

Chapter 1

GENERAL PROVISIONS

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Sec. 1-1. Designation and citation of Code.

The ordinances embraced in the chapters and sections herein shall constitute and be designated as the "Town Code of the Town of North Judson, Indiana," and may be so cited. It may also be designated and cited as the "North Judson Town Code."

(Code 1959, ch. 1, § 1-1)

State law reference—Codification of ordinances, IC 36-1-5-1 et seq.

Sec. 1-2. Definitions and rules of construction.

(a) In the construction of this Code, and of all ordinances, the rules of construction and definitions set out in this section shall be observed, unless such construction would be inconsistent with the manifest intent of the Town Council. The rules of construction and definitions set out in this section shall not be applied to any section of this Code that shall contain any express provisions excluding such construction, or where the subject matter or context of such section may be repugnant thereto.

(b) The articles, sections, and provisions of this Code shall be interpreted in favor of the health, safety, comfort, morals, convenience, and general welfare of the public. All general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the Town Council may be fully carried out. Where any provision of the Code imposes greater restrictions upon the subject matter than another more general provision imposed by the Code or other law, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

Abandoned vehicle. The term "abandoned vehicle" means:

- (1) A vehicle located on public property illegally.
- (2) A vehicle left on public property continuously without being moved for three days.
- (3) A vehicle located on public property in such a manner as to constitute a hazard or obstruction to the movement of pedestrian or vehicle traffic on a public right-of-way.
- (4) A vehicle that has remained on private property without the consent of the property owner or persons in control of the property for more than 48 hours.
- (5) A vehicle from which there has been removed the engine, transmission, or differential or that is otherwise partially dismantled or inoperative and left on public property.
- (6) A vehicle that has been removed by a towing service or a public agency upon request of an officer enforcing a statute or ordinance, if the vehicle once impounded is not claimed or redeemed by the owner or his agent within 20 days of its removal.
- (7) A vehicle that is at least three model years old, mechanically inoperable, and is left on private property continuously in a location visible from public property for more than 20 days.

Alley. The term "alley" means a public thoroughfare, which affords only secondary means of vehicular access to abutting property, and not less than 20 wide feet or more than 30 feet wide.

Automobile scrap yard. The term "automobile scrap yard" means a business organized for the purpose of scrap metal processing, automobile wrecking, or operating a junkyard.

Block. The term "block" means property abutting on one side of a street and lying between the two nearest intersecting or intercepting streets, or nearest intersecting or intercepting street and railroad right-of-way or waterway.

Building setback line. The term "building setback line" means the line nearest the front and across a lot establishing the minimum open space to be provided between the front of buildings and structures and the front lot line.

Bureau. The term "bureau" means the Indiana Bureau of Motor Vehicles.

Code. Whenever the term "Code" or "this Code" is referred to without further qualification, it means the Town Code of North Judson, Indiana, as designated in section 1-1.

Commission. The term "commission" means the North Judson Plan Commission.

Computation of time. The term "computation of time" means that the time within which an act is to be done as provided herein shall be computed by excluding the first day and including the last. If the last day is a Sunday, it shall be excluded and the next day shall be included. Words used in the past or present tense include the future tense as well as past and present.

County. The term "county" means the County of Starke, State of Indiana.

Dump. The term "dump" means a place on which is deposited or stored garbage or rubbish.

Excavation. The term "excavation" means the act or site of digging, hollowing out, moving, or removal of earth.

Fiscal body. The term "fiscal body" means the Town Council of the Town of North Judson.

Garbage. The term "garbage" means every waste accumulation of organic and putrescent matter, including but not limited to rejected food waste, and excepting human sewage and body wastes.

Gender. The term "gender" means that words used in the masculine gender shall be construed to include feminine and neuter.

Joint authority. Words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Lot. The term "lot" means a portion of a subdivision or other parcel of land intended as a unit for transfer of ownership or for development.

Master plan. The term "master plan" means the complete plan, or any of its parts, for the development of North Judson, prepared by the Commission and legally adopted.

Month. The term "month" means one calendar month.

Oath. The term "oath" means an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."

Officer. The term "officer" means the Town Marshal or Town Deputy Marshal, or any other officer as defined by IC 9-22-1-2 that may be so authorized by further resolution of the Town Council of the Town of North Judson.

Owner.

- (1) As applied to land or buildings, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety of the whole or part of such building or land.
- (2) As applied to any vehicle, shall mean the last known record titleholder of a vehicle, according to the records of the Bureau of Motor Vehicles.

Parts. The term "parts" as applied to any vehicle, shall mean all components of a vehicle that as assembled do not constitute a complete vehicle.

Person. The term "person" means a natural person or individual; or corporation, firm, partnership, association, organization, trustee, or any other group or entity acting as a unit.

Personal property. The term "personal property" means every species of property except for real property, as defined herein.

Plat. The term "plat" means a map or chart indicating the subdivision or resubdivision of land, intended to be filed for record.

Plural, singular. Words importing the singular shall include the plural and words importing the plural shall include the singular.

Preceding. The term "preceding" means next before.

Private property. The term "private property" means all property other than public property.

Property. The term "property" means real and personal property.

Public gathering. The term "public gathering" means any event or occasion held to which members of the general public are invited to attend for any reason, including but not limited to parades, carnivals, and festivals.

Public place. The term "public place" means any street, highway, sidewalk, park, cemetery, schoolyard, or open space adjacent thereto, and any lake or stream.

Public property. The term "public property" means a public right-of-way, street, highway, alley, sidewalk, park, or other municipal property.

Real property. The term "real property" means lands, tenements, and hereditaments.

Reasonable time. The term "reasonable time" means such time only as may be necessary for the prompt execution of a duty or the prompt compliance with a notice.

Rubbish. The term "rubbish" means discarded matter, including but not limited to ashes, cans, metal, glass, crockery, dirt, sweepings, boxes, lumber, wood, leaves, grass, lawn waste, weeds, paper, plastic, and litter, and excepting trees and large debris from construction or demolition of buildings.

Shall and may. The term "shall" is mandatory and the term "may" is permissive.

Sidewalk. The term "sidewalk" means any portion of the street between the curblineline and the adjacent property line, including for use of pedestrians, excluding parkways.

Signature. The term "signature" means the written, signed name of a person or agent of an entity, including the mark of a person who cannot write.

State. The term "state" means the State of Indiana.

Street. The term "street" means a public thoroughfare, whether designated as a street, highway, parkway, road, avenue, lane, boulevard, or however otherwise designated, 50 feet or more in width between property lines, which affords principal means of vehicular access to abutting property.

Subdivision. The term "subdivision" means a division of a lot, tract or parcel of land into two or more lots or other divisions of land for the purpose, immediate or future, of transfer of ownership, or development, including all changes in street or lot lines. Division of land not involving any new street or easement of access shall not be interpreted as a subdivision. The term includes resubdivision; and when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

Substantial property interest. The term "substantial property interest" means any present or future right in real estate susceptible of being affected in a substantial way by action of another person, including equitable interests of a contract purchaser.

Swimming pool. The term "swimming pool" means any artificial basin of water constructed, modified, or improved for wading, swimming, or diving. This term does not include artificial lakes.

Tenant. The term "tenant" means any person holding a written or oral lease of a building or land, or who occupied the whole or part of such building or land, either alone or with others.

Territorial jurisdiction. The term "territorial jurisdiction" means the incorporated portions of North Judson, Indiana.

Thoroughfare plan. The term "thoroughfare plan" means the part of the master plan which sets forth the location, alignment and dimensions of existing and proposed public streets, highways and other thoroughfares.

Towing service. The term "towing service" means a business that engages in moving, removing, disabling, vehicles and, once removed, stores or impounds the vehicles.

Town. The term "Town" means the Town of North Judson, Starke County, Indiana.

Town Council. The term "Town Council" means the Town Council of the Town of North Judson, Indiana, which is the municipality's governing body.

Vehicle. The term "vehicle" means an automobile, motorcycle, truck, trailer, semitrailer, tractor, bus, school bus, recreational vehicle, camper, or motorized bicycle.

Visible from public property. The term "visible from public property" means a vehicle which can be seen from public property and includes vehicles which have been covered by a temporary covering that allows the form and outline of the vehicle to remain visible from public property.

Volunteer fire department. The term "volunteer fire department" means a department or association organized for the purpose of answering fire alarms, extinguishing fires, and providing other emergency services, the majority of members of which receive no compensation or nominal compensation for their services.

Volunteer firefighter. The term "volunteer firefighter" means a firefighter:

- (1) Who, as a result of a written application, has been elected or appointed to membership in a volunteer fire department;
- (2) Who has executed a pledge to faithfully perform, with or without nominal compensation, the work related duties assigned and orders given to the firefighter by the chief of the volunteer fire department or an officer of the volunteer fire department, including orders or duties involving education and training as prescribed by the volunteer fire department or the state; and
- (3) Whose name has been entered on a roster of volunteer firefighters that is kept by the volunteer fire department and that has been approved by the proper officers of the unit.

Ward. The term "ward" shall mean district.

Written. The term "written" means any representation of words, letters, or figures whether by printing or otherwise.

Year. The term "year" means a calendar year.
(Code 1959, ch. 1, §§ 1-3, 1-4, ch. 5, art. I, § 22-2, ch. 6, art. I, §§ 6-1—6-6, ch. 9, art. I, §§ 9-1(A), 9-1(B), art. III, § 9-9, ch. 11, art. I, §§ 11-1—11-3, art. II, § 11-11, ch. 19, §§ 19-1, 19-5, ch. 21, art. XI, § 21-41, ch. 22, art. II, §§ 22-2, 22-14; Ord. of 7-6-1981; Ord. No. 10-1992, art. II, §§ A—M, 9-8-1992)

State law reference—Definitions applicable to construction of statutes, IC 1-1-4-5.

Sec. 1-3. Miscellaneous actions, ordinances and resolutions not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect any of the following:

- (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code;
- (2) Any ordinance accepting gifts and dedications of real estate;
- (3) Any ordinance or resolution promising or guaranteeing the payment of money by the Town or authorizing the issuance of bonds of the Town;
- (4) Any other evidence of the Town's indebtedness, or any contract or obligation assumed by the Town;

- (5) The administrative ordinances or resolutions of the Town Council not in conflict or inconsistent with the provisions of this Code;
- (6) The salaries of the officers and employees of the Town, fixed by ordinances or resolutions;
- (7) Appropriation or transfer ordinances;
- (8) Any ordinance concerning annexation or deannexation of territories to and from the Town;
- (9) Any ordinances changing or concerning the names of streets, or opening and closing streets; or adding traffic control signs or signals to streets;
- (10) Ordinances commonly known as zoning map amendments;
- (11) Any ordinance accepting, releasing or abandoning easements;
- (12) Any right or franchise conferred by any ordinance or resolution of the Town Council to any person or corporation;
- (13) Any prosecution, suit or proceeding pending on the effective date of this Code, except that the proceedings thereof shall conform as far as possible to the provisions of this Code;

and all such actions and ordinances are recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

(Code 1959, ch. 1, § 1-2)

Sec. 1-4. Effect of history note.

The presence of a history note at the end of any section of this Code shall denote the historical derivation of the Code section. The history notes are not intended to have any legal effect.

State law reference—Restatement or reenactment of provisions, IC 36-1-5-6.

Sec. 1-5. Editor's notes and references.

The editor's notes, cross references and state law references in this Code are not intended to have any legal effect but are merely intended to assist the user of this Code. For any reference made herein to state law, the reference shall be construed as meaning the most current edition of the Indiana Code, including any amendments or revisions thereto as adopted by the state legislature.

Sec. 1-6. Section catchlines and other headings.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections, nor as any part of the sections, nor, unless expressly so provided, shall

they be so deemed when any of such sections, including the catchlines, are amended or reenacted. No provision of this Code shall be held invalid by reason of deficiency in any such catchline or in any heading or title to any chapter, article or division.

Sec. 1-7. Amendments to Code.

(a) All ordinances passed subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of the Code and printed for inclusion in the Code; or in the case of repealed chapters, sections and subsections or any part thereof, such chapters, sections or subsections, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted affected pages. Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the Town Council to make them a part of this Code, shall be deemed to be incorporated in this Code, so that a reference to the Code shall be understood and intended to include such additions and amendments.

(b) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in substantially the following language: "That section ____ of the Town Code of North Judson, Indiana is hereby amended to read as follows:" The new provisions shall then be set out in full as enacted.

(c) If a new section not heretofore existing in the Code is to be added, the following language may be used: "That the Town Code of North Judson, Indiana, is hereby amended by adding a section, to be numbered ____, which section reads as follows:" The new section shall then be set out in full as enacted.

(d) All sections, divisions, articles, chapters or other provisions desired to be repealed shall be specifically repealed by section, division, article or chapter number, as the case may be.

Sec. 1-8. Supplementation of Code.

(a) By contract or by Town personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the Town Council. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made by the supplement to the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete; and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In the preparation of a supplement to this Code, all portions of the Code that have been repealed shall be excluded from the Code by their omission from reprinted pages.

(c) When preparing a supplement to this Code, the codifier, meaning the person, agency or organization authorized to prepare the supplement, may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified Code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions;

- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement and make changes in such catchlines, headings, and titles;
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections ___ through ___," inserting section numbers to indicate the sections of the Code that embody the substantive sections of the ordinance incorporated into the Code; and
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code;

but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1-9. Recordation and publication of ordinances.

All ordinances hereafter passed and adopted by the Town Council shall be recorded by the Clerk-Treasurer in a book of ordinances. The original shall be filed in the Clerk-Treasurer's office, and the Clerk-Treasurer shall obtain and file therewith, the proof of publication from the publisher for all ordinances hereafter published.

Sec. 1-10. Effective date of ordinances.

(a) All ordinances passed by the Town Council, requiring publication by Acts of the Indiana General Assembly shall take effect from and after the publication thereof as provided by statute.

(b) Ordinances not requiring publication by Acts of the Indiana General Assembly shall take effect from and after their passage by the Town Council, unless otherwise expressly provided, and shall not be required to be published.

Sec. 1-11. Effect of repeal of ordinances.

(a) When any ordinance repealing a former ordinance, clause or provision shall be itself repealed, such repeal shall not be construed to revive such former ordinance, clause or provision unless it shall be so expressly provided in the repealing ordinance.

(b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed or cause of action arising under the ordinance repealed.

Sec. 1-12. Jurisdiction of Code.

Except as otherwise provided, the provisions of this Code shall apply only within the corporate limits.

Sec. 1-13. General penalty.

(a) Wherever in this Code or in any ordinance of the Town, any act is prohibited or is made or declared to be unlawful or an offense, or the doing of any act is required, or the failure to do any act is declared to be unlawful, where no specific penalty is provided, the first violation of any such provision of this Code or such ordinance is declared to be punishable by a fine not exceeding \$2,500.00, and for second or subsequent violations, not related to traffic or parking regulation, by a fine not exceeding \$7,500.00.

(b) The fines set forth in section 2-364 shall apply only in the event of a first violation. Any subsequent violations shall be subject to the general penalty maximum fine provision in subsection (a) of this section.

(c) Every day any violation of this Code or any such ordinance, rule or regulation shall continue shall constitute a separate violation. In any prosecution for violation of an ordinance, rule or regulation it shall be necessary to allege only the first day of violation with respect to which any fine is assessable; and upon judgment, the offender shall be assessed for that day and each subsequent day with respect to which it is proven and found that the person did commit such violation.

(d) Should it become necessary for the Town to take legal action to collect any fees or fines or enforce any section of this Code, the Town shall be entitled to recovery of all attorney's fees and court costs.

State law reference—Limitations on penalties, IC 36-1-3-8(a)(8)—(10).

Sec. 1-14. Unauthorized alterations or tampering with Code.

It shall be unlawful for any person in the Town to change or amend, by additions or deletions, any part or portion of this Code, or to insert or delete pages, or portions of pages, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the Town to be misrepresented.

Sec. 1-15. Severability of parts of Code.

The sections, paragraphs, sentences, clauses or phrases of this Code are severable; and if any phrase, clause, sentence, paragraph or section of this Code, or its application to any persons or circumstances, shall be declared unconstitutional, invalid or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, or their application.

Sec. 1-16. Town legislative body; trustee wards.

(a) The Town Council finds that pursuant to Indiana Code, it may create or eliminate trustee wards for the purpose of conducting elections of Town officers.

(b) Such trustee wards shall be established by ordinance and a copy of such ordinance must be filed with the Circuit Court Clerk of Starke County within 30 days of adoption.

(c) Wherever the term "trustee wards" is used in this Code, it shall apply to the trustee wards for conducting elections in the Town, and shall simultaneously include "districts", plus any references to political districts as referenced in IC 36-5-2-4.1, or elsewhere in the Indiana Code.

State law reference—Town legislative body districts, standards, IC 36-5-2-4.1.

Sec. 1-17. Incorporation of material into Code.

The Town Council may incorporate by reference into an ordinance or code any material. However, the ordinance or code must state that two copies of the material are on file in the office of the Clerk-Treasurer for the Town for public inspection, and the copies must be on file, as stated, for public inspection.

State law reference—Incorporation of materials by reference, IC 36-1-5-4.