off-street loading of delivery vehicles which are incidental thereto are required in §§ 153.065 *et seq.*:

(1) Any use permitted in § 153.036(A), I-1 Light Industrial Zone, provided all the uses therein shall be subject to the same limitations and controls as specifically set forth in the I-1 zone, and provided further that a building containing dwelling units shall not be permitted;

(2) The compounding, processing, packing or treatment of such products as bakery goods, candy, cosmetics, drugs, perfumed toilet soap, pharmaceuticals, and toiletries;

(3) The compounding, assembly and treatment of articles where merchandise is from the following prepared materials: bones, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, grass, hair, horn, leather, paper, plastic, precious or semi-precious metals or stones, shells, textiles, tobacco, wood (excluding planing mill), yarn, and paint (not employing a boiling process);

(4) The manufacture or repair of electric or neon signs, billboards, light sheet metal work, heating or ventilating ducts or equipment, cornices or edges and the like;

(5) The manufacture of musical instruments, clocks, watches, toys, novelties, and rubber or metal stamps;

(6) Assembly of electrical appliances, electronic instruments and devices, radio and phonograph and including the manufacture of small parts only, such as coils, condensers, transformers, crystals and crystal holders;

(7) Laboratory, experimental photography, motion picture film, or testing;

(8) Wholesale warehouses and storage buildings.

(D) *Height, yard, and area regulations.*

(1) *Height.*

(a) In an I-P District the height shall not exceed 3 stories and shall not exceed 35 feet.

(b) If a planned industrial area is to be constructed in the vicinity of an airport, no building or structure shall be erected whose roof, chimney, or uppermost structure or portion of structure shall intrude into an approach zone as indicated in CAA regulations.

(2) *Yards.*

(a) In any I-P District there shall be a setback line from any street conforming to the requirements set forth in § 153.029(C)(2). There shall also be a setback of at least 20 feet from any building and 15 feet from any parking lot. Along any property line within or adjoining an established commercial zone or area there shall be a setback for any building or structure of at least 20 feet unless provisions for a fire lane are not considered necessary.

(b) Along any property line abutting or adjoining a residential zone or development, there shall be a setback of at least 20 feet for any building or parking lot. The planned industrial area shall be permanently screened from the abutting or adjoining properties, zoned or used for residential purposes, by a wall, hedge, fence, or other suitable enclosure at least 5 feet in height which shall be erected or placed at least 15 feet from the property line. The area between the wall, hedge, or fence shall be landscaped. The landscaping shall be properly and adequately maintained by the developer.

(c) The building line along any street shall be consistent with the building line established in the neighboring buildings.

(d) The Geneva Plan Commission may recommend a reduction in the above-required setback where the situation will reasonably warrant the reduction.

(E) *Parking and loading regulations.*

(1) In all I-P Districts, there shall be provided off-street customer and employee parking space for any manufacturing, processing, wholesaling, or any other industrial use or establishment, including warehouse and storage building. There shall be provided 1 parking space for each 200 square feet of gross floor area thereof. In case an industrial establishment can foresee the number of employees that will be required, a ratio of 2 employees per parking space may be substituted for the above quotation.

(2) The off-street parking space required above shall be provided in addition to any space used for commercial parking lot, taxicab stand, truck and bus parking or loading space for commercial delivery cars or trucks. Where the facilities are provided, they shall comply with provisions of § 153.069. Ample off-street parking space for standing and loading shall be provided within the development in compliance with §§ 153.065 *et seq.* The driveways and parking area shall be illuminated. Lights used to illuminate the parking area shall be so placed that they will not shine on adjoining streets or properties.

(1997 Code, § 32.27) (Ord. 1967-2, passed - -)

**§ 153.039 PR - PARK AND RECREATION ZONE AND DISTRICT.**

(A) Permitted uses or uses of similar types in a PR - Park and Recreation Zone and District:

- (1) Shelter houses;
- (2) Observation towers;
- (3) Comfort stations;
- (4) Picnic areas and the like;
- (5) Parking facilities when compatible with projected park plans;
- (6) Storage houses.

(B) The following uses may be permitted if approved by the Board of Parks and Recreation of the town and meet all requirements of this chapter:

- (1) Residential use;
- (2) Agriculture, providing this use does not conflict with park and recreation uses;
- (3) Miniature golf;
- (4) Concession stands;
- (5) Backstops and other recreational facilities;

(C) In all cases, no structure shall be erected in an area known to flood and the use must be approved by the Zoning Administrator and procedures to obtain a permit shall be the same as in all other zones and districts. The Board of Zoning Appeals shall have authority to rule on variances or special exceptions after consultation with the Board of Parks and Recreation and public hearing as required by law.

(D) No structure shall be erected or permitted to remain in a PR - Park and Recreation Zone and District which exceeds 30 feet in height.

(Ord. 1976-2, passed - -)

**EXCEPTIONS AND MODIFICATIONS****§ 153.050 HEIGHT.**

(A) *Three story buildings in 2 star zones.* In the zones limiting height to 2 stories not to exceed 25 feet, any permitted structure may be increased in height to 3 stories not to exceed 45 feet, provided the required side yards are increased an additional 1 foot for each 3 feet the structure exceeds 25 feet.

(B) *Through lots (150 feet or less in depth).* On through lots 150 feet or less in depth, the height of a building may be measured from the adjoining curb level on either street.

(C) *Through lots (more than 150 feet in depth).* On through lots more than 150 feet in depth, the height regulations and basis of height measurements for the street permitting the greater height shall apply to a depth of not more than 150 feet from that street.

(D) *Structures permitted above height limit.* Penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, fire or parapet walls, skylights, television aerials, steeples, roof signs, flagpoles, chimneys, smokestacks, wireless masts, water tanks, grain elevators, silos, gas containers, material hoppers, or similar structures may be erected above the height limits herein prescribed; but no penthouse or roof structure or any space above the height limit shall be allowed for the purpose of providing additional floor space for residential, business or industrial use.  
(1997 Code, § 32.28) (Ord. 1967-2, passed - -)

**§ 153.051 AREA AND YARDS.**

(A) *Yard regulations modified.* Where the yard regulations cannot reasonably be complied with or their application determined on lots of peculiar shape, location or topography, the regulations may be modified or determined by the Board, as provided for in § 153.105.

(B) *Front yard (between projecting buildings).* Where a lot is situated between 2 lots, each of which has a main building which projects beyond the ordinance established front yard line and was so maintained when this ordinance became effective, the front yard requirement on the lot may be the average of the front yards of the existing building, provided, however, the front yard of such lot shall be not less than 10 feet.

(C) *Front yard (adjoining projecting building).* Where a lot adjoins only 1 lot having a main building which projects beyond the ordinance established front yard line and has been so maintained since this chapter became effective, the front yard requirement on the lot may be the average of the front yard of the existing building and the established front yard line, provided, however, the front yard of the lot shall be not less than 10 feet.

(D) *Side yards waived.* For the purpose of side yard regulations, the following dwellings with common party walls shall be considered as 1 building occupying 1 lot: semi-detached dwellings, row dwellings, and group dwellings.

(E) *Front and side yards waived.* The front and side yards may be waived for dwellings, hotels, and lodging houses erected above the ground floor of a building when the ground floor is designed and used exclusively for business and/or industrial purposes.

(F) *Rear yard accessory building.* An accessory building, not exceeding 20 feet in height may occupy not more than 30% of the area of a required rear yard, providing it is no less than 5 feet from any side or rear lot line.

(G) *Through lot may be considered as 2 lots.* Where a through lot has a depth of 200 feet or more, and an area of 20,000 square feet or more, the lot may be assumed to be 2 lots with the rear line of each approximately equidistant from the front lot lines, provided all area requirements are complied with.

(H) *Projection into yards.*

(1) *Porte cochere.* A porte cochere may be permitted over a driveway in a side yard, provided the structure is not more than 1 story in height and 20 feet in length and is entirely open on at least the front and rear sides, except for the necessary supporting columns and customary architectural features; provided, however, the porte cochere does not extend to within 6 feet of a side lot line.

(2) *Cornice, sill or chimney.* A cornice, eave bolt course, sill, canopy or other similar architectural feature (not including bay window or other vertical projection) may extend or project into a required front, side or rear yard not more than 2 feet, provided the width of the side yard is not reduced to less than 3 feet.

(3) *Fire escape.* A fire escape may extend or project into any required front, side, or rear yard not more than 4 feet.

(4) *Open stairway and balcony.* An open, unenclosed stairway or balcony, not covered by a roof or canopy, may extend or project into a required rear yard, and the balcony may extend into a required front yard not more than 30 inches.

(5) *Open porch.* An open, unenclosed porch, platform or land place not covered by a roof or canopy, which does not extend above the level of the first floor of the building, may extend or project into any required side yard not more than 4 feet and into any required front or rear yard not more than 8 feet.

(6) *Fence or wall.* A fence, lattice-work screen or wall in connection with residential use, not more than 6 feet in height, but not to extend into the required front yard, or a hedge or thick growth of

shrubs, maintained so as not to exceed 4 feet in height may be located in any required front or side yard except for corner setbacks as required in § 153.009.

(7) *Landscape feature.* A landscape feature, such as trees, shrubs, flowers or plants, shall be permitted in any required front, side or rear yard, provided it does not violate the provisions of § 153.009.

(1997 Code, § 32.29) (Ord. 1967-2, passed - -)

**OFF-STREET PARKING AND LOADING**

**§ 153.065 OFF-STREET PARKING.**

The following off-street parking spaces shall be provided and satisfactorily maintained, by the owner of the property, for each building which is hereafter erected, enlarged, or altered for use for any of the following purposes. Each automobile parking space shall be not less than 180 square feet (9 x 20) in area.

<i>Use</i>	<i>Parking Spaces Required</i>
Dwellings	At least 1 parking space for each dwelling or sleeping unit in the building or buildings.
General auditorium gymnasium, church, funeral home, or theater; high school or college, or university auditorium or stadium; or other similar place of assembly:	At least 1 parking space for each 6 seats provided for its patrons, based on the maximum seating capacity, including fixed and moveable seats. For any church there shall be allowed the use of joint parking facilities in connection with any buildings or use not normally open, used, or operated during the principal operating hours of a church providing a properly drawn legal instrument is executed by the parties concerned for the joint use of the off-street parking facilities, which instrument, duly approved as to form by the Town Attorney, shall be filed with the application for a zoning permit.
Hotel, apartment hotel, club house, dormitory, fraternity house or any other similar use or establishment	At least 1 parking space for each 2 guest sleeping rooms.
Dancing, exhibition, labor temple, lodge hall, skating rink or other assembly hall without fixed seats	Not less than 1 parking space for each 120 square feet of gross floor area thereof.

## Geneva - Land Usage

<i>Use</i>	<i>Parking Spaces Required</i>
Bank, clinic, office building, professional office, welfare institution or any other similar use or establishment	Not less than 1 parking space for each 400 square feet of gross floor area thereof.
Medical clinic or any other similar use	At least 3 parking spaces for each doctor or dentist using the clinic, plus 1 space for each 2 regular employees including nurses.
Hospital, sanitarium, convalescent home or any other similar use or establishment	Not less than 1 parking space for each 3 beds or any portion thereof.
Hotel in a B-2 district or any other similar use	At least 1 parking space for each sleeping room shall be provided
Eating or drinking establishment or any other similar use where customers are seated and served within a building	At least 1 parking space for each 200 square feet of gross floor area thereof.
Eating or drinking establishment or any other similar use where customers are served outside of a building	At least 1 parking space for each 50 square feet of gross floor area thereof, provided, however, that there shall not be less than 6 parking spaces for each such establishment.
Retail store, except a food market	Not less than 1 parking space for each 300 square feet of gross floor area thereof.
Food market establishment or any similar use with a gross floor area of less than 2,500 square feet	Not less than 1 parking space for each 250 square feet of gross floor area thereof. For each gross floor area in excess of 2,500 square feet, there shall be 1 parking space for each 100 square feet of gross floor area thereof in excess of 2,500 square feet.
Manufacturing, processing, wholesaling, storage, or any other industrial use or commercial establishment not specifically set out in this subsection	At least 1 parking space for each 2 employees, plus sufficient spaces to park all company-owned or leased motor vehicles, semi-trailers and trailers.
Launderette, laundromat, self-service laundry, washaterias, or any similar use or establishment under a different name	1 parking space for each 2 washing machines or portion thereof.
Bowling center	4 parking spaces for each bowling alley thereof.

<i>Use</i>	<i>Parking Spaces Required</i>
Campground	Not less than 1 parking space on the same parcel of land for each individual house trailer, tent, moveable or temporary dwelling contained therein.
Motel, tourist court, or similar use or establishment	1 parking space on the same parcel of land for each individual sleeping or living unit.
Commercial or business office having a gross floor area in excess of 10,000 square feet and occupied solely by the employees of one person	At least 1 parking space for each 800 square feet of gross floor area thereof.

(1997 Code, § 32.9(A)) (Ord. 1967-2, passed - -)

**§ 153.066 DISTANCE MEASUREMENTS.**

The distance to any parking space as herein required shall be measured between the nearest point of the off-street parking facility and the nearest point of the building the parking area or facility is to serve. (1997 Code, § 32.9(B)) (Ord. 1967-2, passed - -)

**§ 153.067 MIXED USES.**

In the case of any use not listed herein, the number of parking spaces required for the use shall be the same as for a similar use which is listed. In the case of mixed uses in the same building or structure, the total requirement for off-street parking facilities shall be the sum of the requirements of the various uses computed separately from the items set out in this section, and off-street parking facilities for 1 use shall not be considered as providing required parking facilities for any other use except as hereinafter specified for collective use. (1997 Code, § 32.9(C)) (Ord. 1967-2, passed - -)

**§ 153.068 COLLECTIVE PARKING FACILITIES.**

(A) Nothing in this section shall be construed to prevent collective provision of any off-street parking facility for 2 or more buildings or uses, providing, however, that the total number of off-street parking spaces shall not be less than the sum of requirements for the various individual uses computed separately in accordance with the items set out in this section.

(B) All parking spaces provided pursuant to this section shall normally be on the same lot with the building; however, the Board may permit the parking spaces to be on any lot within 300 feet of the building, except for the requirements set forth above for motels, tourist courts or similar uses or any campground. If the Board determines that it is impractical to provide parking on the same lot with the building, the requirements set forth above for any hotel, apartment hotel, club house, dormitory, or fraternity house; any hotel in a B-2 District; any bank, clinic, office building, professional office, or welfare institution; any medical clinic; any hospital, sanitarium, or convalescent home; any eating or drinking establishment where customers are seated and served; and any retail store, except a food market, may be waived by the Board in the case of a building erected or altered as a result of destruction by fire or act of God, or whenever the Board determines that more than 75% of the privately owned lands within 300 feet of the building to be erected, enlarged, or altered are improved with buildings regularly occupied and used.  
(1997 Code, § 32.9(D)) (Ord. 1967-2, passed - -)

#### **§ 153.069 OFF-STREET LOADING.**

(A) On the same premises with every building, structure or part thereof, hereafter erected, established or enlarged and occupied for manufacturing, storage, warehouse goods display, department store, wholesale store, market, hotel, mortuary, laundry, dry cleaning or other uses involving the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained adequate space for standing, loading, and unloading in order to avoid undue interference with public use of the street or alley.

(B) The space, unless otherwise adequately provided for, shall include a 12 foot by 45 foot loading space with 14 foot height clearance for every 20,000 square feet or fraction thereof in excess of 3,000 square feet of floor area used for above mentioned purposes, or for every 20,000 square feet or fraction thereof in excess of 3,000 square feet of land used for the above mentioned purposes. These requirements may, upon appeal, be increased, modified, or waived by the Board where the conditions or circumstances justify the action, provided it has obtained thereon recommendations from the Town Engineer or appointed official.  
(1997 Code, § 32.9(E)) (Ord. 1967-2, passed - -)

#### **§ 153.070 PUBLIC PARKING AREA.**

Every parcel of land which, after the effective date of this chapter, is changed to a public parking area, automobile or trailer sales area, filling station or garage shall be developed as follows.

(A) The area, where subject to wheeled traffic, shall be improved with bituminous, concrete, crushed stone with an adequate base or other equivalent surfacing and shall have appropriate bumper guards where needed.

(B) Where the area adjoins a lot in an R Zone or a residential development, a solid wall, compact evergreen screen or uniformly painted board fence having a height of not less than 3 feet shall be erected and maintained between the area and the property in residential areas and zones. The enclosures shall be at least 5 feet from the side of a lot in an R Zone or residential development and all required front and side yards shall be properly maintained as such. Where the area is across the street from an R Zone or a residential development, a compact evergreen screen having a height of not less than 4 feet shall be erected and maintained between the area and the property in the zone or development and all required front yards shall be maintained as such.

(C) Any light used to illuminate the parking area shall be so arranged as to reflect the light away from the adjoining premises in an R Zone or residential development.  
(1997 Code, § 32.9(F)) (Ord. 1967-2, passed - -)

#### **§ 153.071 PERMANENCY OF SPACES PROVIDED.**

Any parking or loading space established prior to the effective date of this chapter and which is used or intended to be used in connection with any main building, structure or use, or any spaces designed and intended to comply with the requirements of this chapter for any such main building or structure erected after the effective date shall hereafter be maintained so long as the building or structure remains, unless the owner provides and maintains in another location an equivalent number of required spaces in conformance with the provisions of this chapter.  
(1997 Code, § 32.9(G)) (Ord. 1967-2, passed - -)

### ***ADVERTISING DEVICES***

#### **§ 153.085 IMPROVEMENT LOCATION PERMIT.**

After the enactment of this chapter, it shall be deemed unlawful to erect, place, attach or structurally alter any advertising device in the town, unless and until an improvement location permit has been issued. Upon the issuance of the permit the advertising company or its agent may erect, place, attach or structurally alter the advertising device only if the device shall be in conformity with all sections of this section.  
(1997 Code, § 32.30) (Ord. 1967-2, passed - -)

#### **§ 153.086 EXCEPTIONS.**

A name plate or sign not exceeding 1 square foot, house or address notations, a device pertaining to the sale of the property on which it is located and not exceeding 12 square feet, a device pertaining to a

home occupation or sale of farm produce, providing it does not exceed 12 square feet and that it is limited to the advertising of items crafted or grown on the premises and that it is located not more than 500 feet from the actual premises on which the product is being sold, providing that the device shall be in conformity with all other provisions.

(1997 Code, § 32.31) (Ord. 1967-2, passed - -)

### § 153.087 AREA AND LOCATION.

Yard restrictions set out in other sections of this chapter do not apply to advertising devices except where district reference is made to the devices; the restrictions set forth in this subchapter shall apply in all other cases. The size and location of all advertising devices shall comply with the provisions of this subchapter.

(A) *Churches, schools and institutions.* All churches, public or parochial, primary, or secondary schools, and all institutions shall be limited to 1 free-standing, advertising device not to exceed 32 square feet. In the event the church, school or institution faces more than 1 street, 1 advertising device per street may be permitted on the building's site. All such devices shall be located not less than 15 feet behind the front or side lot line, except where affixed to the wall of the building and not extending over the sidewalk.

(B) *A, R-1 and R-2 Zones.* The following regulations pertain to advertising devices permitted in the A, R-1 and R-2 Zones. For additional regulations in the A Zone, see division (F) of this section.

(1) *Name plate or sign.* One per dwelling unit, not exceeding 1 square foot in area.

(2) *Home occupation.* Unlighted, not to exceed 2 square feet in area. The required front setback shall be not less than 15 feet from the front or side property lines.

(3) *Temporary, residential.* One per lot or use, not to exceed 12 square feet in area, pertaining to sale or rental or property on which it is located; or giving names of contractors, engineers and/or architects during a construction period. The required front setback shall be not less than 15 feet from the front and/or side property lines.

(4) *Temporary.* One sign, not to exceed 128 square feet in area and no single dimension to exceed 16 feet, advertising the sale of lots within the subdivision and located within the subdivision and located thereon, providing that not more than 1 such sign be located at each major approach to the subdivision. The setback from the front or side lot line shall be equal to 1/2 the required front building setback as specified for the zone in which it is situated. The sign shall be removed by the developer or his agent, upon the completion or the sale of 90% of the lots in the subdivision. Architectural, contractual, and engineering construction signs for industrial, commercial, and public and semi-public buildings are included herein.

(5) *Permanent.* One identification device not exceeding 20 square feet in area for multiple dwellings, provided that the device shall be located not less than 15 feet from the front and/or side property lines, except where it is affixed to the wall of the building and does not extend over the sidewalk.

(6) *Advertising devices not mentioned above.* All advertising devices, except as mentioned in divisions (A) and (B) of this section and official signs of government agencies, are prohibited in the R-1 and R-2 Zones.

(C) *B1, B2, B3, I-1 and I-2 Zones.* In any B1, B2, B3, I-1 and I-2 zone, an advertising device may be permitted, provided that when same is located within 75 feet of an R Zone or residentially used area boundary line; it shall be affixed to or be a part of a building, and not to extend over any street line nor project above the roof line and shall pertain only to a use conducted within the building. The size shall be limited to 3 square feet of area to each lineal front foot of the building displaying the device.

(1) No free-standing device shall have an advertising area exceeding 320 square feet in area.

(2) No flashing advertising device shall be located within 300 feet of any residentially zoned or developed area.

(3) Yard restrictions shall be as required in the zone in which the device is located.

(D) *In any B-P, Planned Shopping Center District.*

(1) One advertising device not to exceed 600 square feet in area on each thoroughfare on which the shopping center has established entrance drives. The device shall give the name of the center and may be used to give the names of individual stores but shall not be used to advertise any products or merchandise within the center.

(2) No free-standing advertising device shall be permitted within the shopping center, except as permitted in § 153.104(D)(1).

(3) Advertising devices attached to the buildings, not projecting above the roof line, shall be permitted. The devices shall give the name of the store or use and shall not be used to advertise merchandise sold on the property. The size shall be limited to 3 square feet of area to each lineal front foot of the building displaying the device.

(4) Yard restrictions shall be as required in § 153.035(C).

(5) Small hanging name plates not to exceed 4 square feet in area shall be permitted within the pedestrian mall or over walkways at a minimum height of 7.5 feet above the walkway, attached to the store or use, giving the name of the store or use at no time being used for advertising products or merchandise sold on the property. All the name plates shall be of uniform design throughout the shopping center.

(6) Any advertising devices attached to or painted on the display windows of the building shall be exempted.

(7) The nature of all advertising devices within the shopping center shall be included in the final development plan and shall be subject to the approval or disapproval of the Commission.

(E) *In any I-P, Planned Industrial District.*

(1) An advertising device at each major entrance to the planned industrial park, not to exceed 600 square feet in area, stating the name of the park, if applicable, and listing the names of the various industrial uses located within the park.

(2) Temporary devices advertising the sale of lots and directional signs at major intersections within the park which aid in the location of establishments, truck loading docks and visitors parking facilities. The devices shall not exceed 20 square feet in area and shall be situated so as not to cause a traffic hazard and they shall be of uniform design throughout the planned industrial area.

(3) Yard restrictions shall be as required in § 153.038.

(4) Flat wall devices attached to the building or use stating the name of the operation shall not be placed so as to exceed 10 feet in height above the roof line of the building. Not more than 25% of the area of the device shall be devoted to product advertising and then only for advertising of products produced on the premises.

(5) Any advertising devices attached to or painted on the display windows of the building shall be exempted.

(6) The nature of all advertising devices within the planned industrial district shall be included in the final development plan and subject to the approval or disapproval of the Commission.

(F) *In any A or F2 Zones.*

(1) Advertising devices pertaining to a home occupation or sale of farm produce not to exceed 12 square feet and limited to advertising items crafted or grown on the premises and located not more than 500 feet from the actual premises on which the product is being sold.

(2) Free-standing, nonaccessory advertising device, that is, any device advertising a business, use, activity, product or merchandise not sold, handled or occurring on the property on which the device is located shall be subject to the following:

(a) The advertising device shall be in conformity with the front yard requirements as specified in § 153.029(C)(2);

(b) The device shall be a minimum of 300 feet from a line projected perpendicular across the highway from a dwelling, church, school, or public institution;

(c) The device shall be a minimum of 400 feet from any dwelling or land platted, divided, or zoned for residential use, school, church, park, or place of public assembly;

(d) The device shall be a minimum of 100 feet from a side property line, when the property line is a division line of property ownership.

(3) The device shall be a minimum of 200 feet from a railroad or a cross road intersection, a "T" road or highway entrance, a bridge or a stretch of highway that is specified as being hazardous by the state, county, or town, a turn in the highway or an entering lane or road, and the curve of a curved highway.

(G) *General provisions for all advertising devices.*

(1) All devices, either of a temporary or permanent nature, shall be constructed or maintained in a presentable manner for the life of the device.

(2) Any nonconforming device that is or becomes in a rundown or objectionable condition shall be removed from the premises by the owner of the device. The condition shall exist when the device is determined to be in excess of 30% destroyed by acts of God or man. The determination shall be made by the Town Board and the Commission.

(3) Any nonconforming advertising device not attached to a building, lawfully existing upon the effective date of this chapter shall be discontinued on or before 10 years after the effective date of this chapter unless a discontinuance date has been established by a prior zoning ordinance, in which case the prior date of discontinuance shall apply, unless in the meantime it is determined or made conforming with this section.

(4) Advertising devices may contain not more than 1 sign per facing, nor more than 2 sides per said device.

(5) All new devices (except those referred to in subsection (G)(9)) in excess of 20 square feet and not an integral part of another structure shall require an improvement location permit.

(6) Any device that is deemed a traffic hazard for reason of obstructing the view of an approaching road or intersection, railroad, school playground or park, pedestrian crosswalk or any other situation that may endanger health and welfare of any pedestrian or occupant of any vehicle shall be prohibited.

(7) The device shall be a minimum of 1,320 feet from another advertising device located on the same side of two-lane state, federal, or county highway. Where located in a commercial zone, there shall be a separation requirement of 600 feet. Where located in an industrial zone there shall be a separation requirement of 300 feet.

(8) For the purposes of subsection (7) above, a series of 1 to 6 signs, each having an area of no greater than 6 square feet and spaced at least 100 feet apart, which are designed to be read in sequence to convey a single message, shall be considered as one advertising device.

(9) The following signs shall be excluded from the provisions of this chapter:

(a) All signs necessary for convenience and safety established by the Town Board or the federal, state, and/or county highway departments;

(b) A notice of change of zoning as established by the Commission;

(c) Only those devices of a temporary nature, advertising or giving directions to an official, special event; all the devices shall be removed within 48 hours after they become no longer applicable. The sponsor shall be responsible for their removal.

(1997 Code, § 32.32) (Ord. 1967-2, passed - -)

### ***ADMINISTRATION AND ENFORCEMENT***

#### **§ 153.100 ZONING ADMINISTRATOR.**

It shall be the duty of the Zoning Administrator to enforce the provisions of this chapter in the manner and form and with the powers provided in the law of the state and in the ordinances of the town. (1997 Code, Ch. 32 (part)) (Ord. 1967-2, passed - -)

#### **§ 153.101 IMPROVEMENT LOCATION PERMIT.**

No building or structure, except buildings incidental to agricultural operations, shall be erected, reconstructed, enlarged or moved until an improvement location permit shall have been applied for in writing and issued by the Zoning Administrator. A fee of \$3 shall be paid when making application for an improvement location permit. The permit shall be posted in a prominent place on the premises prior to and during the period of erection, reconstruction, enlargement or moving. Before a permit is issued for the erection, moving, alteration, enlargement or occupancy of any building or structure or use of

premises, the plans and intended use shall indicate conformity in all respects to the provisions of this chapter.

(A) *Site plan.* Every application for an improvement location permit submitted to the Zoning Administrator shall be accompanied by a site plan, drawn to scale, showing the lot and the building site and the location of existing buildings on the lot, accurate dimensions of the lot, yards and building or buildings, together with locations, size and use of any land and all buildings not only on the lot but within 50 feet from the boundaries thereof, unless separated therefrom by a street, together with such other information as may be necessary to the enforcement of this chapter.

(B) *Interpretation.* In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of health, safety, morals, convenience or the general welfare. The lot or yard areas required by this chapter for a particular building shall not be diminished (other than by the Board of Zoning Appeals) and shall not be included as part of the required lot or yard areas of any other building. The lot or yard areas of buildings existing at the time this chapter became effective shall not be diminished below the requirements herein provided for buildings hereafter erected, and the required areas shall not be included as a part of the required areas of any building hereafter erected.

(C) *Completion of existing buildings.*

(1) Nothing in this chapter shall require any change in the plans, construction or intended use of a building, the construction of which have been diligently prosecuted at least 2 months preceding the date of this chapter, and the entire building shall be completed within 2 years from the date this chapter became effective. Nothing herein shall prevent the reconstruction of a wall or other structural part of a building declared unsafe by the State Fire Marshal or the Administrative Building Council of the state.

(2) No improvement location permit for erection of any building shall be issued before application has been made for a certificate of occupancy.  
(1997 Code, § 32.33) (Ord. 1967-2, passed - -)

### **§ 153.102 CERTIFICATE OF OCCUPANCY.**

(A) A certificate of occupancy to be issued by the Zoning Administrator shall be required for any of the following, except buildings incidental to agricultural operations.

- (1) Occupancy and use of a building or structure hereafter erected or enlarged.
- (2) Change in use of an existing building or structure.
- (3) Occupancy and use of vacant land except for agricultural operations.

(4) Change in the use of land to a use of a different classification except for agricultural operations.

(5) Any change in the use of a nonconforming use.

(B) No such occupancy, use or change of use shall take place until a certificate of occupancy therefore shall have been issued.

(C) Written application for a certificate of occupancy for a new building or for an existing building which has been enlarged shall be made at the same time as the application for the improvement location permit for the building. No fee shall be charged for an original certificate applied for, coincident with the application for an improvement location permit; for all other certificates or for copies of any original certificate there shall be a charge of \$1 each. The certificate shall be acted upon within 8 days after a request for the same has been made to the Zoning Administrator after the erection or enlargement of the building or part thereof has been completed in conformity with the provisions of this chapter.

(D) (1) Pending the issuance of such a certificate, a temporary certificate of occupancy may be issued by the Zoning Administrator for a period of not more than 6 months during the completion of the construction of the building or of alterations which are required under the terms of any law or ordinance.

(2) The temporary certificate may be renewed, but it shall not be construed in any way to alter the respective right, duties or obligations of the owner of the town relating to the use or occupancy of the land or building, or any other matter covered by this chapter, and the temporary certificate shall not be issued except under such restrictions and provisions as will adequately insure the safety of the occupants.

(E) Written application for a certificate of occupancy for the use of vacant land, or for a change in the use of land or of a building, or for a change in a nonconforming use, as herein provided, shall be made to the Zoning Administrator.

(F) If the proposed use is in conformity with the provisions of this chapter, the certificate of occupancy, therefore, shall be issued within 8 days after the application for the same has been made.

(G) Each certificate of occupancy shall state that the building or proposed use of a building or land complies with all provisions of this chapter.

(H) A record of all certificates of occupancy shall be kept on file in the office of the Clerk-Treasurer and a copy shall be forwarded, on request, to any person having proprietary or tenancy interest in the building or land affected.

(1997 Code, § 32.34) (Ord. 1967-2, passed - -)

**§ 153.103 PERMIT ISSUANCE.**

(A) All departments, officials, and public employees of the town which are vested with the duty or authority to issue permits shall conform to the provisions of this chapter and shall issue no permit for any use, building or purpose if the same would be in conflict with the provisions of this chapter.

(B) A permit shall be issued upon satisfactory proof of compliance with the regulations of this chapter.

(C) Any permit issued in conflict with the provisions of this chapter shall be null and void. (1997 Code, § 32.35) (Ord. 1967-2, passed - -)

**§ 153.104 ENFORCEMENT.**

The erection, construction, enlargement, conversion, moving, or maintenance of any building or structure and the use of any land or building which is continued, operated or maintained contrary to the provisions of this chapter is declared to be a violation of this chapter and unlawful. The Town Attorney shall, immediately upon any such violation having been called to his attention, institute injunction, abatement, or any other appropriate action to prevent, enjoin, abate or remove the violation. The action may also be instituted by any property owner who may be especially damaged by any violation of this chapter.

(1997 Code, § 32.37) (Ord. 1967-2, passed - -)

**§ 153.105 BOARD OF ZONING APPEALS.**

(A) *Organization.*

(1) A Board of Zoning Appeals for the town is established in accordance with I.C. 36-7-4-901, as amended.

(2) Meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine. The Chairperson, or in his absence the Acting Chairperson, may administer oaths and compel the attendance of witnesses. Petitions addressed to the Board shall, prior to public hearing, be referred to the Commission for written recommendation thereon. If the Commission shall fail to act within 31 days, it shall be deemed to approve the petitions. Prior to decision on the petitions, the Board shall hold a public hearing thereon, notice of which shall be mailed to the petitioner and to the owners of all property deemed by the Board to be affected thereby as they appear in the current records of the Clerk-Treasurer and also advertised 10 days prior to the public hearing in a newspaper of general circulation, published or having wide distribution in the town. The cost of notifying affected property owners and the cost of advertising the notice of the public hearing shall be borne by the petitioner by the filing fee.

(3) The concurring vote of 3 members of the Board shall be required to pass under this chapter or to affect any variation in the application of this chapter.

(4) The Board shall cause to be made a detailed report of all its proceedings, setting forth its reasons for its decisions. The record, immediately following the Board's decision, shall be filed in the offices of the Board and of the Commission and shall be open to public inspection. Notice of the decision shall be mailed forthwith to each party in interest as aforesaid.

(5) Any person or persons, jointly or severally aggrieved by any decision of the Board, may proceed in the manner prescribed in I.C. 36-7-4-922.  
(1997 Code, § 32.38)

(B) *Powers of the Board of Zoning Appeals.* The Board of Zoning Appeals shall have the powers provided in I.C. 36-7-4-900 *et seq.*, as amended. In the exercise of these powers and the responsibilities assigned to it by this chapter, it may impose such conditions regarding the location, character and other features of the proposed building. It shall not, however, permit any use in conflict with this chapter.  
(1997 Code, § 32.39)  
(Ord. 1967-2, passed - -)

#### **§ 153.106 AMENDMENTS.**

(A) The regulations, restrictions and boundaries provided for in this chapter may from time to time be amended or repealed.

(B) Any petition of the Board for a special exception or variance and any petition to the Town Board for an amendment to this chapter except when initiated by the Commission shall be accompanied by a filing fee of \$15 which shall be deposited with the Clerk-Treasurer and no part of which shall be returnable to the petitioner.  
(1997 Code, §§ 32.40, 32.41) (Ord. 1967-2, passed - -)

#### **§ 153.999 PENALTY.**

(A) Any person or corporation, whether as principal, agent, employee or otherwise, who violates any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than \$10 and not more than \$300 for each offense, such fine to inure to the town. Each day of the existence of any violation shall be deemed a separate offense.

(B) The remedy provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.  
(1997 Code, § 32.36) (Ord. 1967-2, passed - -)

**TABLE OF SPECIAL ORDINANCES**

Table

**I. FRANCHISES**

**II. AGREEMENTS**

**III. ANNEXATIONS**

**IV. VACATIONS**

**V. ZONING MAP AMENDMENTS**



**TABLE I: FRANCHISES**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
1974-1	5-1-1974	Granting a franchise to Triad Cablevision, Inc. to operate, construct and maintain a cable television transmission system in the town.
1983-1	--	Amending Ord. 1974-1 extending the franchise 15 years from the date of this amendment.
1990-9	10-9-1990	Granting to Americable International-Indiana, Inc. a nonexclusive franchise for the installation and operation and maintenance of a cable communication system within the town for a period of 15 years.



**TABLE II: AGREEMENTS**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
1989-2	4-11-1989	Approving the agreement between the town and B H & L Partnership concerning the extension of the town's water line to service the Partnership's property and providing for water and sewer taps.
2009-4	5-5-2009	Authorizing execution of a promissory note and mortgage on the town maintenance facility for the remaining expenses related to the facility.
2014-1	2-4-2014	Authorizing execution of a promissory note and mortgage on the water infrastructure improvements for the expenses related to the improvements.



**TABLE III: ANNEXATIONS**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
1976-1	--	Disannexing the following described lands from the town: Lot 93 in Raibow Lake Subdivision; Lot 92 in Rainbow Lake Subdivision; land commencing at the southwest corner of the northwest quarter of the southwest quarter of Section 29 in Township 25 North, Range 14 East; commencing at a point which is 20 rods north of the southwest corner of the northwest quarter of the southwest quarter of Section 29, Township 25 North, Range 14 East; commencing 11 rods south of the northwest corner of the southwest quarter of Section 29, Township 25 North, Range 14 East, with an exception; and the east half of the northwest quarter of the southwest quarter of Section 29, Township 25 North, Range 14 East, with an exception.
1989-13	11-14-1989	Annexing a parcel of land commencing at a point 343.0 feet south of the northwest corner of the southwest quarter of the southwest quarter of Section 21, Township 25 North, Range 14 East; and Lots 92 and 93 in Rainbow Lake Subdivision to the town.
1991-4	11-12-1991	Annexing a part of the northwest and northeast quarters of Section 28, Township 25 North, Range 14 East to the town.

**Geneva - Table of Special Ordinances**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
1996-2	3-12-1996	Annexing a part of the northwest and northeast quarters of Section 28, Township 25 North, Range 14 East to the town.
1997-02	4-1-1997	Annexing a portion of the southwest quarter of Section 28, Township 25 North, Range 14 East containing 2.24 acres, more or less.
2015-6	10-6-2015	Annexing a portion of Section 28, Township 25 North, Range 14 East.

**TABLE IV: VACATIONS**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
1984-1	--	Vacating the alley 12 feet in width running north to south along the west lines of Lots 288, 289, 290, 291, 292 and 293 and the east line of Lots 294 and 295 in Christopher Haviland's Addition to the town and the alley 16 feet in width running east to west along the south lines of Lots 293 and 294 in Christopher Haviland's Addition of record in Plat Book 1 at page 127 of the records of Adams County.
1984-2	--	Vacating Van Buren Street from the south side of Ringold to the north side of South Street; Ringold Street from the east side of Van Buren Street east till it dead ends into property owned by petitioner; Kossuth Street from the east line of Van Buren Street east to the east line of Lots 24 and 25; the east/west alley lying between Ringold and Kossuth Streets adjacent to Lots 18 and 19 and Lots 13, 14, 23 and 24; the north/south alley adjacent to Lots 19, 20 and 21 running north/south between Kossuth Street and Ringold Street but only so far as from the south edge of Kossuth Street to the south edge of Lots 19 and 21; and the east/west alley running between and parallel to Ringold and South Streets and adjacent to Lots 1, 2, 3, 4, 9, 10, 11 and 12 beginning with the east edge of Lots 9 and 4.

## Geneva - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
1986-11	--	Vacating the 16 foot alley running east and west between Inlots 163 and 165 in Butcher's Heirs Addition, Isaac Nelson's Plat to the Town of Buffalo, now Geneva, of record in Plat Book 1, page 33 of the records of Adams County.
1987-5	--	Vacating the 16.5 feet alley between Inlots 34 and 35 in Studebaker's First Addition to the Town of Buffalo, now Geneva.
1989-1	1-10-1989	Vacating 24 feet driveway and utility easement of Lots 3 and 4 in Lake of the Woods Section 1 Subdivision.
1991-1	6-11-1991	Vacating easement as laid out and platted running north and south and on the east of Lot 11 and on the west side of Lot 12 in Lake of the Woods, Section 1, Subdivision to the town.
1995-05	7-11-1995	Vacating that portion of Clark Street running north and south and being adjacent and contiguous to Lot 338 on the west side of the street and Lot 37 on the east side of the street, all in George Pyle's Fourth Addition to the town.
1999-02	6-1-1999	Vacating a portion of South Street.
2001-05	4-3-2001	Vacating the alley located between Lot 81 and Lot 82 of Studebaker's Addition of the town.
2001-07	7-10-2001	Vacating that portion of the right-of-way on the north side of Shackley Street.

Vacations

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
2002-5	11-12-2002	Vacating that portion of the alley which lies between Adams County Road 1100 South and Ringold Street, containing 0.03 of an acre, more or less.
2007-10	10-30-2007	Vacating that portion of Sixth Street which lies between Lots 273, 274 and 275 in Wm. Fields and Others Subdivision and Fields Memorial Park.
2011-2	5-3-2011	Vacating an alley, as described, in the Second Addition as platted by David Studebaker.
5	7-12-2011	Vacating a portion of a platted utility easement in Plat Record 4, pages 545-553.
2013-6	7-2-2013	Vacating a portion of the water line easement recorded in Deed Record 133, page 445.
2013-7	8-19-2013	Vacating that portion of the utility easement crossing Lot 12 in Bauserman's Addition.
2014-8	8-12-2014	Vacating 6th Street east of Short Street running east until a previously vacated portion of 6th Street; 5th Street east of Williams Street and located between Lots 84 and 85 of Studabaker's Second Addition; 4th Street east of Williams Street and located between Lots 90 and 91 of Studabaker's Second Addition; An alley east of Williams Street and located between Lots 87 and 88 of Studabaker's Second Addition; An alley east of Main Street and west of Williams Street and located between Lots 63 and 64 and between Lots 69 and 70 of Studabaker's Second Addition; and

**Geneva - Table of Special Ordinances**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
2014-8, cont'd		An alley north of 4th Street and south of 5th Street and located between Lots 61 through 64 on the west side of the alley and Lots 69 through 72 on the east side, all in Studabaker's Second Addition.
2014-10	10-7-2014	Vacating a portion of Williams Street.

**TABLE V: ZONING MAP AMENDMENTS**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
1973-3	--	Designating as a PR - Park and Recreation Zone and District a parcel of land located in the southwest quarter of Section 29, in Township 25 North, Range 14 East, leaving in the tract conveyed 12 acres, more or less, more commonly known as Field Memorial Park.
1976-2	--	Designating as an R-2 Multi-Family Residence Zone and District a parcel of land commencing at the northwest corner of Lot 27 in Section 2 of Schwartz First Addition to the town, containing 1.66 acres, ore or less.
1977-1	--	Designating Lot 30 in Studebaker's Addition to the town as a B-1 Neighborhood Business Zone and District.  Designating Lots 1 through 7 and Lots 11 through 28 as an R-1 Residential Zone and District.  Designating Lots 7, 27, 28, 29, 31 through 48 and Lots 61 through 72 incorporated into the town and in Studebaker's Addition to the town as an R-1 Residential Zone and District.

## Geneva - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
1981-2	--	Designating Lots 199, 200, 201, 205, 206, 208, 209, 212, 213 and 214 in David Studebaker's Fourth Addition to the town as R-1 residential lots and as an R-1 Residential District.  Designating Lots 207, 210 and 211 in David Studebaker's Fourth Addition to the town as B-3 General Business lots and as a B-3 General Business District.  Designating Lots 249 through 254 in N. P. Heaston's Addition to the town as R-1 Residential lots and as an R-1 Residential District.  Designating Lots 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286 and 287 in Christopher Haviland's Addition to the town as R-1 Residential lots and as an R-1 Residential District.
1983-9	--	Designating part of the northwest quarter, Section 29, Township 25 North, Range 14 East as an R-2 Multi-Family Residential District.
1985-1	--	Designating a portion of the northeast quarter of Section 29, Township 25 North, Range 14 East as an I-1 Light Industrial Zone.
1988-3	5-10-1988	Designating Lot 1 in Rainbow Lake Subdivision as B-1 Neighborhood Business Zone and District.

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
1988-9	11-10-1988	Designating portions of the northwest and northeast quarter of Section 18, Township 25 North, Range 14 East as R-1 Single Family Residence Zone and District; and designating a portion of land commencing at the southeast corner of the aforementioned tract as R-2 Multi-Family Residence Zone and District.
1989-8	8-8-1989	Designating the northwest fractional quarter of Section 28, Township 25 North, Range 14 East, with certain exceptions, as R-1 Single Family Residence Zone and District.
1990-2	5-9-1990	Changing that part of the east half of the southeast quarter and the northeast quarter of Section 32, Township 25, Range 14 East, lying east of the right-of-way of the Grand Rapids and Indiana Railroad, with certain exceptions, from A Agricultural Zone to I-1 Light Industrial Zone.
1992-1	5-12-1992	Changing a portion of the southwest quarter of Section 28, Township 25 North, Range 14 East, containing 2.24 acres, more or less, from I-1 Industrial to R-2 Multi-Family Residence Zone and District.

## Geneva - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
1995-06	8-8-1995	Changing the zoning of the following tracts from R-1 Single Family to I-1 Light Industrial Zone and District: Tract I: Inlots 11, 13, and 14 in the Town of Alexandria, now Geneva; Tract II: Inlot 12 in the Town of Alexandria, now Geneva; Tract III: land beginning at a point 57-3/4 feet south of the southwest corner of Lot 14 in the Town of Buffalo, now Geneva; Tract IV: the west half of an alley lying between Lots 11, 12, 13 and 14 on the west and Lots 1, 2, 3 and 4 on the east in the Town of Alexandria; Tract V: all that portion of South Street as named in the Plat of Alexander between Lot 14 and the vacated alley on the north and the land described in Tract III of this description, and the south half of South Street lying east of a line; all with certain exceptions.
2010-17	10-5-2010	Changing the east 59 feet of Lots 104 and 105 and 76 feet east of the southwest corner of Lot 104 containing 30 feet x 66 feet in David Studebaker's Third Addition, from R-1 Single Family to B-3 General Business.
2013-5	7-2-2013	Changing the following tracts from R-1 One Family Zone to B-1 Neighborhood Business Zone: Lot 12 in Bauserman's Addition; and part of the Northeast Quarter of Section 29, Township 25 North, Range 14 East of the Second Principal Meridian, Wabash Township.
2022-11	10-11-2022	Changing part of the southeast quarter of Section 20, Township 25 North, Range 14 East from R-1 Single Family Residential Zone to B-1 Neighborhood Business Zone.

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
2022-12	10-11-2022	Changing part of the east half of the southeast quarter of Section 32, Township 25 North, Range 14 East from A-1 Agricultural Zone to I-1 Industrial Zone.



## **PARALLEL REFERENCES**

References to Indiana Code  
References to 1997 Code  
References to Ordinances



## REFERENCES TO INDIANA CODE

<i>I.C. Section</i>	<i>Code Section</i>
4-13-17-4	35.51
5-3-1	34.20
5-14-3-8(d)(1)	35.40
5-14-3-8(f)	35.40
5-22-2-25	35.50
5-22-2-26	35.50
5-22-2-30	35.51
5-22-2-38	35.51
5-22-6-2	35.50
5-22-7	35.51
5-22-7.5	35.51
5-22-9	35.51
5-22-10	35.51
5-22-10-4(a)	35.51
6-1.1-17	35.05
6-3.5-6-17.3	35.05
6-3.5-7-13.1	35.02
8-1.5-3.5-4	53.22
8-23-4	93.34
8-23-30	35.06
9-17	93.34
9-18-12-1	93.30
9-18-12-2	93.30
9-20-1-3(c)(2)	71.01; Ch. 74, Sch. II
9-22-1-4	93.34
9-22-1-30	35.03
9-22-17	93.34
13-17-9	93.40, 93.41
14-16-1 et seq.	71.24, 71.27
14-28-1	151.44, 153.027
16-41-27	153.012
22-9-1-4 et seq.	90.02
22-9.5-1 et seq.	90.01
22-9.5-2-2	90.02
22-9.5-2-3	90.02

## Geneva - Parallel References

<i>I.C. Section</i>	<i>Code Section</i>
22-9.5-2-4	90.02
22-9.5-2-8	90.02
22-9.5-2-9	90.02
22-9.5-2-11	90.02
22-9.5-2-13	90.02
22-9.5-3 et seq.	90.09
22-9.5-3	90.03
22-9.5-4-8	90.10
22-9.5-5	90.02
22-9.5-5-1	90.03
22-9.5-6	90.02, 90.10
22-12-1-3	93.53
22-12-1-6	93.53
22-12-7	150.19
22-15-3-1	150.06
32-34-1	52.02
35-45-4	93.04
35-49-1-9	93.04
36-1-2-4.5	93.52
36-1-3-6	95.04
36-1-4-11	151.01
36-1-8-5	35.05
36-1-8-5.1(b)	35.05
36-1-20.2	37.01
36-1-21	37.01
36-4-6-5(b)	33.01
36-4-6-5(c)	33.01
36-4-6-5(d)	33.01
36-4-6-5(h)	33.01
36-4-6-5(m)	33.01
36-4-6-11	37.01
36-4-6-13	30.06
36-5-2-9.4	37.01
36-7-1-19 et seq.	152.074
36-7-4	152.023, 152.025
36-7-4-202	32.01
36-7-4-205	153.003
36-7-4-706	152.027
36-7-4-708	152.027
36-7-4-900 et seq.	153.105

## References to Indiana Code

4A

<i>I.C. Section</i>	<i>Code Section</i>
36-7-4-901	153.105
36-7-4-922	153.105
36-7-9 et seq.	93.53
36-7-9-1 through 36-7-9-28	93.53
36-7-9-4	93.53
36-7-9-7	93.53
36-7-9-10	93.53
36-7-9-11	93.53
36-7-9-14	93.53
36-7-10.1-1 et seq.	93.07, 93.20
36-7-12-6	32.20
36-7-14	32.50
36-8-3-20	34.04
36-8-14	35.04, 35.07
36-9-16-2	35.04
36-9-16-3	35.04
36-9-16.5	35.04
36-9-17	35.04
36-9-23-32	53.21, 54.06
36-9-26	35.04
36-9-30-1 et seq.	51.04
36-10-3-21	35.04
36-10-4-36	35.04



## REFERENCES TO 1997 CODE OF ORDINANCES

### *1997 Code Section    New Code Section*

4.1    30.01

4.2    30.02

4.3    30.03

4.4    30.04

4.5    30.05

4.6    30.06

4.7    30.07

4.8    33.01

4.9    33.01

4.10   33.01

6.2 - 6.6    35.04

7.1    32.01

7.2    32.02

7.3    32.03

Ch. 10 71.01

Ch. 11 71.01

Ch. 12 71.01

Ch. 19 53.07

20.1   51.01

20.2   51.02

20.3   51.03

Ch. 23 91.01

Ch. 24

70.01

## Geneva - Parallel References

	<i>1997 Code Section</i>	<i>New Code Section</i>
	Ch. 26	70.02
	Ch. 32 (part)	153.100
	32.1	153.001
32.2	153.002	
32.3	153.003	
32.4	153.004	
32.5	153.005	
32.6	153.006	
32.7	153.007	
32.8	153.008	
32.9	153.065 - 153.071	
32.10	153.009	
32.11	153.010	
32.12	153.011	
32.13	153.012	
32.14	153.025	
32.15	153.026	
32.16	153.027	
32.17	153.028	
32.18	153.029	
32.19	153.030	
32.20	153.031	
32.21	153.032	
32.22	153.033	
32.23	153.034	
32.24	153.035	
32.25	153.036	
32.26	153.037	
32.27	153.038	
	32.28	153.050
	32.29	153.051
	32.30	153.085
	32.31	153.086
	32.32	153.087
	32.33	153.101
	32.34	153.102

## References to 1997 Code of Ordinances

7

<i>1997 Code Section</i>	<i>New Code Section</i>
32.35	153.103
32.36	153.999
32.37	153.104
32.38	153.105
32.39	153.105
32.40	153.106
32.41	153.106
Ch. 36 (part)	152.004, 152.040, 152.060
36.1	152.001
36.2	152.002
36.3	152.003
36.4	152.005
36.5	152.006
36.6	152.007
36.7	152.008
36.8	152.009
36.9	152.020
36.10	152.021
36.11	152.022
36.12	152.023
36.13	152.024
36.14	152.025
36.15	152.026
36.16	152.027
36.17	152.028
36.18	152.029
36.19	152.041
36.20	152.042
36.21	152.043
36.22	152.044
36.23	152.045
36.24	152.046
36.25	152.061
36.26	152.062
36.27	152.063
36.28	152.064
36.29	152.065
36.30	152.066
36.31	152.067
36.32	152.068

**Geneva - Parallel References**

<i>1997 Code Section</i>	<i>New Code Section</i>
36.33	152.069
36.34	152.070
36.35	152.071
36.36	152.072
36.37	152.073
36.38	152.074
36.39	152.090
36.40	152.091
36.41	152.092
36.42	152.093
36.43	152.110
36.46	152.998
36.47	152.998
37.1	150.01
37.2	150.02
37.3	150.03
37.4	150.04
37.5	150.05
37.6	150.06
37.7	150.07
37.8	150.08
37.9	150.09
37.10	150.10
37.11	150.11
37.12	150.12
37.13	150.13
37.14	150.14
37.15	150.15
37.16	150.16
37.17	150.17
37.18	150.18
37.19	150.19
37.20	150.20
37.21	150.99

## REFERENCES TO ORDINANCES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
—	5-2-1946	Ch. 72, Sch. II
—	9-4-1947	Ch. 73, Sch. I
—	6-15-1950	Ch. 74, Sch. II
—	1-6-1952	Ch. 74, Sch. II
—	8-25-1952	Ch. 73, Sch. I
—	8-4-1955	Ch. 74, Sch. II
—	8-6-1970	Ch. 74, Sch. II
1875-3	--	32.20
1967-2	--	153.001–153.012, 153.025– 153.039, 153.050–153.051, 153.065–153.071, 153.085– 153.087, 153.100–153.106, 153.999
1971	12-21-1971	Ch. 74, Sch. II
1973-1	--	Ch. 73, Sch. II
1973-2	--	Ch. 73, Sch. I
1973-8	--	Ch. 73, Sch. I
1974-1	5-1-1974	T.S.O. I
1972-6	10-4-1972	Ch. 74, Sch. II
1972-7	--	Ch. 73, Sch. I
1973-3	--	T.S.O. V
1974-2	11-6-1974	Ch. 74, Sch. II
1974-3	--	Ch. 74, Sch. II
1975-1	--	53.07
1976-2	--	153.025, T.S.O. V
1977-1	--	T.S.O. V
1978-1	--	70.02
1980	--	Ch. 73, Sch. II
1980-	--	91.01
1980-8	--	153.008
1981-2	--	T.S.O. V
1982-4	--	33.01
1982-8	--	Ch. 74, Sch. II
1983-1	--	T.S.O. I
1983-2	--	32.02, 32.03
1983-3	--	30.01–30.07

## Geneva - Parallel References

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
1983-3B	--	152.001–152.009, 152.020–152.029, 152.040–152.046, 152.060–152.074, 152.090–152.093, 152.110, 152.998
1983-9	--	T.S.O. V
1984-1	--	T.S.O. IV
1984-2	--	T.S.O. IV
1985-1	--	T.S.O. V
1985-2	--	51.01–51.03, 70.01
1985-3	--	35.04
1986-7	--	150.01–150.20, 150.99
1986-11	--	T.S.O. IV
1987-5	--	T.S.O. IV
1988-2	--	70.01
1988-3	5-10-1988	T.S.O. V
1988-4	7-11-1988	Ch. 73, Sch. I
1988-7	12-13-1988	36.01–36.03
1988-9	11-10-1988	T.S.O. V
1989-1	1-10-1989	T.S.O. IV
1989-2	4-11-1989	T.S.O. II
1989-3	6-13-1989	35.04
1989-8	8-8-1989	T.S.O. V
1989-9	9-12-1989	Ch. 73, Sch. III
1989-10	10-10-1989	51.03
1989-11	10-10-1989	51.04
1989-13	11-14-1989	T.S.O. III
1990-2	5-9-1990	T.S.O. V
1990-6	8-26-1990	51.05
1990-9	10-9-1990	T.S.O. I
1990-10	11-13-1990	35.01
1991-1	6-11-1991	T.S.O. IV
1991-4	11-12-1991	T.S.O. III
1992-1	5-12-1992	T.S.O. V
1993-1	10-12-1993	34.01–34.06
1994-02	6-14-1994	35.02
1995-01	4-16-1995	35.04
1995-02	4-11-1995	Ch. 74, Sch. II
1995-3	6-13-1995	35.03
1995-04	6-13-1995	Ch. 74, Sch. III
1995-05	7-11-1995	T.S.O. IV
1995-06	8-8-1995	T.S.O. V

## References to Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
1996-1	4-9-1996	90.01–90.10
1996-2	3-12-1996	T.S.O. III
1997-02	4-1-1997	T.S.O. III
1997-06	9-2-1997	Ch. 73, Sch. I
1997-07	10-7-1997	130.01
1998-3	3- -1998	34.20
1998-5	6-2-1998	Ch. 73, Sch. I
1998-6	6-2-1998	Ch. 73, Sch. I
1998-13	10-19-1998	110.01–110.06, 110.99
1999-02	6-1-1999	T.S.O. IV
2001-01	2-6-2001	53.01–53.06, 53.20–53.23, 53.35–53.38, 53.50–53.51, 53.65–53.72
2001-05	4-3-2001	T.S.O. IV
2001-6	5-2-2001	35.04
2001-07	7-10-2001	T.S.O. IV
2002-4	10-1-2002	33.01
2002-5	11-12-2002	T.S.O. IV
2003-1	1-14-2003	31.02
2003-7	12-2-2003	71.01
2004-2	8-3-2004	31.04
2004-3	8-3-2004	31.04
2004-4	9-7-2004	31.03
2004-5	9-7-2004	31.01
2004-6	10-5-2004	Ch. 74, Sch. I
2005-2	4-4-2005	72.01
2004-1	6-7-2005	53.01–53.05, 53.15–53.18, 53.30–53.33, 53.45, 53.46, 53.60–53.68, 53.99
2005-5	8-8-2005	Ch. 74, Sch. II
2006-2	5-23-2006	53.06
2006-3	5-23-2006	54.01–54.15, 54.99
2006-7	11-14-2006	Ch. 73, Sch. I
2007-8	9-21-2007	95.01–95.04, 95.15–95.31, 95.45–95.51, 95.99
2007-9	10-30-2007	Ch. 74, Sch. I
2007-10	10-30-2007	T.S.O. IV
2009-3	4-7-2009	35.05
2009-1	5-5-2009	91.02
2009-4	5-5-2009	T.S.O. II
2009-13	12-8-2009	53.06
2009-14	12-8-2009	54.03

## Geneva - Parallel References

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
2010-4	5-4-2010	96.01–96.06
2010-7	6-8-2010	37.20–37.26
2010-6	7-6-2010	Ch. 73, Sch. IV
2010-8	7-6-2010	151.01–151.11, 151.25–151.27, 151.40–151.47, 151.60–151.66, 151.99
2010-12	9-7-2010	130.02
2010-17	10-5-2010	T.S.O. V
2010-13	11-2-2010	92.01–92.08, 92.99
2010-14	12-7-2010	Ch. 74, Sch. II
2010-16	12-7-2010	Ch. 73, Sch. I
2011-1	4-5-2011	91.02
2011-2	5-3-2011	T.S.O. IV
5	7-12-2011	T.S.O. IV
2011-6	2-7-2012	50.01–50.13
2012-2	5- -2012	Ch. 74, Sch. V
2012-1	6-5-2012	Ch. 74, Sch. II
2012-5	6-5-2012	37.01
2013-5	7-2-2013	T.S.O. V
2013-6	7-2-2013	T.S.O. IV
2013-7	8-19-2013	T.S.O. IV
2013-8	11-5-2013	37.02
2013-9	11-5-2013	54.03
2013-11	11-5-2013	53.06
2013-13	11-5-2013	50.09, 50.14–50.18
2014-1	2-4-2014	T.S.O. II
2014-4	7-8-2014	71.20–71.31, 71.99
2014-7	7-8-2014	30.06
2014-4A	8-5-2014	71.20–71.31, 71.99
2014-9	8-5-2014	32.50–32.53
2014-8	8-12-2014	T.S.O. IV
2014-10	10-7-2014	T.S.O. IV
2015-1	5-5-2015	Ch. 73, Sch. III
2015-2	5-5-2015	Ch. 73, Sch. I
2015-6	10-6-2015	T.S.O. III
2016-01	6-7-2016	35.06
2016-02	6-7-2016	35.25
2016-03	6-7-2016	35.26
2017-03	8--2017	71.20–71.31, 71.99
2017-04	11-14-2017	54.03
2017-06	11-14-2017	53.06
2017-07	10-10-2017	30.07, 33.01

## References to Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
2018-01	2-16-2018	35.50, 35.51
2018-2	3-13-2018	35.07
2018-7	10-9-2018	Ch. 74, Sch. I
2018-8	11-13-2018	30.07, 33.01
2019-2	4-9-2019	53.20–53.25
2019-8	9-10-2019	35.08
2019-9	12-10-2019	Ch. 74, Sch. II
2019-10	10-8-2019	32.35
2019-12	12-10-2019	93.01–93.07, 93.20, 93.30– 93.34, 93.40–93.42, 93.50– 93.53, 93.99
2019-13	11-12-2019	Ch. 74, Sch. II
2020-2	6-9-2020	52.01–52.17
2020-7	12-8-2020	35.09
2020-8	12-8-2020	35.40
2021-1	5-11-2021	93.06
2021-2	6-8-2021	35.10
2021-3	7-13-2021	Ch. 73, Sch. I
2022-2	5-10-2022	51.06
2022-5	8-9-2022	32.35
2022-6	8-9-2022	35.27
2022-11	10-11-2022	T.S.O. V
2022-12	10-11-2022	T.S.O. V
2022-13	11-8-2022	35.11
2022-14	11-8-2022	35.12
2022-15	12-13-2022	30.07, 33.01
2022-16	1-10-2023	93.01, 93.02
2023-6	4-11-2023	111.01–111.06, 111.99
2023-8	8-8-2023	151.01–151.11, 151.25–151.29, 151.40–151.47, 151.60–151.66, 151.99
2023-9	7-11-2023	71.20–71.31, 71.99
2023-11	8-8-2023	52.03–52.09
2023-12	8-8-2023	53.06
2023-13	11-14-2023	93.01–93.07, 93.20, 93.30– 93.34, 93.40–93.42, 93.50– 93.53, 93.99
2024-1	2-13-2024	53.06



## **INDEX**



## INDEX

A AGRICULTURAL ZONE, 153.029

ABANDONED VEHICLE FUND, 35.03

ADA (AMERICANS WITH DISABILITIES ACT) TRANSITION PLAN ADOPTED, 37.02

ADDRESS NUMBERS (See STREET ADDRESS NUMBERS)

### ADVERTISING DEVICES

Area and location, 153.087

Exceptions, 153.086

Improvement location permit, 153.085

AMERICAN RESCUE PLAN ACT FUND, 35.10

ANIMAL REFUSE OR MANURE, 92.06

### ANIMALS

Animal bites; reporting and confinement, 92.05

Cruelty; teasing and tormenting animals, 92.07

Definitions, 92.01

Enticing or trespassing; non-resident owners, 92.08

Feeding, 92.07

Impounding animals, 92.04

Noise, 92.06

Penalty, 92.99

Running at large, 92.03

State law adopted by reference, 92.02

Unsanitary conditions, 92.06

ASSEMBLIES ON WALKWAYS, DRIVEWAYS AND PARKING AREAS, 72.01, 72.99

B-P PLANNED BUSINESS CENTERS, 153.035

B1 NEIGHBORHOOD BUSINESS ZONE, 153.032

B2 RURAL BUSINESS ZONE, 153.033

B3 GENERAL BUSINESS ZONE, 153.034

BOARD OF TRUSTEES

- Clerk-Treasurer, 30.05
- Designation of legislative body and town executive, 30.01
- Election of Trustees, 30.07
- Passage of ordinances and resolutions, procedure for, 30.06
- President of Board, 30.04
- Regular meetings, 30.02
- Special meetings, 30.03

BOARD OF ZONING APPEALS, 153.105

BUILDING CODE

- Adoption of building rules, codes and standards by reference, 150.05
- Application for permit, 150.06
- Authority, 150.03
- Certificate of occupancy, 150.16
- Compliance with other provisions, 150.08
- Entry, 150.14
- Fees, 150.09
- Inspection, 150.12
- Notification of inspection and time of inspection, 150.13
- Penalty, 150.99
- Permit required, 150.07
- Purpose, 150.02
- Remedies, 150.20
- Review of application, 150.10
- Right of appeal, 150.19
- Scope, 150.04
- Stop work order, 150.15
- Title, 150.01
- Violations, 150.18
- Waiver of permit fees, 150.11
- Workmanship, 150.17

CAPITAL PROJECTS GIFT FUND, 35.01

CARES ACT FUND, 35.09

CERTIFICATE OF OCCUPANCY, 153.102

CLERK-TREASURER, 30.05

CODE CONSTRUCTION PROVISIONS

- Application to future ordinances, 10.03
- Construction of code, 10.04
- Errors and omissions, 10.09
- General penalty, 10.99
- Interpretation, 10.02
- Limitation periods, 10.12
- Ordinances unaffected, 10.13
- Ordinances which amend or supplement code, 10.14
- Preservation of penalties, offenses, rights and liabilities, 10.16
- Reasonable time, 10.10
- Reference to offices; name designations, 10.08
- Reference to other sections, 10.07
- Repeal or modification of code section, 10.11
- Rules of interpretation; definitions, 10.05
- Section histories; statutory references, 10.15
- Severability, 10.06
- Title of code, 10.01

CONTRACTING WITH A UNIT BY A RELATIVE POLICY; CONFLICT OF INTEREST, 37.01

CUMULATIVE CAPITAL DEVELOPMENT FUND, 35.04

CUMULATIVE FIREFIGHTING BUILDING AND EQUIPMENT FUND, 35.07

DEPARTMENT OF DEVELOPMENT, 32.20

DEPARTMENT OF PARKS AND RECREATION

- Appointments, 32.37
- Department created, 32.35
- Duties and powers, 32.39
- Members, 32.36
- Salary, 32.38

DEPARTMENT OF REDEVELOPMENT

- Department created, 32.50
- Finances, 32.53
- Redevelopment Commission
  - Created; Commissioners, 32.51
  - Qualifications of Commissioners, 32.52

DOGS (See ANIMALS)

DRUG-FREE WORKPLACE

- Alcohol, 37.23
- Policy, 37.21
- Prohibited drugs, 37.22
- Purpose, 37.20
- Rehabilitation, 37.25
- Reporting violations, 37.04
- Testing, 37.06

DRUGS

- Synthetic cannabinoid, 130.02

ECONOMIC DEVELOPMENT INCOME TAX FUND, 35.02

ELECTION OF TRUSTEES, 30.07

ELECTIONS

- Trustee Districts, 33.01

ENGINE COMPRESSION BRAKES PROHIBITED, 71.01

F2 FLOOD PLAIN ZONE, 153.028

FAIR HOUSING

- Administrative enforcement, 90.10
- Definitions, 90.02
- Discrimination in residential real estate-related transactions, 90.05
- Discrimination in the provision of brokerage services, 90.06
- Discrimination in the sale or rental of housing, 90.04
- Exemptions, 90.09
- Interference, coercion or intimidation, 90.07
- Policy statement, 90.01
- Prevention of intimidation, 90.08
- Unlawful practice, 90.03

FINANCE AND TAXATION

Fees

- Document, video, and photo reproduction in the Town Marshal's office, 35.40

Policies

- Electronic funds transfers (EFT), automatic clearing house (ACH), and online banking, 35.27

## FINANCE AND TAXATION (Cont'd)

## Policies (Cont'd)

- Internal control standards, 35.25

- Materiality threshold, 35.26

## Purchasing

- Policy; rules regarding the purchase of supplies and services, 35.51

- Purchasing agencies and agents, 35.50

## FIRE PREVENTION

- Open burning, 91.02

- Open containers, 91.01

## FIREARMS, 130.01

## FLOOD CONTROL

- Abrogation and greater restrictions, 151.07

## Administration

- Administrative procedures, 151.28

- Floodplain Administrator designated, 151.25

- Floodplain Administrator; duties and responsibilities, 151.27

- Floodplain development permit and certification requirements, 151.26

- Map maintenance activities, 151.29

- Application, 151.03

- Basis for establishing the areas of special flood hazard, 151.04

- Compliance, 151.06

- Definitions, 151.02

- Discrepancy between mapped floodplain and actual ground elevations, 151.08

- Establishment of floodplain development permit, 151.05

## Flood Hazard Reduction

- Critical facility, 151.43

- General standards, 151.40

- Specific standards, 151.41

- Standards for SFHAs not identified on a map, 151.47

- Standards for identified floodways, 151.44

- Standards for identified fringe, 151.45

- Standards for SFHAs without established base flood elevations and/or floodways/fringes, 151.46

- Standards for subdivision proposals, 151.42

- Interpretation, 151.09

- Penalty, 151.99

- Statutory authorization; findings of fact; purpose; methods, 151.01

## FLOOD CONTROL (Cont'd)

## Variance Procedures

- Conditions for variances, 151.63
- Duties of Board, 151.61
- Historic structures, 151.65
- Special conditions, 151.66
- Variance and Appeals Board designated, 151.60
- Variance notification, 151.64
- Variance procedures, 151.62

Violations, 151.11

Warning; disclaimer of liability, 151.10

## GARAGE SALES

- Conduct, 111.06
- Definitions, 111.02
- Enforcement; complaints, 111.05
- Exemptions, 111.04
- Penalty, 111.99
- Permit required; fee; conditions for sales, 111.03
- Purpose, 111.01

## GARBAGE (See also UTILITIES GENERALLY)

- Collection procedure and requirements, 51.03
- Collection schedule, 51.01
- Disposal of solid waste at town compost lot, 51.06
- Garbage and rubbish fees, 51.04
- Limit on amount of garbage, trash and refuse to be collected by the town, 51.05
- Required receptacles, 51.02

## GENERAL PENALTY, 10.99

## GOLF CARTS AND OFF-ROAD VEHICLES

- Definitions, 71.20
- Equipment, 71.24
- Exempt vehicles, 71.30
- Financial responsibility, 71.26
- Occupancy of, 71.25
- Operation of, 71.22
- Operator, 71.23
- Penalty, 71.99
- Purpose, 71.21
- Reciprocity, 71.31
- Registration, 71.27
  - Registration fee, 71.28
- Town's right to restrict operation on designated streets and alleys, 71.29

HANDICAP/DISABLED PARKING, Parking Schedule I

I-1 LIGHT INDUSTRIAL ZONE, 153.036

I-2 HEAVY INDUSTRIAL ZONE, 153.037

I-P PLANNED INDUSTRIAL DISTRICTS, 153.038

IMPROVEMENT LOCATION PERMIT, 153.101

JUNK DEALERS; JUNK YARDS

Application contents, 110.04

Definitions, 110.01

Inspection of applicant; issuance of consent, 110.05

Operating junk yard or dealing in junk; consent, 110.03

Penalty, 110.99

Requirement of fence, 110.02

Storing junk outside of consented area, 110.06

LOCAL ROAD AND BRIDGE MATCHING GRANT FUND, 35.08

LOIT SPECIAL DISTRIBUTION FUND, 35.06

NEPOTISM POLICY, 37.01

NUISANCES

Grass, Weeds, Debris, and Other Rank Vegetation

Removal of grass, weeds, debris, and other such rank vegetation, 93.20

Junk, Junk Vehicles and Abandoned Vehicles

Definitions of junk, junk vehicles and abandoned vehicles, 93.30

Enforcement for junk, 93.33

Enforcement for junk vehicles and abandoned vehicles, 93.34

Junk, junk vehicles and abandoned vehicles declared nuisances, 93.31

Storage prohibited, 93.32

Miscellaneous Regulations

Noise regulations, 93.52

Nondisposal of dangerous and toxic materials, 93.50

Smoking prohibited in town facilities, 93.51

Unsafe building regulations, 93.53

Outdoor Burning Regulations

Application of outdoor burning regulations, 93.40

Enforcement, 93.42

Exceptions, 93.41

## NUISANCES (Cont'd)

- Penalty, 93.99

- Public Nuisances

  - Abatement of public nuisances, 93.06

  - Cost of abatement, 93.07

  - Public health nuisances, 93.03

  - Public nuisance affecting peace and safety, 93.05

  - Public nuisances defined, 93.02

  - Public nuisances offending morals and decency, 93.04

  - Public nuisances prohibited, 93.01

## OFF-ROAD VEHICLES (See GOLF CARTS AND OFF-ROAD VEHICLES)

## OFF-STREET PARKING AND LOADING PROVISIONS

- Collective parking facilities, 153.068

- Distance measurements, 153.066

- Mixed uses, 153.067

- Off-street loading, 153.069

- Off-street parking, 153.065

- Permanency of spaces provided, 153.071

- Public parking area, 153.070

## OPIOID FUND - RESTRICTED, 35.12

## OPIOID FUND - UNRESTRICTED, 35.11

## ORDINANCE VIOLATIONS BUREAU

- Bureau created, 36.01

- Clerk-Treasurer's duties, 36.02

- Schedule of fines, 36.03

## PARKING ON WALKWAYS, DRIVEWAYS AND PARKING AREAS, 72.01, 72.99

## PASSAGE OF ORDINANCES AND RESOLUTIONS, 30.06

## PERSONNEL POLICIES ADOPTED BY REFERENCE, 31.03

- Drug-free workplace policy, see DRUG-FREE WORKPLACE

- Nepotism policy adopted, 37.01

## PLAN COMMISSION

- Advisory Plan Commission created, 32.01

- Members, 32.02

- Qualification of members, 32.03

POLICE RESERVES

- Benefits, 34.04
- Distinctions between Police Department and Police Reserves, 34.05
- Name of Department, 34.03
- Number of Police Reserves, 34.02
- Police Reserve Department created, 34.01
- Ratification of actions and proceedings taken by Police Reserves, 34.06

PR PARK AND RECREATION ZONE AND DISTRICT, 153.039

PRESIDENT OF BOARD, 30.04

PROHIBITED PARKING, Parking Schedule II

R1 ONE-FAMILY ZONE, 153.030

R2 MULTI-FAMILY ZONE, 153.031

RAINY DAY FUND, 35.05

REDEVELOPMENT COMMISSION (See DEPARTMENT OF REDEVELOPMENT)

REMOVAL OF VEHICLES; SNOW ROUTES, Parking Schedule V

RESTRICTED USE ALLEYS, Traffic Schedule IV

RIGHT-OF-WAY AT INTERSECTIONS, Traffic Schedule I

RUBBISH (See also UTILITIES GENERALLY)

- Collection procedure and requirements, 51.03
- Collection schedule, 51.01
- Disposal of solid waste at town compost lot, 51.06
- Garbage and rubbish fees, 51.04
- Limit on amount of garbage, trash and refuse to be collected by the town, 51.05
- Required receptacles, 51.02

SEWER SERVICE (See also UTILITIES GENERALLY)

- Abbreviations, 53.03
- Administration, 53.02
- Administrative Enforcement Remedies
  - Administrative fees and fines, 53.63
  - Cease and desist order, 53.62
  - Compliance order, 53.61
  - Consent orders, 53.66
  - Emergency suspensions, 53.68

## SEWER SERVICE (Cont'd)

## Administrative Enforcement Remedies (Cont'd)

- Enforcement guide/enforcement response guide, 53.65

- Notification of violation, 53.60

- Show cause hearing, 53.67

- Water supply severance, 53.64

## Compliance Monitoring

- Right of entry; inspection and sampling, 53.45

- Search warrants, 53.46

Confidential information, 53.05

Definitions, 53.04

Penalties, 53.99

## Pretreatment of Wastewater

- Additional pretreatment measures, 53.31

- Hauled wastewater, 53.32

- Pretreatment charges, 53.34

- Pretreatment facilities, 53.30

- Reports of potential problems, 53.33

Purpose, 53.01

Rates and charges, 53.06

## Sewage Charges

- Billing cycle; delinquency, 53.21

- Irrigation meters and charges; sprinkling credit; filling swimming pools; sewage, 53.23

- Reconnection charge, 53.24

- Sewage bill adjustments, 53.22

- Sewer usage; customer responsibility; billing and procedures, 53.20

- Tampering with or obstructing meters, 53.25

## Sewer Use Requirements

- Dilution, 53.18

- Local limits, 53.16

- Prohibited discharge standards, 53.15

- Right of revision, 53.17

SNOW EMERGENCY, 70.02

SNOW ROUTES, Parking Schedule V

SPEED LIMITS, Traffic Schedule III

SPICE OR K-2, 130.02

**STORMWATER SYSTEM**

- Adjusting of rates and charges, 54.05
- Annual study, 54.07
- Appeals, 54.10
- Billing and collection, 54.06
- Definitions, 54.01
- Enforcement, 54.08
- Inspections, 54.13
- Mandatory charge, 54.11
- Penalty, 54.99
- Property affected, 54.12
- Rates and fees established, 54.03
- Special rate contracts, 54.09
- Stormwater tap-in fee, 54.15
- Stormwater quantity, 54.04
- User charges, 54.02
- Violations, 54.14

**STREET ADDRESS NUMBERS**

- Assignment of number, 96.03
- Display of number, 96.05
- Notice of numbers assigned, 96.04
- Purpose and intent, 96.01
- Scope, 96.02
- Use of number, 96.06

**SUBDIVISION CONTROL**

- Acceptance of Subdivision Improvements
  - Completed construction notification, 152.091
  - Inspections, 152.090
  - Recommendation for acceptance, 152.092
  - Written notification, 152.093
- Administration; Plan Commission, 152.009
- Application, 152.002
- Definitions, 152.004
- Detailed plan submission, 152.007
- Improvements
  - Cluster development, 152.073
  - Curbs and gutters, 152.062
  - General, 152.060
  - Landscape development, 152.066
  - Monuments and markers, 152.067

## SUBDIVISION CONTROL (Cont'd)

## Improvements (Cont'd)

- Planned unit development; community unit projects; apartment complexes, 152.074
- Privately developed facilities, 152.068
- Public utilities, 152.070
- Sewage disposal, 152.064
- Sidewalks, 152.063
- Storm drainage, 152.069
- Street lighting, 152.071
- Street signs, 152.072
- Streets, 152.061
- Water supply, 152.065

## Installation of improvements, 152.006

## Minimum Design and Development Standards

- Blocks, 152.042
- Easements, 152.044
- General, 152.040
- Lots, 152.043
- Public use areas, 152.045
- Streets, 152.041
- Topography, natural vegetation and flooding, 152.046

## Procedural guidelines adopted by reference, 152.010

## Procedures

- Approval of minor plats, 152.027
- Approval of secondary plats, 152.023
- Filing of primary plats, 152.021
- Improvement plans and specifications, 152.025
- Improvement plans and specifications, 152.029
- Minor plat requirements, 152.028
- Performance guarantee, 152.026
- Preliminary considerations, 152.020
- Primary plat requirements, 152.022
- Secondary plat requirements, 152.024

## Provisions to be minimum requirements, 152.008

## Records of Plats and Enforcements

- Enforcement, 152.112
- Pre-recording approval, 152.111
- Term, 152.110

## Rules of construction, 152.003

## Sale of land, 152.005

## Short title, 152.001

## Violations, 152.998

SUPERINTENDENT OF STREETS & MAINTENANCE; CERTIFIED WATER/WASTEWATER OPERATOR, 31.02

TITLE OF CODE, 10.01

TOWN BOUNDARIES, 11.01

TOWN MANAGER, 31.01

## TREES

Definitions, 95.03

Non-reverting capital fund established for tree maintenance and replacement, 95.04

Penalty, 95.99

Purpose and intent, 95.02

Title, 95.01

### Tree Board

Creation, establishment and compensation, 95.45

Duties; responsibilities, 95.47

Interference with Tree Board, 95.49

Operation, 95.48

Review by Town Board, 95.51

Term of office, 95.46

Tree Board representative; establishment; duties, 95.50

### Tree Planting and Care

Arborist's certification, 95.30

Arborist's certification revocation, 95.31

Construction, 95.27

Dead or diseased tree removal, 95.25

Emergency tree care, 95.23

Injury to trees, 95.28

Permits; requirements and exceptions, 95.29

Planting new subdivisions, 95.21

Planting; responsibility of owner/occupant, 95.19

Planting; town responsibility, 95.18

Private tree care; pruning, corner and sidewalk clearance, 95.24

Public utilities responsibility, 95.20

Removal of stumps, 95.26

Routine street tree care, 95.22

Size and spacing, 95.16

Spacing; distance from curbs, sidewalk, street corner, driveways, fire hydrants and utilities, 95.17

Street tree species to be planted, 95.15

TRUCK TRAFFIC, Traffic Schedule II

TRUSTEE DISTRICTS, 33.01

TWO HOUR PARKING, Parking Schedule III

#### UTILITIES GENERALLY

##### Credits

Sprinkler credit, 50.16

Water leak; wastewater credit, 50.18

Delinquent payment; disconnect notice, 50.09

Dishonored checks, 50.06

Disputes over bills, 50.12

Due date for utility charges, 50.05

Inability to pay, 50.13

Reconnection fee, 50.11

Rental properties and property being purchased on contract; responsibility, 50.03

Sales tax on water, 50.17

Scheduled disconnection; charges, 50.10

Shut-off; charges, 50.08

Tampering with meters, 50.07

Trash pickup service; discontinuance; containers, 50.15

Utility deposit for water service, 50.01

Refund of deposit, 50.02

Utility service changeover, 50.14

Water meters, 50.04

VEHICLE INSPECTION, 70.01

#### VOLUNTEER FIRE DEPARTMENT

Charges assessed for services provided to property owners, 34.20

WAGES AND SALARIES OF TOWN PERSONNEL, 31.04

WATER METERS, 50.04

#### WATER SERVICE

Automatic sprinklers, 52.08

Billing cycle, delinquency, disconnection, and hearing, 52.11

Connection charge, 52.09

Cross connection control, 52.17

Deposit, 52.02

## WATER SERVICE (Cont'd)

- Fire protection, 52.05
- Irrigation meters and charges; sprinkling credit; filling swimming pools, 52.07
- Metered rates, 52.03
- Monthly charge, 52.04
- Non-sufficient funds charges and procedures, 52.10
- Other water services, 52.06
- Procedures for removal of lead lines, 52.16
- Reconnection charge, 52.13
- Review of connection and reconnection charges, 52.14
- Tampering with or obstructing meters, 52.12
- Water loss audit, 52.15
- Water usage, customer responsibility, billing and procedures, 52.01

## ZONING ADMINISTRATOR, 153.100

## ZONING CODE

- Administration and Enforcement
  - Amendments, 153.106
  - Board of Zoning Appeals, 153.105
  - Certificate of occupancy, 153.102
  - Enforcement, 153.104
  - Improvement location permit, 153.101
  - Permit issuance, 153.103
  - Zoning Administrator, 153.100
- Advertising Devices
  - Area and location, 153.087
  - Exceptions, 153.086
  - Improvement location permit, 153.085
- Amortization of nonconforming uses or buildings, 153.006
- Basis for establishing, 153.001
- Building and uses affected by zoning, 153.004
- Contingent uses (all districts), 153.011
- Continuance of nonconforming buildings or uses, 153.005
- Definitions, 153.003
- Exceptions and Modifications
  - Area and yards, 153.051
  - Height, 153.050
- General area provisions, 153.009
- General height provision, 153.010
- General use provisions, 153.008
- Nonconformance due to reclassifications, 153.007

## ZONING CODE (Cont'd)

## Off-Street Parking and Loading Provisions

Collective parking facilities, 153.068

Distance measurements, 153.066

Mixed uses, 153.067

Off-street loading, 153.069

Off-street parking, 153.065

Permanency of spaces provided, 153.071

Public parking area, 153.070

Penalty, 153.999

Short title, 153.002

Special exception; specified zones, 153.012

## Zones; Regulations

A Agricultural Zone, 153.029

B-P Planned Business Centers, 153.035

B1 Neighborhood Business Zone, 153.032

B2 Rural Business Zone, 153.033

B3 General Business Zone, 153.034

Establishment of zones, 153.025

F2 Flood Plain Zone, 153.028

Flood zones, creation of, 153.027

I-1 Light Industrial Zone, 153.036

I-2 Heavy Industrial Zone, 153.037

I-P Planned Industrial Districts, 153.038

PR Park and Recreation Zone and District, 153.039

R1 One-Family Zone, 153.030

R2 Multi-Family Zone, 153.031

Zone and district boundaries, 153.026