

Town of New Chicago

Town Code
(2017)

New Chicago Town Code

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Chapter 1 - Prefix and enabling ordinance

This Code constitutes a codification of the general and permanent ordinances of the Town of New Chicago, Indiana. While care has been taken to respect the heritage and previous ordinances of the Town of New Chicago, many aspects of this Code are new or have been rewritten in the pursuit of bettering our Town, utilizing new powers granted under state statutes, and adopting best practices to guide our community into the future.

BE IT, THIS FIRST CHAPTER OF THE NEW CHICAGO TOWN CODE, BE ORDAINED
BY THE TOWN COUNCIL:

(Added by Ord. 2017-^^)

Sec. 1-1 – Adoption of Code

The ordinances embraced in this shall constitute and be designated the "Town Code, Town of New Chicago, Lake County, Indiana" is hereby adopted.

(Added by Ord. 2017-^^)

Sec. 1-2 – Effect upon of former ordinances

- (a) The provisions of this Code, insofar as they are substantially the same as legislation previously adopted by the Town relating to the same subject matter, shall be construed as restatements, continuations, and amendments thereof and not as new enactments.
- (b) Ordinances indicated by “added by” language in the footer of each ordinance preceding Ordinance 2017-^^ shall be expressly deemed to have been enacted previously to this code.
- (c) All ordinances of a general and permanent nature, except ordinances establishing fee schedules, establishing or supplying funds of the Town, permitting expenditures, salary ordinances, entering contracts, or the employee handbook enacted on or before January 1, 2017, and not included in the Code or recognized and continued in force by reference therein, are repealed as of the date the new Code enters into force.

(Added by Ord. 2017-^^)

Sec. 1-3 – No revival of past ordinances

The repeal provided for in section 1-2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

(Added by Ord. 2017-^^)

Sec. 1-4 – Reserved

Sec. 1-5 – Incorporation of amendments

Additions or amendments to the Code when passed in such form as to indicate the intention of the Town Council to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

(Added by Ord. 2017-^^)

Sec. 1-6 – Amendments to Code

- (a) Ordinances adopted after the effective date of this Code, which amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.
- (b) Whenever a new edition of this Code is issued to reflect amendments and additions to the code, all such amendments shall be codified in an appropriate place within this Town Code.

(Added by Ord. 2017-^^)

Sec. 1-7 – Noncodified ordinances

- (a) Administrative ordinances (such as spending, borrowing, salary ordinances, etc.) and fee schedules shall be available at the Town Hall and will not be formally codified into this Code.
- (b) All noncodified ordinances will be kept on file for public inspection and copying at the Town Hall.
- (c) The noncodified status of these ordinances shall not render them unenforceable.

(Added by Ord. 2017-^^)

Sec. 1-8 – Town officials

- (a) Rules regarding the selection of elected or appointed officials shall be deemed a continuation of previously existing ordinances.
- (b) This newly adopted code shall not in any way shorten, diminish, or extend the lawfully appointed terms of elected officials or lawfully appointed officials under previous versions of the Town Code.

(Added by Ord. 2017-^^)

Sec. 1-9 - Date Code enters into effect

This new code shall become effective _____.

PASSED AND ADOPTED by the Town Council this ____ day of _____, 2017

(Added by Ord. 2017-^^)

Chapter 2 – Rules of construction

Sec. 2-1 - Designation and citation of Code

The ordinances embraced in this Town Code shall constitute and be designated the "Town Code, Town of New Chicago, Lake County, Indiana" and may be so cited or referred to in short form as the "New Chicago Town Code."

(Added by Ord. 2017-^^)

Sec. 2-2 - Rules of construction

- (a) In the construction of this Code and of all ordinances, the rules and definitions set out in this section shall be observed, unless such construction would be inconsistent with the manifest intent of the Town Council.
- (b) The rules of construction and definitions set out in this chapter shall not be applied to any section of this Code which shall contain any express provision excluding such construction, or where the subject matter or context of such section may be repugnant thereto.
- (c) In the interpretation and application of any provisions of this Code, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare.
- (d) Where any provision of the Code imposes greater restrictions upon the subject matter than another more general provision imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

(Added by Ord. 2017-^^)

Sec. 2-3 – Definitions

Clerk. The term "clerk" or "Town clerk" shall mean the Clerk-Treasurer of the Town of New Chicago, Indiana.

Code. The term "Code" shall mean the Town Code, Town of New Chicago, Lake County, Indiana.

Computation of time. The time within which any act provided by law is to be done shall be computed by excluding the first day and including the last. If the last day is Sunday or legal holiday, it shall be excluded and the next day shall be included.

Corporate limits, Town limits. The term "corporate limits" or "Town limits" shall mean the legal boundaries of the Town of New Chicago, except as otherwise provided by law.

County. The words "the county" or "this county" shall mean the County of Lake in the State of Indiana.

Delegation of authority. Whenever a provision appears requiring the head of a department or some other Town officer to do some act or perform some duty, it shall be construed to authorize the head of the

department or other officer to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.

Gender. A word importing the masculine gender only or female gender only shall extend and be applied individuals of any gender identity, and to firms, partnerships and corporations.

Generally. 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.

Executive. The term "executive" or "executive of the Town" shall mean the President of the Town Council of New Chicago, Indiana.

IC §. Reference is to the Indiana Code.

Joint authority. All words giving joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers unless otherwise specified.

May. The word "may" shall be construed as being permissive and not mandatory.

Month. The word "month" shall mean a calendar month, unless otherwise expressed.

Must. The word "must" shall be construed as being mandatory and not permissive.

Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing, and a word importing the plural shall include the singular.

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

Officers generally. Whenever any officer is referred to by title, such as "Clerk-Treasurer," "Chief of Police," etc., such reference shall be construed as if followed by the words "of the Town of New Chicago."

Or, and. "Or" may be read "and" and "and" may be read "or" if the sense requires it.

Owner. The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, tenant by the entirety, or any holder of a beneficial interest in the whole or in a part of such building or land.

Person. The word "person" shall extend and be applied to associations, clubs, societies, firms, partnerships, trustees, bodies politic and corporate or any other group acting as a unit as well as to individuals.

Personal property. The words "personal property" includes every species of property except real property.

Preceding, following. The words "preceding" and "following" mean next before and next after, respectively.

President. The term "president" shall mean the president of the Town Council of New Chicago, Indiana.

Property. The word "property" shall include real and personal property.

Public place. The term "public place" shall mean any street or highway, sidewalk, park, school yard or open space adjacent thereto and any lake or stream.

Quorum. The word "quorum" shall mean a majority of the members of a board, commission or committee holding office, unless otherwise specifically provided in this Code.

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

Reasonable time, reasonable notice. In all cases where any provision shall require any act to be done in a "reasonable time" or "reasonable notice" to be given to any person, such reasonable time or notice shall be deemed to mean such time only as may be necessary in the prompt execution of such duty or compliance with such notice.

Reference to other sections. Whenever in a section of this Code reference is made to another section hereof, such reference shall extend and apply to the section referred to as subsequently amended, revised, recodified or renumbered unless the subject matter be changed or materially altered by the amendment or revision.

Shall. The word "shall" shall be construed as being mandatory and not permissive.

Sidewalk. The word "sidewalk" shall mean any portion of a street dedication between the curb line and the adjacent property line intended for the use of pedestrians, excluding parkways.

Signature or subscription. The word "signature" or "subscription" includes a mark when the person cannot write or an authorized signature made by the agent of a person who is physically unable to write.

State. The words "the state" or "this state" shall be construed to mean the State of Indiana.

Street. Except as may be provided in the traffic and vehicles chapter of this Code, the word "street" shall be construed to apply to the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public as a matter of right.

Tenant or occupant. The word "tenant" or "occupant," applied to a building or land, shall include any person holding a written or oral lease or who occupies the whole or a part of such building or land, either alone or with others.

Tense. Words used in the past or present tense include the future as well as the past and present.

Town. The word "Town" shall mean the Town of New Chicago, Lake County, Indiana.

Town Council, council, legislative body. The terms "Town Council," "council," and "legislative body" shall mean the Town Council of New Chicago, Indiana.

Wholesale, wholesaler, wholesale dealer. In all cases where the terms "wholesale," "wholesaler" or "wholesale dealer" is used in this Code, unless otherwise specifically defined, it shall be understood and held to relate to the sale of goods, merchandise, articles or things in quantity to persons who purchase for purposes of resale, as distinguished from a retail dealer who sells in smaller quantities direct to the consumer.

Written or in writing. The term "written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing, digital, or otherwise.

Year. The word "year" shall mean a calendar year, unless otherwise expressed.

(Added by Ord. 2017-^^)

Sec. 2-4 - Certain ordinances not affected by Code

(a) Nothing in this Code or the ordinance adopting this Code shall affect any ordinance:

- (1) Promising or guaranteeing the payment of money for the Town, or authorizing the issuance of any bonds of the Town or any evidence of the Town's indebtedness, or any contract or obligation assumed by the Town;
- (2) Granting any right or franchise or amending same;
- (3) Dedicating, naming, renaming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the Town;
- (4) Making any appropriation;
- (5) Levying or imposing taxes;
- (6) Establishing or prescribing grades in the Town;
- (7) Providing for local improvements and assessing taxes therefor;
- (8) Dedicating or accepting any plat or subdivision or otherwise relating to subdivisions;
- (9) Extending, describing or contracting the boundaries of the Town;
- (10) Prescribing the number, classification benefits or compensation of any Town officers or employees, not inconsistent herewith;
- (11) Pertaining to zoning or relating to the jurisdiction of the Planning Commission over specific property;
- (12) Creating specific funds that are not codified in this Code;
- (13) Establishing an economic revitalization area; and industrial cost recovery system;
- (14) Adopted for purposes which have been consummated;
- (15) Which is temporary, although general in effect;
- (16) Relating to personnel and the drug and alcohol policies of the Town;
- (17) Establishing a schedule of fees or charges for water, sewer, stormwater, fire prevention, parks, contractors, parades, permit fees, or buildings.

- (b) All such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code. Such ordinances are on file and available for public copy and review at the Clerk Treasurer's office.

(Added by Ord. 2017-^^)

Sec. 2-5 - Errors or omissions

- (a) If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word necessary to express the intention of the provisions affected; the use of a word to which no meaning can be attached; or the use of a word when another word was clearly intended to express the intent, the spelling shall be corrected and the word supplied, omitted, or substituted that will conform with the manifest intention.
- (b) The provisions shall have the same effect as though the correct words were contained in the text as originally published.
- (c) No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.
- (d) If any question exists regarding the nature or extent of any error, the Town Council shall address the issue and clarify the discrepancy by ordinance within a reasonable amount of time.

(Added by Ord. 2017-^^)

Sec. 2-6 - Conflicting provisions

- (a) If the provisions of different Codes, chapters, or sections of the codified ordinances conflict with or contravene each other, the provisions bearing the latest passage date shall prevail.
- (b) If the conflicting provisions bear the same passage date, the more specific ordinance shall prevail.

(Added by Ord. 2017-^^)

Sec. 2-7 - Code does not affect prior offenses, penalties, contracts or rights

- (a) Nothing in this Code or the ordinance adopting this Code shall affect 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.
- (b) The adoption of this Code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance of the Town in effect on the date of adoption of this Code.
- (c) All offenses committed under previous versions of this Code shall be subject to and prosecutable under the ordinances in effect at the time of the violation.

(Added by Ord. 2017-^^)

Sec. 2-8 - Catchlines of sections

The catchlines or headings 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.

(Added by Ord. 2017-^^)

Sec. 2-9 – Injunctions

The Town may bring a civil action to enjoin any person from:

- (a) Violating any ordinance regulating or prohibiting a condition or use of property; or
- (b) Engaging in conduct without a license if an ordinance requires a license to engage in that conduct.
- (c) Any nuisance.
- (d) Any noise or firework ordinance.
- (e) Any other civil action permissible under the Indiana Code and not explicitly stated herein.

(Added by Ord. 2017-^^)

Sec. 2-10 – Reserved.

Sec. 2-11 - Amendments to Code

- (a) All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion in this Code, or in the case of repealed chapters, sections and subsections, or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby and the subsequent ordinances as numbered and printed or omitted.
- (b) In the case of amendments, additions, or repealed ordinances, copies of the ordinances passed by the Town Council shall be prima facie evidence of such subsequent ordinances until such time as this Code and subsequent ordinances numbered or omitted are republished as an updated edition of the Code of ordinances by the Town Council.
- (c) 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 the following language: "Chapter _____ Section _____ of the Town Code, Town of New Chicago, Lake County, Indiana, is hereby amended to read as follows:...." The new provisions shall then be set out in full as desired.
- (d) If a new section not heretofore existing in the Code is to be added, the following language may be used: "The Town Code, Town of New Chicago, Lake County, 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 desired.

(Added by Ord. 2017-^^)

Sec. 2-12 - 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 therein so expressly provided.
- (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.

(Added by Ord. 2017-^^)

Sec. 2-12 through 2-13 – Reserved.

Sec. 2-14 - Supplementation of Code generally

- (a) By contract or by Town personnel, supplements and/or new editions to this Code shall be prepared and printed whenever authorized or directed by the Town Council.
- (b) 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 thereby in the Code.
- (c) The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which 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.
- (d) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.
- (e) In order to preserve the usefulness of the Town Code and ease of use for citizens and Town officials, the Town Council shall review newly enacted and amended ordinances at least once every two (2) years to determine if a newly printed supplement or edition of the Code with the newly enacted or amended ordinances is necessary. If no changes are made, a new review must occur every year until a new edition is printed. The Town Council may designate the Town Attorney or contract with other legal counsel licensed in the State of Indiana to conduct this review.
- (f) When preparing a supplement or new addition 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 _____ to _____" (inserting section numbers to indicate the sections of the Code which 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.
- (g) The Town Council shall review any supplement or new edition of the Code to ensure that any changes do not change the meaning of the ordinances. The Town Council may delegate this review to the Town Attorney.

(Added by Ord. 2017-^^)

Sec. 2-15 - Responsibility of officers with respect to assigned copies of Code

- (a) Each Town officer assigned a copy of this Code shall be responsible for maintaining the same and for the proper insertion of amendatory pages as received.
- (b) Each such copy shall remain the property of the Town and shall be turned over by the officer having custody thereof, upon expiration of his term of office, to his/her successor or to the Clerk-Treasurer, in case he shall have no successor.

(Added by Ord. 2017-^^)

Sec. 2-16 - Severability of parts of Code

- (a) The sections, paragraphs, sentences, clauses, and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code 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.
- (b) The use of severability clauses within certain Chapters and Articles of this Code shall not be construed to mean that any portion not containing a severability clause is not severable.

(Added by Ord. 2017-^^)

Sec. 2-17 – Fines and fees that exceed or otherwise violate state law

- (a) In the event that any fee or fine enacted by the Town shall exceed the amount permitted by state or Federal law, said fines or fees shall be construed to permit the town to collect the maximum amount permitted under the law.
- (b) In the event that the Town Council becomes aware that any fine or fee exceeds state law, the Town Council shall take steps to amend the affected ordinance to be in compliance with state law.

(Added by Ord. 2017-^^)

Chapter 3 - Town government

Article 1 - Selection of officers

Sec. 3-1 - Selection of councilmembers

There shall be a representative of each ward on the Town Council and each councilmember shall be elected at large.

(Added by Ord. 2017-^^)

Sec. 3-2 - Wards

(a) The wards of the Town of New Chicago shall be as follows:

- (1) Ward One (1) – boundaries will consist of the East side of Michigan Street from the South side of Garfield Avenue to the East side of Iowa Street to the South Side of Huber Boulevard to the West side of Wisconsin Street to the South side of Garviel Avenue to the West side of Pulaski Street to the North side of 37th Avenue to the East side of Michigan Street to the South Side of Garfield Avenue to the East Side of Iowa Street.
- (2) Ward Two (2) – boundaries will consist of the West side of Michigan Street from the South Side of Huber Boulevard to the East side of Indiana Street to the North side of 37th Avenue.
- (3) Ward Three (3) – boundaries will consist of the East side of Michigan Street from the North side of Garfield Avenue to the West side of Iowa Street to the South side of Huber Boulevard to the West side of Wisconsin Street to the South Side of Madison Avenue to the West side of Ohio Street to the South side of the River to the East side of Michigan Street
- (4) Ward Four (4) – boundaries will consist of the West side of Michigan Street from the North side of Huber Boulevard to the East side of Indiana Street North across Deep River North side deep of Deep Riber West to the West side of Michigan Street
- (5) Ward Five (5) – boundaries will consist of the East side of Wisconsin Street from the adjoining city boundaries of Lake Station to the North side of Madison Avenue to the East side of Ohio Street to Deep River Northesast to the adjoining city boundaries of Lake Station to the West side of Grand Boulevard to the adjoining city boundaries of Lake Station Southwest to the East side of Wisconsin Street.

(b) A map of these wards is attached below as exhibit A. [Attached below].

(Added by Ord. 2017-^^)



Sec. 3-3 - Use of Town promotion fund

- (a) The Town Council is authorized to budget and appropriate funds from the general fund of the Town to pay the expenses of or to reimburse Town officials as the case may be for expenses incurred in promoting the best interest of the Town.
- (b) Such expenses may include but not necessarily be limited to rental of meeting places, meals, decorations, memorabilia, awards, expenses incurred in interviewing job applicants, expenses incurred in promoting industrial, commercial and residential development, expenses incurred in developing relations with other units of government and any other expenses of a civic or governmental nature deemed by the Town Council to be in the interest of the Town.

(Added by Ord. 2017-^^)

Sections 3-4 through 3-15 – Reserved.

Article 2 - Meetings

Sec. 3-16 - Date, time, place, etc., of regular meetings

- (a) The Town Council shall meet in regular session on the second Wednesday of each month hereafter at 7:00 p.m. in the Town Hall or wherever the council shall designate.
- (b) The Town Planning Commission shall meet in regular session on the second Wednesday of each month hereafter at 6:00 p.m. in the Town Hall or wherever the council shall designate.
- (c) If any regular meeting shall fall on a legal holiday, the Council and Town Planning Commission shall meet in regular session at the alternate times designated for such meetings by the Council.

(Added by Ord. 2017-^^)

Sec. 3-17 - Calling special meetings

- (a) Special meetings of the Town Council may be called by the president or by any three (3) councilmembers upon written request, signed by the president or any three (3) councilmembers. The notice shall contain the purpose of the meeting and the purpose may be stated in general terms to include any and all business regularly to come before the council.
- (b) The notice may be served by the president or any councilmember or the Clerk-Treasurer; provided, however, that the notice shall be served at least forty-eight (48) hours prior to the time that said meeting is to be held. Said notice may be served by delivering a copy thereof to the members of the council, or by leaving a copy thereof at the residence of the councilmember.
- (c) Such written notice of a special meeting shall not be required if the time and place of the special meeting has been fixed at a regular meeting, or if all councilmembers are present at a special meeting.
- (d) The service of such notice shall be made by the Chief of Police or his/her deputy as follows:
 - (1) By reading the notice to and within the hearing of all members of the council;

- (2) By leaving a copy of the notice at any member's last and usual place of residence, in case he cannot be found; or
- (3) By acknowledgement thereof by the council member of the notice. Such notice shall be served a reasonable time before the hour set for such meeting so that by reasonable diligence the members of the council can reach the place of the special meeting at the time set.
- (e) At any special meeting the council shall be limited to transact business inserted in the call, unless it is business which notice by publication was not first required to be given.

(Added by Ord. 2017-^^)

Sec. 3-18 - Quorum; voting

- (a) Not less than three (3) members of the Town Council shall constitute a quorum.
- (b) All business transacted at a meeting must be passed by a majority vote of all the elected members of the Town Council.

(Added by Ord. 2017-^^)

Sec. 3-19 – President and vice president

- (a) The presiding officer of the Town Council shall be the president who shall be elected annually in January of each year. The president shall:
 - (1) Preserve order and decorum;
 - (2) Decide all questions of order, subject to appeal by the council;
 - (3) Announce the result of all votes by the council upon all motions, resolutions, ordinances and other matters;
 - (4) Appoint all members of standing and special committees, subject to approval of the council
- (b) The vice president of the Town Council shall be elected annually in January of each year and shall fulfill the president's duties when the president is unable to attend a meeting.

(Added by Ord. 2017-^^)

Sec. 3-20 - Clerk-Treasurer

- (a) The powers and duties of the Clerk-Treasurer shall be those as provided by state law in IC § 36-5-6 and other relevant portions of the Indiana Code.
- (b) The minutes of the Town Council shall be kept in due form by the Clerk-Treasurer and his/her signature.
- (c) It shall be the duty of the Clerk-Treasurer to cause the minutes of all the regular and special meetings of council to be written up in summary, which book shall be kept for that purpose and to furnish to the president and to each member of the council a legible copy thereof, at least one week before the next scheduled meeting.

(Added by Ord. 2017-^^)

Sec. 3-21 - Robert's Rules

The rules of parliamentary practice comprised in the most recent edition of Robert's Rules of Order shall govern the Town Council in all cases to which they are applicable, and provided they are not inconsistent with this Chapter.

(Added by Ord. 2017-^^)

Sec. 3-22 - Suspension of Robert's Rules

Robert's Rules of Order may be suspended with the unanimous consent of the Town Council members present at a meeting.

(Added by Ord. 2017-^^)

Sections 3-33 through 3-39 - Reserved.

Article 3 – Conduct of meetings

Sec. 3-40 - Order of business

(a) The following shall be the order of business at all regular meetings of the Town Council; however, the president may during a council meeting, re-arrange items on the agenda with the consent of the Town Council, to conduct the business before the council more expeditiously.

- (1) The President shall call the meeting to order. If the president is not present at such meeting, the vice-president shall serve in the president's role for the meeting and call the meeting to order.
- (2) The president of the Town Council shall lead the council and the public in the recital of the Pledge of Allegiance.
- (3) Roll call.
- (4) Consent agenda:
 - i. The Clerk-Treasurer in consultation with the presiding officer, shall place matters on the consent agenda which have been:
 - A. Previously discussed by the council, or
 - B. Based on the information delivered to members of the council by administration that can be reviewed by a council member without further explanation, or
 - C. Are so routine or technical in nature that passage is likely, or as directed by the Town Council.
 - ii. Items on the consent agenda may be presented in writing and do not have to be read.

- iii. The president of the council may read the consent, including the titles of any proclamation or resolutions contained therein.
 - iv. The proper council motion on the consent agenda shall be substantially as follows: "I move for adoption of the consent agenda." This motion shall have the effect of moving to adopt all items on the consent agenda.
 - v. Since adoption of any item on the consent agenda implies unanimous consent, any member of the council shall have the right to remove any item from the consent agenda. If any matter is withdrawn, the presiding officer shall place the item at an appropriate place on the agenda for current or a future meeting.
- (5) Reports of standing committees.
 - (6) Reports of special committees.
 - (7) General orders.
 - i. Ordinances.
 - A. First reading.
 - B. Second reading.
 - ii. Resolutions.
 - iii. Zoning appeals actions
 - (8) Old business.
 - (9) New business.
 - (10) Administrative matters (such as scheduling an alternate meeting date if the next meeting falls on a legal holiday).
 - (11) Citizen comments. Any member of the public may request time to address the council after first stating their name, address, and the subject of their comments. The presiding officer may then allow the comments, subject to such time limitations as the presiding officer deems necessary, generally three (3) minutes. Following such comments, the presiding officer may take such matters under consideration, or refer the matter to the Clerk-Treasurer or appropriate committee for investigation and report.
 - (12) Announcements.
 - (13) Adjournment.

(Added by Ord. 2017-^^)

Sec. 3-41 - Additions to agenda

Matters of unusual importance or of an emergency nature may be added to the agenda at any time by the presiding officer or a councilmember with the consent of a majority of all of the members of the Town Council.

(Added by Ord. 2017-^^)

Sec. 3-42 - Deciding priority of business

All questions relating to the priority of business shall be decided by the presiding officer without debate, subject, however to appeal to the Town Council.

(Added by Ord. 2017-^^)

Sec. 3-43 - Function of presiding officer

The presiding officer shall preserve order and decorum, and shall decide all questions of order, subject to an appeal by any member of the Town Council.

(Added by Ord. 2017-^^)

Sec. 3-44 - Two members requesting recognition at same time

When two (2) or more members of the Town Council attempt to gain recognition from the chair at the same time, the chair shall recognize the councilmember who addressed it first.

(Added by Ord. 2017-^^)

Sec. 3-45 - Remarks, questions, etc., by nonmembers

- (a) Any person who is not a member of the Town Council shall give his/her name and address in an audible tone of voice for the record and, unless further time is granted by the council, shall limit his/her address to three (3) minutes.
- (b) The Town Council shall notify such individuals of their allotment of time.
- (c) All remarks shall be addressed to the council as a body and not to any member thereof.
- (d) Persons other than the members of the council and any person having the floor shall not be permitted to enter into a discussion, either directly or through a member of the council without the permission of the presiding officer.

(Added by Ord. 2017-^^)

Sec. 3-46 - Improper conduct, refusal to obey orders, etc.

- (a) Any person who makes personal, impertinent or slanderous remarks or who becomes boisterous or delays or interrupts the proceedings or peace of meetings of the Town Council or refuses to obey the orders of the council or its presiding officer shall be forthwith, by the presiding officer, barred from further participation in the proceedings, and may be expelled from the meeting at the discretion of the presiding officer.

- (b) In event of any disturbance or disorderly conduct, during any session of the council, the presiding officer shall restore order and shall have the power to require the room to be cleared of disorderly spectators, if necessary.

(Added by Ord. 2017-^^)

Sec. 3-47 - Motions generally

- (a) No motion shall be put or debated until it has had a second.
- (b) After a motion has received a second it shall be stated by the presiding officer before it shall be debated.
- (c) After a motion has been stated by the presiding officer, the mover of the same shall be entitled to first have the floor and to talk upon the same, and if he so desires to close the discussion thereof after unlimited debate by the Town Council.

(Added by Ord. 2017-^^)

Sec. 3-48 - Voting

- (a) When a question has been put for the purpose of taking a vote on the passage of an ordinance or resolution, it shall be the duty of the Clerk-Treasurer to call the name of each member of the Town Council.
- (b) Each member of the council, as his/her name is called by the Clerk-Treasurer, may thereupon vote upon the question by saying "aye," "no," "abstain," according to his/her desire in the matter, unless such member is precluded from voting on the question by the rules of the Town Council on account of such member's direct interest in the question that is under consideration, or unless such member is excused from voting by a majority vote of the Town Council.
- (c) Any member may change his/her vote before announcement of the vote by the chair. Any member who does not vote with any "aye," "no," or "abstain," shall be recorded as an "abstention vote."
- (d) If any member requires it, the "ayes, and "noes" upon any question shall be taken and entered where not otherwise required to be entered, unless called for, previous to taking a vote on any question

(Added by Ord. 2017-^^)

Sec. 3-49 - Motions while other matters being discussed

- (a) When any question is under discussion or debate, the only motions in order shall be:
 - (1) To adjourn to a time certain;
 - (2) To adjourn;
 - (3) To lay on the table;
 - (4) The previous question;
 - (5) To refer;

- (6) To amend;
 - (7) To substitute;
 - (8) To postpone indefinitely or to postpone to a time certain.
- (b) Motions to adjourn, motions to lay on the table and motions for the previous question shall be decided without debate.

(Added by Ord. 2017-^^)

Sec. 3-50 - Motion for previous question

When a motion is postponed indefinitely it shall not be taken up again at the same meeting.

(Added by Ord. 2017-^^)

Sec. 3-51 - Ordinances

- (a) No ordinance shall be presented for consideration or discussion to the Town Council unless each councilperson shall first have had a draft copy of the ordinance seventy-two (72) hours prior to the time it is presented for the discussion or consideration.
- (b) The Town Council by unanimous consent shall have the discretion as to whether or not a proposed ordinance shall be read in its entirety in open meetings prior to passage.
- (c) In the event the council determines not to read the ordinance in its entirety, it shall be referred to by its title and copies shall be made available to the public at the meeting upon request.
- (d) Nothing in this section shall prohibit the reading of sections of the proposed ordinance and it shall be in order to commit, to amend, to lay upon the table, to postpone, or to pass by a majority vote of all the members-elect.
- (e) Any proposed ordinance failing to receive a majority vote of all the members-elect shall be considered lost.
- (f) A proposed ordinance may be stricken from the files by a vote of two-thirds of all the members-elect.
- (g) Every ordinance, order, or resolution of the Town shall, upon its passage, enrollment, attestation, and signature by the Clerk-Treasurer and presiding officer, and a record made in the minutes of the council, be signed by all members of the council present.
- (h) All ordinances shall, within a reasonable time after passage, be recorded in a book kept for that purpose by the Clerk-Treasurer.

(Added by Ord. 2017-^^)

Sec. 3-52 – Committees generally

- (a) Standing committees shall consist of no less than three (3) councilmembers appointed by the president subject to approval of the Town Council, at the first meeting in January of each year. If the council

president is not selected until the first meeting in January, standing committees may be appointed at the second meeting of the year.

- (b) All standing committees will meet once a month. The agenda for meetings shall be prepared by the committee chairmen.
- (c) All standing committees and all vacancies thereon shall be filled by the president subject to approval of the Town Council.
- (d) Unless otherwise provided, committee meetings may be called at any time.
- (e) Standing and special committees, to which reference of any matter is made, shall in all cases report at least once each month unless further time is granted by a majority vote of all the members of the council, with their opinions and recommendations thereon. Minority reports of all committees may be received at the same time with the reports of the majority.
- (f) All written reports of committees shall be addressed "To the President and Town Council of the Town of New Chicago, Indiana." They shall describe the matter referred to and the conclusion shall be framed and summed up in the form of an ordinance, order resolution, recommendation or such other distinct proposition and such reports may be presented to the council by the chairman of the committee upon call of reports of committees.

(Added by Ord. 2017-^^)

Sections 3-53 through 3-59 – Reserved.

Article 4 – Departments and officers

Sec. 3-60 – Clerk-Treasurer

- (a) The duties of the clerk-treasurer shall be those as provided by state law.
- (b) The minutes of the town council shall be kept in due form by the clerk-treasurer and his/her signature, together with that of the presiding officer of the council, shall attest the same.
- (c) It shall be the duty of the clerk-treasurer to cause the minutes of all the regular and special meetings of council to be written up at full length upon the minute book, which book shall be kept for that purpose and to furnish to the president and to each member of the council a legible copy thereof, within one (1) week after the meeting has been held.

(Added by Ord. 2017-^^)

Sec. 3-61 - Town Attorney

- (a) The Town Attorney shall be appointed by the Town Council at the first meeting in January of each year, to serve at the pleasure of the council. The duties of the Town Attorney shall be as follows:
 - (1) To attend Town Council meetings, regular and special, and to confer and advise Town Councilmembers;
 - (2) To prepare ordinances, resolutions, motions, legal notices and all other notices that may be necessary to enable the Town Council to transact the business of the Town;

- (3) To prosecute all violations of Town ordinances.
- (4) Any other duties as assigned upon the request of the Town Council.

(Added by Ord. 2017-^^)

Sec. 3-62 – Reserved.

Sec. 3-63 – Code Enforcement Officer established

- (a) There shall be established a position within the Town to be designated as Code Enforcement Officer.
- (b) The Code Enforcement Officer may be a police officer or another individual appointed by the Town Council.

(Added by Ord. 2017-^^)

Sec. 3-64 - Duties and powers of the Code Enforcement Officer

- (a) The Code Enforcement Officer shall respond to and investigate complaints regarding ordinance violations, issuing such warning citations, valid citations or letters as warranted, following the progressive disciplinary process.
- (b) The ordinances which the Code Enforcement Officer will be responsible for enforcing may include, but shall not be limited to: junk or non-operating vehicles, parking of recreational vehicles, boats and boat trailers, utility trailers and campers, truck parking, amusement game machine licenses, for sale signs (utility poles and parkways), garbage issues, unsightly properties, garage sales (frequency of), noxious weeds, peddlers/solicitors, littering, property maintenance, fireworks, business licensing, animals, and nuisances.
- (c) The Code Enforcement Officer may also be requested to assist the building inspector from time to time. The above duties and powers will require this person to meet with owners, tenants, contractors, developers, business, representatives, and other[s] to review and explain Code requirements and violations or potential violations to secure Code compliance, and to draft and distribute a variety of correspondence, memoranda, notices, flyers, brochures, media releases, and reports relating to Code enforcement issues and actions.
- (d) The Code Enforcement Officer shall keep a careful and accurate record of all warning citations, valid citations, issued letters and such other work product as may be generated in consequence of his/her duties.
- (e) The Code Enforcement Officer shall provide such information as may be necessary to support the Town Attorney in court hearings and such other enforcement proceedings as may be undertaken and shall testify in court regarding such work product generated in consequence of his/her duties. If such testimony is required in deposition or in court, the Code Enforcement Officer must be fully prepared for such testimony, i.e. reviewing reports and notes, and meeting with other officers and representatives of the Town's legal counsel to review and prepare the case presentation.

- (f) The duties listed above are intended only as illustrations of the various types of work that may be performed by the Code Enforcement Officer. The omission of specific duties does not exclude them from the position if the work is similar, related or a logical assignment to said position.
- (g) The Town Council further reserves the right to add additional duties to the responsibilities of the Code Enforcement Officer that have to do with enforcement of any of the Town ordinances. Such additional enforcement responsibility shall be reduced to writing by the Chief of Police and/or Clerk-Treasurer and communicated to the Code Enforcement Officer in writing.

(Added by Ord. 2017-^^)

Sec. 3-65 – Commissioners and Inspectors established

- (a) The following positions are hereby established for the inspection of building and renovation projects.
 - (1) Building Commissioner/Inspector
 - (2) Plumbing Inspector
 - (3) Electrical Inspector
- (b) So long as an individual is licensed and properly qualified for each position, an individual may hold multiple commissioner and/or inspector positions at the same time.

(Added by Ord. 2017-^^)

Sec. 3-66 - Planning Commission

- (a) A Planning Commission is hereby created for the Town of New Chicago.
- (b) The Planning Commission shall consist of five (5) members, and they shall be appointed as follows:
 - (1) The President of the Town Council shall appoint the members of the Planning Commission.
 - (2) The members appointed shall satisfy the qualifications for membership established by IC § 36-7-4-216.
 - (3) The Planning Commission shall have all the powers and duties and be subject to all the limitations provided by the general laws of the State as enumerated in I.C. 36-7-4 and elsewhere in the Indiana Code.

(Added by Ord. 2017-^^)

Sec. 3-67 – Reserved

Sec. 3-68 - Chief of Police

The Office of Chief of Police is hereby established and shall have all the powers provided under State law.

(Added by Ord. 2017-^^)

Sec. 3-69 - Appointment of Liaison

- (a) At the first meeting of the Town Council after the President is selected, it shall be the duty of the President of said Council to appoint the following named liaisons, consisting of one or more members, to serve until the reorganization of the council after an election. Said liaisons shall be responsible to ensure communication with the following departments and individuals: :
- (1) Street Department
 - (2) Fire Department
 - (3) Police Department
 - (4) Park Department
 - (5) Water Department
 - (6) Sanitary Sewer
 - (7) Building Commissioner (and related inspectors)

(Added by Ord. 2017-^^)

Sec. 3-70 – Reserved.

Sec. 3-71 - Purchasing agent

- (a) A Purchasing Agent is hereby adopted and reaffirmed for the Town as a continuation of the previously existing ordinance.
- (b) The president of the Town Council is hereby designated as the Purchasing Agent for the Town with all the powers and duties authorized under IC § 5-22.
- (c) The purchasing agent shall, if desired, designate in writing, an additional purchasing agent, which shall consist of either the Clerk-Treasurer of the Town of New Chicago or one other Town Council Member.
- (d) If the President of the Town Council becomes incapacitated and no other purchasing agent is designated, the Clerk-Treasurer shall assume the responsibility of the Purchasing agent until the President is able to reassume duties or another Purchasing Agent is designated by the Town Council.
- (e) The Purchasing Agent may purchase supplies with an estimated cost of less than twenty-five thousand dollars (\$25,000.00) on the open market, without inviting or receiving bids unless otherwise required by state statute.
- (f) It is hereby determined that each agency and/or department may purchase services in whatever manner the purchaser determines to be reasonable.
- (g) Supplies manufactured in the United States shall be specified for all purchases and shall be purchased unless the Town determines that:
- (1) That supplies manufactured in the United States are not available in reasonably adequate quantities.

- (2) The price of the supplies manufactured in the United States exceeds the cost of goods manufactured elsewhere by an unreasonable amount.
- (3) The quality of the supplies manufactured in the United States is substantially less than the quality of comparably priced available supplies manufactured elsewhere; or
- (4) The purchase of supplies manufactured in the United States is not in the public interest.

(Added by Ord. 2017-^^)

Sec. 3-72 - Payment of specified lawful debts and expenditures

- (a) The Clerk-Treasurer may make claim payments in advance of board allowance for the lawful Town purposes listed below:
 - (1) Property or services purchased or leased from the United States government or an agency or a political subdivision of the United States Government.
 - (2) License fees or permit fees.
 - (3) Insurance premiums.
 - (4) Utility payments or utility connection charges.
- (b) Federal grant programs if:
 - (1) Advance funding is not prohibited; and
 - (2) The contracting party provides sufficient security for the amount advanced.
- (c) Grants of state funds authorized by statute.
- (d) Maintenance agreements or service agreements.
- (e) Lease agreements or rental agreements.
- (f) Principal and interest payments and bonds.
- (g) Payroll Fund including:
 - (1) Federal withholding tax.
 - (2) State gross tax.
 - (3) P.E.R.F.
- (h) Garnishment.
- (i) Health, dental, life insurance.
- (j) F.I.C.A.
- (k) Wages and salaries.
- (l) Medicaid.
- (m) Credit union.
- (n) Expenses that must be paid because of emergency circumstances.
- (o) Any and all invoices which would impose a penalty or late charge against the Town.
- (p) Each payment of expenses must be supported by a fully itemized invoice or bill and certified by the Clerk-Treasurer. The Council shall review and allow the claims at the board's next regular or special meeting following the pre-approved payment of the expense.

(Added by Ord. 2017-^^)

Sections 3-73 through 3-79 – Reserved.

Article 5 – Funds

Division 1 – Generally

Sec. 3-80 - List not exhaustive

- (a) Nothing in this article, whether included or omitted, shall be construed to abolish any lawfully established fund in the Town of New Chicago.
- (b) Funds which are not included in this Article are not abolished or repealed unless specifically abolished.

(Added by Ord. 2017-^^)

Division 2- Specific funds

Sec. 3-81 – Rainy Day Fund

- (a) There is hereby authorized, created and established a fund of the Town of New Chicago, to be called the Rainy Day Fund, pursuant to IC § 36-1-8-5.1 et. seq.
- (b) The Rainy Day Fund is established for the purpose of accumulating funds to provide resources to support lawful purposes of the municipality, including meeting exigencies as herein may be defined and such other purposes permitted by IC § 36-1-8-5.1 et seq.
- (c) The Rainy Day Fund is established and remains in effect until such time as the fund is repealed or rescinded by action of the Town Council.
- (d) The sources of funding for the Rainy Day Fund may include the following.
 - (1) Unused and unencumbered funds transferred pursuant to and identified in IC § 36-1-8-5; IC § 6-3.5-1.1-21.1; IC § 6-3.5-6-17.3; or IC § 6-3.5-7-17.3.
 - (2) Interest earned from the investment of monies on deposit to the credit of the fund, provided such investments are conducted pursuant to IC § 5-13-9 et seq.;
 - (3) An appropriation in the annual budget in the several funds of the municipality as may be identified and approved by the Town Council, and then transferred to the Rainy Day Fund, subject to the provision of IC § 36-1-8-5.1(d);
 - (4) Unreserved. designated fund balances which may be identified in the several funds of the municipality, as may be approved by the Town Council, and then transferred to the Rainy Day Fund, subject to the Provisions of IC § 36-1-9-5.1.
- (e) The Rainy Day Fund is subject to the same appropriation process as other funds of the municipality that receive tax money.
- (f) In any fiscal year, the Town Council may transfer not more than ten percent (10%) of the Town's total annual budget for that fiscal year adopted under IC § 6-1.1-17 to the Rainy Day Fund as authorized by IC § 36-1-8-5.1.
- (g) In addition to uses of said fund permitted by IC § 36-1-8-5.1, expenditures from the Rainy Day Fund may be used for the following purposes:
 - (1) All lawful purposes for which a Town may expend funds pursuant to the statutes of the State of Indiana.

- (2) The operation of the Town and its various departments when the Town does not have sufficient levels or funds to pay such costs, including, but not limited to, salaries, wages, costs of services, supplies, equipment, capital improvements, repairs, and similar expenditures.
 - (3) 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 County Economic Development Income Tax may otherwise be expended.
- (h) Expenditures from the Rainy Day Fund may be made only upon appropriation by the fiscal body for the purpose for which the fund is specifically established, in the manner provided by statute for making other appropriations and shall be disbursed only on approved accounts payable vouchers allowed by the legislative body, all pursuant to IC § 5-11-10 and IC § 36-5-4.
- (i) Money in the Rainy Day Fund may be invested provided that the proceeds from the purchase and sale of any such investments shall be deposited with the fund pursuant to IC § 5-13-9.
- (j) All unused and unencumbered cash on deposit to the credit of the Rainy Day Fund does not revert to the Town general fund or to any other fund but shall remain with the Rainy Day Fund until such time as an ordinance is passed and adopted regarding its disposition.

(Added by Ord. Ord. 2016-01)

Sec. 3-82 - Cumulative Capital Development Fund

- (a) The Cumulative Capital Development Fund (hereafter the “CCD Fund”) is hereby established pursuant to IC § 36-9-15.5.
- (b) An ad valorem property tax shall be imposed and all revenues from said levy shall be retained in the CCD Fund to be used for any and all purposes authorized by IC § 36-9-15.5-2, IC § 36-9-15.5-8, or any other purpose authorized by law.
- (c) To provide revenue for the CCD Fund, a tax shall be levied annually in an amount not to exceed twelve cents (\$0.12), or the maximum amount permitted by law, on each one hundred dollars (\$100.00) of assessed valuation of all taxable real and personal property.
- (d) Pursuant to IC § 36-9-15.5-8, the revenues accumulated in the CCD Fund may be spent for purposes other than the purpose stated in said subsection (b) to protect the public health, safety, or welfare in an emergency situation which demands immediate action after the Town Council issues a declaration that the public health, safety, or welfare is in immediate danger that requires the expenditure of money from the CCD Fund.

(Added by Ord. 2017-^^)

Sec. 3-83 – Lake County, Indiana, County Economic Development Income Tax (CEDIT) Special Revenue Non-Reverting Fund

- (a) The Town Council of New Chicago hereby establishes the Town County Economic Development Income Tax (CEDIT) Special Revenue Non-Reverting Fund, for the deposit, distribution, and utilization of the County Economic, Development Income Tax imposed, collected, and distributed, to the Town of New Chicago by the Auditor of Lake County, Indiana, pursuant to the provisions of the

Indiana Code Section 6-3.5-7-1, et seq., as amended which fund shall be a Special Revenue Non-Reverting Fund.

- (b) That the Town Clerk-Treasurer, upon receipt of distribution of said County Public Economic Development Income Tax (CEDIT) Funds distributed to the Town of New Chicago pursuant to the applicable provisions of Indiana Code Section 6-3.5-7-1, et seq., shall deposit said funds into the Town County Economic Development (CEDIT) Income Tax Special Revenue Non-Reverting Fund established hereby for use of economic development in the Town, pursuant to the provisions of Indiana Code Section 6-3.5-7-1, et seq., as amended. Further, the funds deposited into said Town County Economic Development Income Tax (CEDIT) Special Revenue Non-reverting Fund shall be appropriated and utilized for the economic development purposes as permitted, as set forth in Indiana Code Section 6-3.5-7-13.1(b), as amended from time to time.
- (c) That deposits and funds in the Town County Economic Development Income Tax (CEDIT) Special Revenue Non-Reverting Fund shall not revert to the General Fund at the end of each calendar year but shall remain in the Town County Economic Development income Tax (CEDIT) Special Non-reverting Fund, as permitted by applicable law.
- (d) That the Town Clerk-Treasurer is directed and authorized to take all necessary and appropriate actions to establish and account for the funds collected from the County Economic Development Income Tax (CEDIT) distributed to the Town by the Lake County Auditor for the purposes and uses of economic development in the Town pursuant provisions of Indiana Code Section 6-3.5-7-13.1(b), all in conformance with applicable law.
- (e) That all Ordinances and Town Code sections, or parts thereof, in conflict with the provisions of the Enabling Ordinance are hereby deemed null, void, and of no legal effect, and are specifically repealed.
- (f) That if any section, clause, provision, or portion of this Ordinance shall be held to be invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect any other section, clause, provision, or portion of this section.

(Added by Ord. Ord. 2014-04).

Sec. 3-84 - Public Safety Town Adjusted Gross Income Tax Special Revenue Non-Reverting Fund

- (a) The Town Council of the Town of New Chicago hereby establishes the Town Adjusted Gross Income Tax Special Revenue Non-Reverting Fund (hereinafter the “Fund”) for the deposit, distribution, and utilization of the Public Safety County Adjusted Gross Income Tax, imposed, collected and distributed to the Town of New Chicago pursuant to the provisions of Indiana Code Section 6-3.5-1.1-25 which fund shall be a Special Revenue Non-Reverting Fund.
- (b) The Town Clerk-Treasurer, upon receipt of distribution of said Lake County Public Safety County Adjusted Gross Income Tax Funds distributed to the Town of New Chicago pursuant to the applicable provisions of Indiana Code Section 6-3.5-1.1-25, shall deposit said funds into the Town Adjusted Gross Income Tax Special Revenue Non-reverting Fund established hereby for the purposes of continuing to carry out or provide at least one (1) public safety purpose pursuant to the provisions of the Indiana Code Section 6-3.5-1.1-25(a). Further, the funds deposited into said Town Adjusted Gross Income Tax Special Revenue Non-Reverting Fund shall be appropriated and utilized for the public safety purposes permitted, as set forth in the Indiana Code Section 6-3.5-1.1-25(a) as amended from time to time.

- (c) Deposits and funds in the Town Adjusted Gross Income Tax Fund Special Revenue Non-Reverting Fund shall not revert to the General Fund at the end of each calendar year, but shall remain in the Town Adjusted gross Income Tax Special Revenue Non-reverting Fund, as permitted by applicable law.
- (d) The Town Clerk-Treasurer is directed and authorized to take all necessary and appropriate actions to establish and account for the funds collected from the Public Safety County Adjusted Gross Income Tax distributed to the Town by the Lake County Auditor for the purposes and uses of carrying out or providing at least one (1) public safety purpose pursuant to the provisions of Indiana Code section 6-3.5-1.1-25(a), all in conformance with applicable law.
- (e) All Ordinances and Town Code sections, or parts thereof, in conflict with the provisions of this Enabling Ordinance are hereby deemed null, void, and of no legal effect, and are specifically repealed.
- (f) If any section, clause, provision or portion of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect any other section, clause, provision, or portion of this Ordinance.

(Added by Ord. 2014-05)

Sec. 3-85 – Ordinance Violation Fund

- (a) In order to facilitate the receipt and tracking of funds brought in due to ordinance violation fines, an Ordinance Violation Fund is hereby established.
- (b) The Ordinance Violation Fund shall automatically revert to the General Fund on January 1 of each year.
- (c) The Town Council shall have the authority and discretion to allocate funds from the Ordinance Violation Fund to the general fund at any time.
- (d) This fund shall not be used for the receipt of any funds from any traffic related offense. In the event that traffic fines are errantly placed in this fund, they shall be immediately moved to the general fund upon discovery of said error.

(Added by Ord. 2017-^^)

Sec. 3-86 – Park and Recreation Building Fund

A Park and Recreation Building Fund is hereby established.

(Added by Ord. 2017-^^)

Sec. 3-87 - Police Department IDP Fund

- (a) The IDP Fund shall receive at least one-half of the funds received from Deferred Prosecution cases. The Town Council shall have the discretion to allocate up to one hundred percent (100%) of these funds to the IDP fund

- (b) The IDP fund shall be used for miscellaneous expenses related to the operation and maintenance of the Police Department.

(Added by Ord. 2017-^^)

Sec. 3-88 Water Works Maintenance Fee Fund

- (a) A non-reverting maintenance fee fund is established for the Town Water Works.
- (b) A fee of four dollars (\$4.00) will be added to all water bills each month for this fund.

(Added by Ord. 2017-^^)

Sec. 3-89 - Water Works Customer Deposit Non-Reverting Fund

A Water Works Customer Deposit Fund is hereby established. It shall be a non-reverting fund for the purpose of deposit and maintaining refundable deposits paid by Water Works customers.

(Added by Ord. 2017-^^)

Sec. 3-90 - DUI Taskforce Grant Fund

A DUI Taskforce grant fund is established.

(Added by Ord. 2017-^^)

Sec. 3-91 - Recycling Program Non-Reverting Fund

A Recycling Program non-reverting fund is established for the money received by the Lake County Solid Waste District to help with the expenses of recycling in New Chicago. It is to help reduce the amount of waste going to the landfills.

(Added by Ord. 2017-^^)

Sections 3-92 through 3-120 – Reserved.

Article 6 - Requests for public documentation

Sec. 3-121 - Definitions

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

Copying fee means the fee charged by the Town for copies of public records.

Exceptions to public records is defined as currently defined by IC § 5-14-3-4 or as amended by the state legislature from time to time.

Public records is defined as currently defined by IC § 5-14-3-2 or as amended by the state legislature from time to time.

Reasonable particularity is defined as currently defined by IC § 5-14-3-3(a) or as amended by the state legislature from time to time.

(Added by Ord. 2017-^^)

Sec. 3-122. - Fee for copying of public records established

- (a) In all instances where a copying fee for a public record has not been set by state law, the offices and departments of the Town shall charge a fee of twenty-five cents (\$0.25) per page for public records requested pursuant to Indiana Access to Public Records Law IC § 5-14-3-1 et seq. The minimum charge shall be rounded up to the nearest dollar.
- (b) The copying fee established shall be paid in advance of receiving the copied public records.

(Added by Ord. 2017-^^)

Sec. 3-123 - Form of requests

- (a) All requests made under this article shall be made in writing to the Town, on a form provided by the Town and made available at the Town hall, and shall request the information sought with reasonable particularity.
- (b) If a request is not made in accordance with subsection (a), the Town shall promptly inform the requestor of the deficiencies within the request.

(Added by Ord. 2017-^^)

Sec. 3-124 - Conflicts with Indiana Public Records Act

Any section of this article which is or may be in conflict with the Indiana Public Records Act, as set forth at IC § 5-14-3 et seq., shall be deemed void, and that section of the Indiana Public Records Act shall be used in place of said section of this article.

(Added by Ord. 2017-^^)

Sec. 3-125 – New Chicago Police Department Fees for Services

(a) The fees for the following services provided by the New Chicago Police Department shall be as follows

- (1) Salvage vehicle identification number checks. – twenty-five dollars (\$25.00)
- (2) Lifetime gun permits – fifty dollars (\$50.00)
- (3) Four (4) year gun permits – ten dollars (\$10.00)
- (4) Accident reports – fifteen dollars (\$15.00)
- (5) Police Incident Reports (exluding accident reports) – ten dollars (\$10.00)
- (6) Towing release fees – twenty dollars (\$20.00)

(Added by Ord. 2017-^^)

Sections 3-126—3-135 - Reserved.

Article 7 – Identity theft protection

Sec. 3-136. - Identity theft prevention program

The Clerk-treasurer will:

- (a) Develop, implement and maintain the practices and procedures necessary to appropriately verify the identity of utility clients;
- (b) Safeguard client identity information from disclosure to anyone other than employees authorized and required to access such information;
- (c) Train all clerk-treasurer employees in the identity theft prevention program practices and procedures;
- (d) Notify the New Chicago Police Department in the event of:
 - (1) Suspected identity theft or fraud;
 - (2) Inappropriate disclosure of identity information; or
 - (3) Loss of identity information.
- (e) Notify the affected individual in the vent of
 - (1) Suspected identity theft or fraud;
 - (2) Inappropriate disclosure of identity information; or
 - (3) Loss of identity information.

(Added by Ord. 2017-^^)

Chapter 4 – Personnel policy and administration

Article 1 - Generally

Sec. 4-1 - Definitions

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Absent without leave means an employee's absence from work without authorization from his/her supervisor.

Appearance means an employee's attire, personal hygiene, and personal appearance.

Conflict of interest means a situation in which an employee has a direct or indirect financial interest in a matter with which he is dealing by virtue of his/her employment.

Disciplinary action means action taken against an employee as a result of an infraction of rules, regulation or policy.

Employee means a person employed by the Town and classified as exempt, non-exempt, full-time, part-time, temporary or seasonal.

Gifts and gratuities means anything of monetary value given to an employee by virtue of his/her employment or duties.

Holiday means a paid day off in recognition of a legal holiday.

Hours of work means the period between the designated starting and stopping times of work, and shall include any authorized breaks or time, and shall include any authorized breaks or time off which may fall within this period.

Intoxication means the state of being under the influence of alcohol, drugs, or other substances causing impairment to the employee's judgment, mental processes, and/or physical ability.

Leaves means time off granted to an employee pursuant to this chapter.

May is discretionary.

Nepotism means the hiring or causing to be hired of relatives.

Outside employment means employment with an employer other than the Town.

Political activity means partisan political activity, including campaigning, fund-raising, and electioneering.

Public relations means the conduct, behavior, and appearance of an employee when dealing with members of the public or when working in the public view.

Residency requirements means a condition of employment relating to the place of residence of an employee.

Shall is mandatory.

Tardiness means failure to report to work at the designated starting time without authorization from a superior.

Travel expenses means an expense incurred by an employee when traveling to, from, or during the performance of assigned duties in a location outside the Town.

Vacation means time off from duty with pay.

(Added by Ord. 2017-^^)

Sec. 4-2 - Applicability

The provisions of this chapter shall apply to all full-time, part-time, temporary, and seasonal employees of the Town, but shall not include elected and appointed officials, attorneys, or independent contractors.

(Added by Ord. 2017-^^)

Sec. 4-3 - Equal employment opportunity policy

- (a) The Town, including all departments thereof, shall maintain a strong policy of equal employment opportunity. All necessary actions shall be taken to ensure equal employment opportunity for all employees and applicants for employment.
- (b) Hiring, employment, training, promotion, compensation, and discipline shall be based upon personal competence, qualifications and potential for advancement, without regard for race, color, religion, sex, sexual orientation, national origin, age, or disability.
- (c) This policy shall apply to all aspects of employment, including recruiting, hiring, training, transfer, discipline, promotion, job benefits, educational assistance, and social and recreational activities.

(Added by Ord. 2017-^^)

Sec. 4-4 - Harassment

- (a) Any sexual, racial, or other forms of harassment are hereby prohibited by this chapter, as well as by state and federal law. Any person making unwelcome sexual advances, requests for sexual favors, or other such verbal or physical conduct creating an intimidating, hostile, or offensive working environment shall be subject to disciplinary procedures as set out in this chapter.

- (b) Any employee or applicant for employment who believes he is being or has been subjected to any form of harassment prohibited by this section shall immediately notify his/her supervisor or, if necessary, any member of the Town Council.
- (c) Any report of harassment shall be promptly investigated and/or referred to the proper law enforcement agency.
- (d) Any employee or Town official who fails to comply with subsections (a) and (c) shall be subject to disciplinary action up to, and including, termination.

(Added by Ord. 2017-^^)

Sec. 4-5 – Reserved.

Sec. 4-6 – Employee handbook

- (a) The Town Council shall promulgate an employee handbook detailing hiring practices, employment policies, workplace rules, employee expectations, time off, discipline, and other employment matters.
- (b) This handbook shall be made available to each employee and at least two (2) copies shall be available for public review and/or copying at the Town Hall.
- (c) The Employee Handbook in force as of the date of the passage of this ordinance is hereby reaffirmed and shall remain in force until amended, replaced, or otherwise repealed by the Town Council.
- (d) In the event the Employee Handbook and Town Code shall conflict, the Town Code provision shall prevail.

(Added by Ord. 2017-^^)

Sections 4-7 through 4-20 – Reserved.

Article 2 - Employment and performance requirements

Sec. 4-21 - Overview

- (a) As an organization responsible for serving the public, it is necessary to develop certain guidelines to ensure good work practices and attitudes in dealing with the public. In establishing these rules, it is not the intention of the Town to restrict the personal rights of any individual, but to protect the rights of all employees and ensure the effective delivery of services to the public.
- (b) Employees are therefore expected to be.
 - (1) On time and alert when scheduled for work;
 - (2) Careful and conscientious in the performance of their duties;
 - (3) Thoughtful and considerate of other people; and
 - (4) Courteous and helpful, both when dealing with the public and with other employees and Town officials.

(Added by Ord. 2017-^^)

Sec. 4-22 - Contracting with relatives of elected officials

- (a) The Town 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 IC § 36-1-20.2 and IC § 36-1-21, respectively.
- (b) This ordinance shall be deemed a continuation of the previously enacted anti-nepotism ordinance.
- (c) The Town shall have a nepotism and a contracting with a unit policy that complies with the minimum requirements of IC § 36-1-20.2 (hereinafter "nepotism policy") and IC § 36-1-21 (hereinafter "contracting with a unit by a relative policy").
- (d) The Town adopts the minimum requirements provisions of IC § 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.
- (e) The Town contracting with a unit by a relative policy is hereby established effective immediately by adopting the minimum requirements provisions of IC § 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.
- (f) All elected and appointed officials and employees of the Town are hereby directed to cooperate fully in the implementation of the policies created by this section and demonstrating compliance with these same policies.
- (g) Failure to abide by or cooperate with the implementation, compliance and certifications connected with the nepotism policy is a violation 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.
- (h) Failure to abide by or cooperate with the implementation, compliance and certifications connected with the contracting with unit by a relative policy is a violation and may result in the discipline, including termination, of an employee or a corrective 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.

(Added by Ord. 2017-^^)

Sec. 4-23 - Introductory period for new employees

- (a) New employees shall be subject to a ninety (90) day evaluation or introductory period to verify skills, capabilities, and suitability for their position.

- (b) This shall not be interpreted to mean that the Town shall have an obligation to employ any person until the end of this time period.
- (c) During this period, either the Town or the employee may terminate employment without cause and without advance notice.

Full-time employees shall be eligible for all employment benefits during the introductory period with the exception of health insurance, for which eligibility will begin the first of the month following the ninetieth (90th) day of employment.

(Added by Ord. 2017-^^)

Sec 4-24 – Absenteeism and Tardiness

- (a) Employees shall be expected to be on time for all of their shifts in order to serve the citizens of New Chicago in a professional manner.
- (b) There shall be a point system in place in order to track and quantify employee tardiness and absences.
 - (1) Unless prior arrangements have been made, employees shall receive one (1) point for each day they call off of work and one half (0.5) of a point for each day that they are late for work. If an individual arrives more than two hours after the scheduled start time for a shift, the Town shall have the discretion to allocate an entire point.
 - (2) If an employee calls off two (2) or more consecutive days due to illness or other medical reasons, the employee shall only be charged with the first day's point upon presentation of a medical note from a duly licensed and qualified medical professional (i.e. medical doctor or nurse practitioner).
 - (3) Any employee who receives ten (10) points within any calendar year shall be terminated.
 - (4) Individuals who call off due to bereavement as described elsewhere in this chapter shall not be assessed a point upon presentation of documentation of the cause of bereavement. Documentation shall include, but may not be limited to, medical records indicating death, a death certificate, or an obituary.

(Added by Ord. 2017-^^)

Sec. 4-25- Substance abuse

- (a) Employees shall not use alcohol or illegal drugs while on duty.
- (b) Employees shall not use legal substances which impair the ability and/or judgment of the employee while on duty without the advice of a physician. In those cases, said use must be immediately reported to the supervisor for determination of fitness for the specific duty assigned.
- (c) Employees shall not report to work intoxicated or otherwise under the influence of alcohol or illegal drugs. The terms "intoxicated" and "under the influence" shall be strictly defined to include any amount of alcohol or illegal drugs.

- (d) Employees who are repeatedly absent or tardy to work due to alcohol or illegal drug use shall be required to obtain a medical evaluation in conjunction with any disciplinary action and shall be further required to comply with any and all recommendations and treatment plans developed through such an evaluation.
- (e) Employees who violate this section shall be subject to disciplinary action.

(Added by Ord. 2017-^^)

Sec. 4-26 - Conflict of interest

An employee having a financial interest in a company, firm, or matter which might benefit from dealings with the Town shall either divest himself of such interest, or report the conflict of interest to the Town Council through the department supervisor, and shall comply with all reporting requirements as established by state statutes.

(Added by Ord. 2017-^^)

Sec. 4-27 - Gifts and gratuities

- (a) Employees shall not accept any gifts in excess of fifty dollars (\$50.00) from any individual, firm, or corporation that might benefit from such action.
- (b) Employees shall not accept any cash or cash equivalents in excess of ten dollars (\$10.00) from any individual, firm, or corporation that might benefit from such action.
- (c) In the event that an individual insists on offering a gift or gratuity in excess of this limit, it shall be turned in to a supervisor to be donated to a non-profit organization.

(Added by Ord. 2017-^^)

Sec. 4-28 - Political activity

No employee shall use his/her position and/or time during working hours to participate or assist in any political campaign or cause.

(Added by Ord. 2017-^^)

Sec. 4-29 - Public relations

- (a) Employees shall be courteous and professional in dealing with the public in person, by telephone, and by correspondence.
- (b) Complaints regarding an employee will be investigated and may result in disciplinary action.

(Added by Ord. 2017-^^)

Sec. 4-30 - Dress

Employees shall report for work wearing clothing appropriate to their duties, or as designated by the department rules or supervisor.

(Added by Ord. 2017-^^)

Sections 4-31 through 4-39 – Reserved.

Article 3 - Compensation and benefits

Sec. 4-40 - General compensation policies

- (a) Compensation in the form of salary or wages shall be paid to all employees of the Town in accordance with the statutes of the state governing municipal employees.
- (b) The amount of salary of the wages paid to employees shall be set at the discretion of the Town Council.

(Added by Ord. 2017-^^)

Sec. 4-41 - Overtime

- (a) The Town shall compensate its employees for overtime work in accordance with state and federal law.
- (b) An attempt to plan overtime compensation shall be made with consideration for the employees and the effective delivery of services to the public.
- (c) Only non-exempt employees must receive advance authorization from the department supervisor to work overtime.
- (d) All authorized overtime shall be compensated at the rate of time and one-half.
- (e) Overtime by employees of the Police Department shall be in accordance with the Police Department rules and regulations.
- (f) Water Works employees also working on the Street Department: Overtime will be paid after forty (40) hours have been worked on their regular job. Individual will be paid time and one half (1 ½) for all hours over (40) on a regular pay period at the Water Works pay rate.

(Added by Ord. 2017-^^)

Sec. 4-42 – Sick Leave

- (a) All sick leave, vacation days, and personal days shall be based upon the calendar year January 1st to December 31st. Employees completing one (1) full year of service with the Town shall be entitled to ten (10) days sick leave. After five (5) years of service are completed, the employee shall be entitled to fifteen (15) days sick leave. After ten (10) years of service are completed, the employee shall be entitled to twenty (20) days sick leave. After fifteen (15) years of service are completed, the employee shall be entitled to twenty-five (25) days sick leave. After thirty (30) years of service, the employee shall be entitled to thirty (30) days sick leave.
- (b) Sick leave pay is designated as follows; the employee shall not receive sick leave for the first five (5) working days taken during the year in question. Thereafter, the employee shall be entitled to sick leave which shall be paid at eighty percent (80%) of their regular forty (40) hour rate. The employee shall be responsible for furnishing the Town with a physician's statement setting forth the basis for the sick leave. The Town shall not be obligated to pay any sick leave unless medical documentation is provided.
- (c) Employees shall be entitled to utilize available vacation days and personal days to cover the preliminary five (5) day period during which sick leave will not apply. If there are no available vacation days and personal days, then the employee shall not be compensated for the first five (5) days.
- (d) Any employee who is absent from work for more than three (3) consecutive work days shall be required to provide his/her immediate supervisor with a physician's statement setting forth the medical reason for absence and furthermore releasing the employee to return to work.
- (e) Nothing in this section shall be deemed to contravene the point system found within section 4-24.

(Added by Ord. 2017-^^)

Sec. 4-43 - Other leaves

- (a) *Military leave.* An employee who is a member of the Reserve Armed Forces of the State of Indiana or the United States shall be entitled to a leave of absence without loss of pay for not more than fifteen (15) calendar days annually. To receive such leave, the employee must bring notification of service papers upon receipt to the office of the Clerk-Treasurer.
- (b) *Family and medical leave.* The Town shall comply with all state and federal laws and regulations, including the Family and Medical Leave Act of 1993 (FMLA), as amended. Employees shall be granted unpaid leave:
 - (1) To care for the employee's child after birth or placement for adoption or foster care;
 - (2) To care for the employee's spouse, son, daughter, or parent who has a serious health condition;
 - (3) For a serious health condition that makes the employee unable to perform the employee's job; or
 - (4) Certain kinds of paid leave may be substituted for unpaid leave. The employee shall provide advance leave notice and medical certification of at least thirty (30) days, where the leave is foreseeable.
- (c) *Civil leave.* Leave with pay shall be granted to full-time employees required to serve on a jury or serve as a witness in any local, state, or federal court. Proof of jury duty shall be in the form of a pay

voucher for such services. Appearing in any court as a litigant shall not qualify an employee for compensated civic leave.

(d) *Bereavement leave.* Full-time employees shall be granted up to three (3) days leave with pay upon the death of the employee's parent, child, spouse, sibling, grandparent, grandchild, or spouse's parent, child, sibling or grandparent. This paid bereavement leave shall not extend beyond the day immediately following the funeral. Notwithstanding, this leave may be extended at the discretion of the Town Council.

(e) *Training leave.*

- (1) Employees may be granted paid leave for the purpose of participating in training which will increase the knowledge and efficiency of the employees in their position with the Town. Such leave shall be granted at the discretion of the Town Council.
- (2) If such training is directly related to the business of the Town, the cost of such training may be paid by the Town upon the successful completion of the training.
- (3) The costs of training shall be limited to registration or tuition fees, textbooks, or other training materials not readily obtainable by the Town.
- (4) Transportation and lodging may be paid at the discretion of the Town Council.

(Added by Ord. 2017-^^)

Sec. 4-44 - Travel reimbursement policy

- (a) The Town Council must approve all employees' function requests prior to the employees attending said function which is located outside of Lake County or more than twenty-five miles from New Chicago.
- (b) Employees shall be reimbursed thirty dollars (\$30.00) per day for meal expenses while attending out-of-county functions.
- (c) Employees using their own vehicles shall be reimbursed for mileage at the current Internal Revenue Service mileage rate. Said employees shall report their beginning mileage and ending mileage or provide a printout showing the distance to travel between points of travel from a website such as Google Maps or MapQuest.
- (d) Employees' housing allowance will be at the rate not to exceed the group rate in effect at the hotel/motel where the event is taking place upon presentation of a paid statement.

(Added by Ord. 2017-^^)

Sections 4-45 through 4-55 - Reserved.

Article 4 - Employee discipline

Sec. 4-56 - Scope

This article shall apply to all employees with the exception of police officers. The discipline of police officers shall be controlled by state statutes and by the Town Police Department rules and regulations.

(Added by Ord. 2017-^^)

Sec. 4-57 - General policies

- (a) The policy of the Town in formulating its employee disciplinary procedure is to ensure an equitable, uniformly enforced policy.
- (b) Employment with the Town creates no duty or obligation, contractual or otherwise, on the part of the Town for continued employment, nor does it create any right on the part of the employee for continued employment. The Town retains the authority to terminate an employment relationship with an employee for any reason not prohibited by law, at any time, and with or without notice.
- (c) Employees shall provide a minimum of two (2) weeks' notice before terminating employment. Accrued vacation pay is forfeited if there is less than two weeks' notice before voluntary termination. Employees leaving without notice shall be considered as voluntary terminations with accrued vacation pay and accrued personal leave days being forfeited.
- (d) It shall be the general policy of the Town to impose a progressive system of discipline as a means of encouraging quality work performance and discouraging violations of policies, rules and regulations. However, severe discipline, including demotion, transfer, suspension, and termination, may be imposed depending upon the nature and severity of the offense of violation.

(Added by Ord. 2017-^^)

Sec. 4-58 - Disciplinary actions

Employees may be punished for the following violations in the following methods or as otherwise described in the New Chicago employee manual.

- (a) Unacceptable job performance.
 - (1) *Verbal warning.* The manager or supervisor shall first advise the employee verbally that the employee is not performing to acceptable standards. The manager or supervisor shall inform or review with the employee the acceptable standards and the employee's specific deficiencies.
 - (2) *Written warning.* If satisfactory improvements are not exhibited after a verbal warning, and within a maximum of thirty (30) days after the verbal warning, a written warning will be given the employee for review and action, which warning shall be entered into the employee's personnel file. Also, if the employee commits another similar offense or violation, or exhibits similar performance deficiencies after a verbal warning, the manager or supervisor should issue a written warning.

- (3) *Suspension, transfer and/or demotion.* If the employee's performance does not improve following a written warning, but the manager or supervisor believes the employee is still capable of improvement, the manager or supervisor may demote, transfer, or suspend the employee, with said suspension being for a period of from one (1) to three (3) days in duration.
- (4) *Termination.* If the employee's performance continues to be deficient, his/her employment shall be terminated.

(b) *Insubordination.*

- (1) Insubordination shall be defined as the refusal of an employee to perform an assigned duty when such assignment is made legitimately and with due regard for the employee's mental and physical well-being.
- (2) Insubordination shall also include untruthfulness to the employee's supervisor.
- (3) Depending upon the nature and severity of the subordination, the manager or supervisor may elect to by-pass the written warning and/or verbal warning in favor of a more severe form of discipline.

(c) *Theft or destruction of property; causing injury.* An employee who steals, converts, takes without authorization, intentionally damages, or destroys Town property or the property of another during the course of his/her employment, or who intentionally or recklessly causes the injury of another person, shall be subject to severe disciplinary action, including termination.

(d) *Criminal conviction.* An employee convicted of a misdemeanor may be subjected to severe disciplinary action, depending upon the severity of the offense and whether the activity for which the employee is convicted reflects adversely on the Town or on the employee's ability to perform his/her job. An employee convicted of a felony shall be immediately terminated.

(e) *Harassment.* An employee who violates the policies of the Town relating to sexual harassment and to equal opportunity shall be subjected to severe disciplinary action depending upon the nature and severity of the offense. A first offense shall result in no less than a written warning and suspension.

(Added by Ord. 2017-^^)

Sections 4-59 through 4-70 – Reserved.

Article 5 - Drug and alcohol policy

Sec. 4-71 - Generally

- (a) The Town of New Chicago, Indiana 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.
- (b) Since the Town of New Chicago, Indiana values each employee, the Town offers employees assistance in dealing with alcohol and drug abuse problems.

(Added by Ord. 2017-^^)

Sec. 4-72 - Payment of cost of rehabilitation program and subsequent testing

The cost of any rehabilitation program and subsequent testing will be borne by the employee.

(Added by Ord. 2017-^^)

Sec. 4-73 - Policy

- (a) The Town of New Chicago, Indiana requires all employees to report for work in a condition that allows them to perform their duties in a safe and efficient manner.
- (b) Employees will not be permitted to work under the influence of alcohol or with prohibited drugs in their systems thereby affecting job performance.
- (c) Violation of any provision of this article will be considered just cause for disciplinary action up to and including discharge, even for a first offense.
- (d) 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 termination.
- (e) This article 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.

(Added by Ord. 2017-^^)

Sec. 4-74 - Prohibited drugs

- (a) 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), synthetic cannabinoids, and prescription controlled substance which have not been prescribed by a licensed physician or dentist for specific treatment purposes for the employee.
- (b) Abuse of prescription or over-the-counter drugs will also be treated as a substance abuse problem under this article.
- (c) This article prohibits the illegal use, sale, transfer, distribution, possession, or unlawful manufacture of narcotics, drugs, or other controlled substances while on the job or on county 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 county or state police and may lead to criminal prosecution.

(Added by Ord. 2017-^^)

Sec. 4-75 - 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.
- (b) The use or possession of alcohol in vehicles used for Town business is strictly prohibited.

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

(Added by Ord. 2017-^^)

Sec. 4-76 - Reporting violations

- (a) Employees must as a condition of employment, abide by the terms of this article and report any conviction to the Town under a criminal drug statute for violations occurring on or off Town premises when conducting Town business.
- (b) Report of a conviction must be made to the Town within five (5) business days after the conviction. The Town will then notify the appropriate contracting officer within ten (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.)
- (c) An employee who is involved with off the job illegal drug activity may be considered in violation of this article. 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 county's reputation and image.

(Added by Ord. 2017-^^)

Chapter 5 - Parks and recreation

Sec. 5-1 - Applicability

This chapter shall apply to all areas and property within the jurisdiction of the Town Board of Parks and recreation, and to all persons using, or otherwise present, thereon.

(Added by Ord. 2017-^^)

Sec. 5-2 – Park board

- (a) Pursuant to Indiana Code 36-10-5-2(b), the Park Board of the Town is hereby established as the "park authority."
- (b) The Park Board shall manage all public parks, including approaches, that belong to the Town.
- (c) The Park Board may recommend to the Town Council and the Town Council thereby by ordinance may establish, lay out, or improve public parks or grounds, or make extensions of parks or grounds.
- (d) If it is necessary to acquire land, water rights or easements, or a pool, lake or natural stream of water, the Park Board may condemn that property and take possession of it if within the Town. However, before the Park Board condemns the property, it shall assess the damages to the owners of the property at a meeting of the authority. Property owners must be provided fair market value for their property. Additional condemnation proceedings are the same as those provided for the taking of property to open streets.
- (e) Any condemnation of property, including the acquisition price, must be approved by the Town Council.
- (f) The Park Board may adopt rules concerning the laying out, improvement, preservation, ornamentation, and management of the park. The Park Board shall allow monuments or buildings for libraries, works of art, or historical collections to be erected in a park, as long as they are under the control of the persons in charge of the park and no enclosure separates them from the rest of the park.
- (g) The Town Council of the Town may levy a tax on all taxable property in the municipality to pay for park property and for its improvement. The Town Council may also borrow money and issue bonds of the Town at any rate of interest payable annually or semiannually and may sell them for at least par value. The money derived from the sale of bonds may be used only for the purchase or improvement of the parks. The Town Council shall annually levy a tax sufficient to pay the interest on the debt on all taxable property in the Town to create a sinking fund for the liquidation of the principal of the debt.
- (h) The Park Board may employ such workers and purchase or contract for material as it may deem necessary with the approval of the Town Council; provided that in no case shall the amount paid for workers or the amount to be paid for such purchase of contracts exceed the amount of money appropriated for that purpose.
- (i) The Park Board may employ a competent person as the director of parks and recreation for the Town and define his/her duties; the appointment of said director and his/her salary shall be approved by the Town Council.

(Added by Ord. 2017-^^)

Sec. 5-3 - Closing times

All parks and recreational areas located within the Town and subject to the jurisdiction of the Town board of parks and recreation shall be closed between the hours of 10:00 p.m. and 6:00 a.m., and persons using or otherwise present thereon shall be considered to be trespassers unless approved in writing by the Parks and Recreation department.

(Added by Ord. 2017-^^)

Sec. 5-4 - Glass containers

No glass containers of any kind shall be permitted within the public parks or recreational areas at any time.

(Added by Ord. 2017-^^)

Sec. 5-5 - Alcoholic beverages

The use or possession of alcoholic beverages within the public parks and recreational areas shall be prohibited.

(Added by Ord. 2017-^^)

Sec. 5-6 - Motor vehicles

- (a) Motorized vehicles of any kind are strictly prohibited on Public Park and recreational area grounds, except upon any improved roadways or paved parking areas that may exist therein.
- (b) Exceptions.
 - a. This section shall not apply to motorized wheelchairs used by handicapped individuals.
 - b. Exceptions.
 - i. This shall not apply to vehicles operated by the Town or at the direction or instruction of the Parks and Recreation Department.

(Added by Ord. 2017-^^)

Sec. 5-7 - Trash disposal

Littering shall be prohibited in public parks and recreational areas, and all trash, rubbish, or garbage shall be removed or properly disposed of and placed in trash receptacles.

(Added by Ord. 2017-^^)

Sec. 5-8 - Animals

- (a) It shall be unlawful to have dogs, cats, or other pets on park or recreational area property unless said animals are properly restrained and controlled.
- (b) It shall be unlawful to permit any animal to excrete on park or recreational area property unless said excrement is immediately removed and disposed of properly.

(Added by Ord. 2017-^^)

Sec. 5-9 – Loitering

It shall be unlawful for any person or persons to loiter on park or recreational area property.

(Added by Ord. 2017-^^)

Sec. 5-10 – Vandalism and destruction of property

- (a) It shall be unlawful for any person to vandalize, or otherwise damage or destroy, property owned or under the control of the Town board of parks and recreation.
- (b) Vandalism or destruction of property shall be punishable by a fine of no less than two hundred fifty dollars (\$250.00) or more than two thousand five hundred dollars (\$2,500.00).
- (c) Individuals committing vandalism shall also be responsible for the replacement or repair of the damaged property.

(Added by Ord. 2017-^^)

Sec. 5-11 - Fees to be charged by the Parks Department

- (a) The Parks Department is hereby authorized to charge fees for the following reasons.
 - (1) Park hayrides.
 - (2) A fee for spaces at rummage sales held at New Chicago Parks.
 - (3) Rental Fees and deposits for the reservation and use of New Chicago parks.
 - (4) Repair costs for any damages done to New Chicago Parks.
- (b) A schedule of rates and fees as approved by the Town Council shall be kept on file at the Town Hall and available for public review. At least two (2) copies shall be available.

(Added by Ord. 2017-^^)

Sec. 5-12 – Violation; penalty

- (a) Unless otherwise specified by a more specific ordinance, a first offense under this chapter shall be punishable by a fine of one hundred dollars (\$100.00). A second offense is punishable by a fine of and two hundred fifty dollars (\$250.00). A third or further subsequent offense is punishable by a fine of up to seven thousand five hundred dollars (\$7,500.00)
- (b) Any fine under this section of two hundred dollars or less shall be payable before the Ordinance Violation Bureau.

(Added by Ord. 2017-^^)

Chapter 6 – Ordinance violations

Article 1 – Generally

Sec. 6-1 - General penalty

- (a) Wherever in this Code or in any ordinance of the Town, or rule or regulation promulgated by an officer or agency thereof under the authority invested by law or ordinance, 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 therefor, the violation of any such provision of this Code, ordinance, rule or regulation shall be punished by a fine as follows:
 - (1) The first offense for all non-traffic offenses shall be punishable by a fine of no less than one hundred dollars (\$100.00) or more than two thousand five hundred dollars (\$2,500.00).
 - (2) Any subsequent offense shall be punishable by a fine not to exceed the greater of seven thousand five hundred dollars (\$7,500.00) or the maximum amount allowed by law pursuant to IC 36-1-3-8 as amended.
- (b) Every day any violation of this Code or any such ordinance, rule or regulation shall continue shall constitute a separate offense. The fine provided for in this subsection shall be the maximum fine which may be imposed in those cases where another provision provides for a minimum fine but does not provide for a maximum fine.
- (c) The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section, whether or not such penalty is reenacted in the amendatory ordinance.
- (d) In addition to the penalty prescribed above, the Town may pursue other remedies such as, but not limited to, abatement of nuisances, towing of vehicles, injunctive relief, and revocation of licenses or permits.
- (e) Except as specifically provided otherwise, no Town officer or employee shall be subject to such fine for the failure to do any official act required by the provisions of this Code. This clause shall not exempt Town officers or employees from fines for acts not conducted in their official capacities.

Sec. 6- 2 - Larger fines for subsequent offenses

- (a) All specifically enumerated fines set forth in the Town Code shall apply only in the event of a first violation by the defendant from and after the adopting of this ordinance unless a specific fine for subsequent offenses is specified.
- (b) Any subsequent violations of the same ordinance shall be punishable by greater of seven thousand five hundred dollars (\$7,500.00) or the maximum amount permitted by law unless governed by a more specific ordinance.

(Added by Ord. 2017-^^)

Sec. 6-2 - Offenses punishable under separate provisions

In all cases where the same offense may be made punishable, or may be created by different clauses or sections of the ordinances of the Town, the prosecuting officer may elect under which to proceed, but not more than one recovery shall be had against the same person for the same offense. Notwithstanding, in

the event the same course of conduct violates multiple distinct provisions, violations may be written for each offense.

(Added by Ord. 2017-^^)

Sec. 6-3 - Disposition of ordinance violation fines

- (a) All non-traffic fines collected due to ordinance violations shall be placed in the Ordinance Violation Fund established in section 3-85 of this code.
- (b) All traffic-related fines collected due to ordinance violations shall be placed into the General Fund.

(Added by Ord. 2017-^^)

Sections 6-4 through 6-10 – Reserved.

Article 2 – Ordinance Violations Bureau

Sec. 6-11- Creation of Ordinance Violations Bureau

There is hereby created an ordinance violations bureau for the Town, pursuant to IC § 33-36-3-1 et seq., as amended.

(Added by Ord. 2017-^^)

Sec. 6-12 - Appointment of Clerk-Treasurer as violations clerk

The Clerk-Treasurer or her designee shall be appointed Violations Clerk of the Ordinance Violations Bureau to be the administrator of the Bureau and Violations Clerk.

(Added by Ord. 2017-^^)

Sec. 6-13 - Payment of fines to violation clerk

An individual or entity may admit liability of any non-traffic violation punishable by a fine of two hundred fifty dollars (\$250.00) or less and pay the proscribed fines at the office of the Violations Clerk.

Any offense payable before the violations clerk shall be payable for at least fourteen (14) days before it is referred to the Town Attorney for prosecution in a court of competent jurisdiction.

(Added by Ord. 2017-^^)

Sec. 6-14 – Jurisdictional limit upon Ordinance Violation Bureau

The Ordinance Violation Bureau may accept payment of fines for any non-traffic offense with a fine of up to two hundred fifty dollars (\$250.00).

(Added by Ord. 2017-^^)

Sec. 6-15 - Denial of violation; prosecution

- (a) If a person charged with a violation under this chapter wishes to exercise the right to trial, the person shall enter a written denial with the clerk.
- (b) If a person denies an ordinance violation under this chapter, or fails to satisfy a civil penalty assessed by the violations clerk after having entered an admission of violation, or fails to deny or admit the violation under this chapter, the clerk shall report this fact to the legal counsel for the Town, who shall have the responsibility to prosecute ordinance violation cases for the Town in a court of competent jurisdiction.

(Added by Ord. 2017-^^)

Sec. 6-16 – Table of offenses payable before the Ordinance Violation Bureau

- (a) The following is a list of offenses that may be admitted and paid before the ordinance violation bureau.
- (b) In the event that the specific ordinance varies from this table, the specific ordinance shall prevail.
- (c) Table of offenses:

5-3	Park closing times	\$100.00
5-4	Glass containers in park	\$100.00 (first offense) \$250.00 (Subsequent offenses)
5-5	Alcoholic beverages in public park	\$100.00 (first offense) \$250.00 (second offenses)
5-6	Motor vehicle in park	\$100.00 (first offense) \$250.00 (second offense)

5-7	Trash disposal in public park	\$100.00 (first offense) \$250.00 (second offense)
5-8	Unrestrained animal or failure to clean up excrement in public park	\$100.00 (first offense) \$250.00 (second offense)
5-9	Loitering in public park	\$100.00 (first offense) \$250.00 (second offense)
7-15(a)	Failure to notify of frozen water meter	\$100.00 (first offense)
8-12	Trees, shrubs, and grass	\$100.00
9-233	No fence around swimming pool	\$100.00
9-234	Insufficient fence around swimming pool	\$100.00
9-235	Latch or lock swimming pool violation	\$100.00
9-251	Swimming pool water supply	\$100.00
9-252	Swimming pool filtering system	\$100.00
9-253	Swimming pool outlets	\$100.00
9-254	Swimming pool discharge maximum	\$100.00
9-255	Drainage of swimming pool	\$100.00
9-256	Improper pool structural design	\$100.00
9-267	Pool walk areas	\$100.00
9-258	Pool steps or ladders	\$100.00
9-259	Pool electrical violation	\$100.00
9-260	Pool grounding	\$100.00

9-261	Safety precaution violation	\$100.00
9-262	Pool operations and maintenance	\$100.00
9-263	Pool cleanliness	\$100.00
9-291	Non-permitted pool	\$100.00
9-292	Pool minimum distance requirements	\$100.00
9-295	Diving boards	\$100.00
11-8	Inhabitation of an uninspected structure	\$100.00
12-59	Mobile home water supply	\$100.00 (First offense only)
12-60	Mobile home sanitary system	\$100.00 (First offense only)
12-61	Mobile home electrical system	\$100.00 (First offense only)
12-62	Mobile home television antenna	\$100.00 (First offense only)
12-63	Mobile home fuel system	\$100.00 (First offense only)
12-64	Mobile home storm water drainage	\$100.00 (First offense only)
12-65	Mobile home garbage and refuse	\$100.00 (First offense only)
12-66	Mobile home streets	\$100.00 (First offense only)
12-67	Mobile home setback lines	\$100.00 (First offense only)
12-68	Mobile home site requirements	\$100.00 (First offense only)
12-69	Mobile home minimum parking	\$100.00 (First offense only)
12-70	Mobile home projections into yards or height	\$100.00 (First offense only)
12-72	Mobile home park illumination	\$100.00 (First offense only)
12-76	Nonresidential mobile home use	\$100.00 (First offense only)

12-77	Mobile home storage of construction materials	\$100.00 (First offense only)
12-78	Mobile home vegetation	\$100.00 (First offense only)
12-79	Mobile home skirting	\$100.00 (First offense only)
13-25	Side yard violation	\$100.00
13-26	Vision clearance (Residential zone)	\$100.00
13-29	Fence violation (Residential zone)	\$100.00
13-48	Vision clearance (Commercial zone)	\$100.00
13-50	Fence violation (Commercial zone)	\$100.00
13-67	Vision clearance (Industrial zone)	\$100.00
13-69	Fence Violation (Industrial zone)	\$100.00
14-10	Failure to obtain or comply with a Floodplain Development Permit	\$100.00
16-2	Littering (generally)	\$100.00
16-3	Unclean premises	\$100.00
16-4	Improper disposal	\$100.00
16-5	Container violation	\$100.00
16-6	Duty to clean scattered garbage or rubbish	\$100.00
16-7	Duty to prevent scattering by wind or animals	\$100.00
16-8	Covering of garbage containers	\$100.00
16-10	Use of town-maintained dumpster by non-resident	\$100.00
16-11	Duty to keep waste containers in clean/working condition	\$100.00
16-12	Bulk items at curb	\$100.00

16-14	Illegal dumping	\$100.00
16-15	Untimely placement of waste container	\$100.00
16-44	Improper placement of recycling container	\$100.00
16-47	Violation of “Household Service” waste provision	\$100.00
16-48	Improper storage of refuse container	\$100.00
16-61	Dumpster on public right of way	\$250.00
16-62	Duty to prevent scattering by wind	\$100.00
16-63	Building material dumpster or trailer	\$100.00
16-64	Building material dumpster permit violation	\$100.00
16-65	Residential dumpster	\$100.00
16-66	Fencing around dumpsters	\$100.00
17-12	Peddling without a permit	\$100.00
17-15	Failure to carry or display license	\$100.00
17-16	Use of streets	\$100.00
17-17	Loud noise for soliciting	\$100.00
17-18	Peddler sanitation	\$100.00
17-19	Sale of unwholesome food	\$100.00
17-20(c)	Lying of soliciting application	\$250.00 (first offense)
17-33	Gathering without license	\$250.00 (first offense)
17-34	Gathering beyond maximum permitted by license	\$250.00 (first offense)
17-35	Large gathering safety violation	\$250.00 (first offense)

17-52	Special event permit	\$100.00
17-56	Rummage/Garage sale permit	\$100.00
17-71	Failure to register business	\$100.00
17-82	Failure to allow inspection	\$100.00
17-83	Business as nuisance	\$100.00
17-88	Change of location	\$100.00
17-116(c)	Negligent sale of dangerous secondhand merchandise	\$100.00
18-6	Failure to register rental unit or update information	\$100.00 (first offense)
18-9	Failure to maintain copy of rental permit	\$100.00 (first offense)
18-41	Failure to register lease agreement	\$100.00
18-83	Rental smoke detector or carbon monoxide detector	\$100.00 (first offense) \$250.00 (subsequent offenses)
19-25	Failure to update information	\$100.00
19-142	Illegal alarm system	\$100.00
19-144	Failure to certify alarm system	\$100.00
19-145	Impermissible alarm tone	\$100.00
19-146	Testing of alarm without permission	\$150.00
19-147	False fire alarm call	\$150.00
20-2	Poultry, chicken, or pigeons in Town	\$100.00 (no endangerment) \$250.00 (endangerment)
20-3	Keeping of livestock in Town	\$100.00 (no endangerment)

		\$250.00 (endangerment)
20-4	Keeping bees near residences	\$100.00 (no endangerment) \$250.00 (endangerment)
20-5	Wild animals within town	\$100.00 (no endangerment) \$250.00 (endangerment)
20-6	Farm animals within town	\$100.00 (no endangerment) \$250.00 (endangerment)
20-9	Animal waste violation	\$100.00 (no endangerment) \$250.00 (endangerment)
20-10	Improper disposal of dead animal	\$100.00 (no endangerment) \$250.00 (endangerment)
20-11	Failure to report car accident with domestic animal	\$250.00 (first offense only)
20-12	Animal as prize or giveaway	\$100.00 (no endangerment) \$250.00 (endangerment)
20-14	Failure to restrain animal	\$100.00 (no endangerment) \$250.00 (endangerment)
20-17	Ferocious or dangerous breed dog	\$100.00 (no endangerment) \$250.00 (endangerment)
20-31	Animal running at large	\$100.00 (no endangerment) \$250.00 (endangerment)
20-33	Sheltering non-immunized dog	\$100.00 (no endangerment) \$250.00 (endangerment)

20-34	Exceeding maximum number of domesticated quadrupeds	\$100.00 (no endangerment) \$250.00 (endangerment)
20-36	Lost or stray animals notification	\$100.00 (no endangerment) \$250.00 (endangerment)
20-40(b)	Interference with an animal control officer	\$250.00 (first offense)
20-51	Failure to obtain a dog license	\$100.00 (no endangerment) \$250.00 (endangerment)
20-56	Dog tag violation	\$100.00 (no endangerment) \$250.00 (endangerment)
20-57	Operation of commercial animal establishment without a license	\$250.00
20-78	Training of guard dogs without license	\$100.00 (no endangerment) \$250.00 (endangerment)
20-112	Failure to notify of animal bite	\$100.00 (no endangerment) \$250.00 (endangerment)
20-115	Violation of home quarantine	\$100.00 (no endangerment) \$250.00 (endangerment)
20-116	Failure to notify of signs of rabies	\$100.00 (no endangerment) \$250.00 (endangerment)
20-130	Insufficient animal facilities	\$100.00 (no endangerment) \$250.00 (endangerment)
20-131	Insufficient outdoor enclosure	\$100.00 (no endangerment)

		\$250.00 (endangerment)
20-132	Insufficient animal structure	\$100.00 (no endangerment) \$250.00 (endangerment)
20-154	Harboring vicious dog	\$100.00 (no endangerment) \$250.00 (endangerment)
20-155	Unregistered dangerous breed dog	\$100.00 (no endangerment) \$250.00 (endangerment)
20-157	Failure to confine pit bull	\$100.00 (no endangerment) \$250.00 (endangerment)
20-158	Failure to register dangerous breed dog	\$100.00 (no endangerment) \$250.00 (endangerment)
21-4	Nuisance	\$100.00
21-12	Failure to maintain structure or real estate nuisance	\$100.00
21-18	Maintaining unsanitary conditions	\$100.00
21-19	Expectorating in public places	\$100.00
21-20	Allowing fire menace	\$100.00
21-33	Failure to abate noxious weeds	\$100.00
21-42	Open burning	\$100.00 (first offense) \$250.00 (second offense)
21-52	Noise nuisance	\$100.00 (first offense) \$250.00 (second offense)
21-53	Noise Nuisance	\$100.00 (first offense)

		\$250.00 (second offense)
21-55	Stationary source noise	\$100.00 (first offense) \$250.00 (second offense)
21-57	Loud noises in public places	\$100.00 (first offense) \$250.00 (second offense)
22-1	Street number violation (residential)	\$50.00
22-1	Street number violation (commercial or industrial)	\$100.00
22-2	Illegal sign illumination	\$100.00
22-3	General sign violation	\$100.00
22-4	Posting of signs and notices on utility poles or trees	\$100.00
24-1	Discharge of firearm	\$100.00 (first offense)
24-6	Air rifle or BB gun violation	\$100.00 (first offense)
24-42	Sale of gun-shaped cellphone case	\$100.00 (first offense)
25-2	Loitering	\$100.00
25-3	Targeted picketing in residential area	\$100.00 (first offense) \$250.00 (second offense)
25-4	False alarm (non-fire)	\$150.00
25-5	Illegal working on motor vehicles	\$100.00

(Added by Ord. 2017-^^)

Sec. 6-16 through 6-20 – Reserved.

Article 3 – Traffic Ordinance Deferral Program

Sec. 6-21 – Traffic Ordinance Deferral Program

- (a) The attorney for the Town of New Chicago shall establish an infraction deferral program for traffic ordinance violations pursuant to the following provisions:
- (1) The defendant in the action must agree to the conditions of the deferral program offered by the Town Attorney.
 - (2) No individual shall be eligible for the Traffic Ordinance deferral program unless
 - i. They currently hold a valid license and held a valid license at the time the ticket was written.
 - ii. The individual has no more than four points on their driving record.
 - iii. The individual does not have any other traffic ordinance violations pending in the Town of New Chicago.
 - (3) The defendant must pay to the clerk of the court an initial user's fee of not less than one hundred and ninety dollars (\$190.00).
 - (4) The defendant and Town Attorney must record the terms of the agreement in an instrument signed by the defendant and the Town Attorney.
 - (5) The agreement must be filed in the court in which the action is brought. When the defendant complies with the terms of the agreement filed with the court, then the Town Attorney shall request the court to dismiss the action.
 - (6) Upon receipt of a request to dismiss an action under this subsection, the court shall dismiss the action with prejudice.
- (b) The deferral period shall be for six (6) months from the date that payment is made pursuant to the program.
- (c) In the event that the individual commits a traffic related offense during the deferral period, the matter shall be moved back to the active docket. No deferral fees shall be returned to the defendant.

(Added by Ord. 2017-^^)

Chapter 7 - Water Works, sewer, and stormwater

Article 1 - Generally

Sec. 7-1 – Rate schedules

- (a) All rate and deposit schedules not specifically enumerated herein shall be kept on record at the Town Hall and available for public copy and review. At least two (2) copies shall be available.
- (b) Each department within this chapter may petition the Town Council for adjustment of rates as it deems necessary, but such modifications must be approved by the Town Council unless an automatic rate adjustment ordinance is specifically enumerated.
- (c) Any rates, automatic rate adjustment ordinances, or deposits in force at the date of the adoption of this chapter are hereby approved as the rate schedules of the Water Works and Sewer Departments and shall remain in force until adjusted with the approval of the Town Council.

(Added by Ord. 2017-^^)

Sec. 7-2 – Adoption of AWWA Standards manual

- (d) The Town of New Chicago hereby adopts the *American Water Works Association Manual*, hereinafter AWWA Manual, for the technical standards and procedures for the New Chicago Water Works. The most recent edition of the manual shall be used for all standards and procedures. At least two (2) copies of the AWWA standards manual shall be available for public review at the New Chicago Town Hall.
- (e) The following sections of the AWWA Manual shall be amended, replaced, or added as follows:
 - (1) Section 8.12 of the AWWA Manual shall be modified and replaced to read “Each dwelling or apartment unit shall be individually tapped from the main. A singular line for each tap shall extend to each unit and each unit shall have its own said meter.”

(Added by Ord. 2017-^^)

Sec. 7-3 – Adoption of Drinking Water Standards

The Town of New Chicago hereby adopts any and all standards of the Indiana Department of Environmental Management and any other Indiana law or regulation regarding drinking water standards.

(Added by Ord. 2017-^^)

Sections 7-4 through 7-10 – Reserved.

Article 2 – Water

Sec. 7-11 - General water service

- (a) Any person, entity, business, corporation, or governmental unit (customer) desiring water service shall be required to enter into a Water Service Agreement that is approved and adopted by the Town Water Works and pay any required deposit before receiving water from the Town Water Works.
- (b) Any customer whose water service has been shut-off for non-payment shall be required to sign a new Water Works Service Agreement before their water service is reestablished.
- (c) A Water Service Agreement shall set forth the terms under which service is provided and all purposes for which water service will be used at the premises for which water service is requested.
- (d) The Water Service Agreement form shall be prescribed by the Water Works.
- (e) The fully executed Water Service Agreement shall be approved and adopted by the Water Works and all service fees and deposits as listed in the Rate Charge Schedules shall be paid prior to providing water service to the Premises.
- (f) Water Service requests for leased Premises shall be requested only by the Property Owner or the Lessee in control of the Premises. If requested, a written Lease Agreement shall be provided to the Water Works as reference to the Water Service Agreement.
- (g) Any property owner or subsequent property owner of an affected property whose water service has been shut-off for non-payment shall be required to pay all overdue balances and submit a new Water Service Agreement before water service is provided to the Premises.
- (h) Upon and after approval for water service to the Premises, the tenant, Property Owner, and any subsequent owner of the affected property shall jointly be jointly and severally liable for all water service furnished to such Premises and such water service shall be regulated by the rules, regulations, and fee schedules of the New Chicago Water Works.
- (i) Any changes in use and identity of a Property Owner at the Premises will require a new Water service Agreement. The Water Works may, after notice to the Property owner, discontinue water service until a new Water Service Agreement has been made and approved.
- (j) Water Service shall not be provided for resale except to another utility or bulk contract water Customer. The Water Works is under no obligation to provide resale water service to another utility or bulk contract water Customer.
- (k) In order to determine that there is no open spigot or fault which exists in the plumbing of any premises receiving water service, a representative of the property owner and/or applicant for water service must be on hand at the site of the building before the Town Water Works personnel will turn water on.
- (l) If any repairs are required to the service pipes or fixtures which are the responsibility of the owner, customer, and/or applicant, the owner or applicant shall be responsible to obtain any and all necessary permits for work that must be performed in any public right of way, road, easement or alley. All work performed in these areas shall be performed by a licensed, bonded, and insured company (licensed to work in the Town) and Lake County, Indiana. All work shall be inspected by the Water management of the Town Water Works before any excavation may be back-filled.
- (m) Water service contracts can only be entered by adults.

(Added by Ord. 2017-^^)

Sec. 7-12 - Water transmission and distribution mains

- (a) All water mains distributing water to Customers located within public right of way and public utility easements including valves, fittings, and fire hydrants (the water mains) shall be owned and maintained by the Water Works.
- (b) All water service lines from the water main to and including the buffalo box/curbs and from the property being served shall be the responsibility of the property owner who shall be responsible for their prompt repair, maintenance and/or replacement (if necessary), including any lines or equipment that is frozen or otherwise defective (excluding meters).
- (c) The Water Works shall be responsible for the prompt repair or replacement of water mains that become damaged or defective due to normal use.
- (d) In the event a water main or a water main appurtenance is damaged due to an activity that is not related to normal use, the responsible party causing the damage to the water main system shall be responsible for the cost of repair or replacement. The work to repair or replace a damaged water main or water main appurtenance shall be completed or contracted for completion by the Water Works and all costs shall be charged to the responsible party.
- (e) When any Property Owner requests a water main extension to service a Premises, and it is approved by the Water Works, the Customer and Property Owner shall be responsible for all costs associated with the design, permitting, and construction of the complete water main extension in accordance with the AWWA Manual and in accordance with engineering design plans and specifications for such water main extension.
- (f) The Water Works shall have the full and complete access to inspect the water main extension during its construction and be present during specific water construction testing. The water main extension shall only be accepted into the ownership and maintenance responsibility of the Water Works after all inspections have been performed, New Chicago Water Works fees paid, and all water main tests have been completed and passed in accordance with the AWWA Manual.
- (g) All water mains shall be located within publicly dedicated right of ways or utility easements specifically granting the New Chicago Water Works the right to be located within a right of way and easement located on private property. All easements shall be dedicated by the owner of the private property to the Water Works and shall run with the land into perpetuity. All right of way and easements dedicated to the Water Works shall be on forms as determined by the Water Works at the time of dedication and shall be of sufficient size to provide for the construction and maintenance of the water main residing within the easement. The specific right of way or easement size shall be determined by the Water Works at the time of dedication.
- (h) The owner of property with a dedicated easement or with an existing easement previously dedicated to the Water Works shall not be allowed to build, construct, or erect any structure or landscaping of any type within the area encompassed by the dedicated utility easement without the prior approval of the Water Works.
- (i) The Water Works will not be responsible for any damage to, or the replacement of anything placed in the dedicated water easement without receiving the prior approval of the Water Works.

(Added by Ord. 2017-^^)

Sec. 7-13 - Water service lines and meters

- (a) All water service line assemblies connecting water mains to provide water service to a Premises shall be owned and maintained by the Property Owner.
- (b) The water service line assemblies shall include the supply and installation of water service line piping from the corporation stop to the Premises, meter pit, meter yoke, shut off valve, shut off box, and backflow preventer.
- (c) The size of the water service to be installed to the Premises shall be determined by the Property Owner and submitted for approval by the Water Works based on the proposed use of the Premises and its current and projected water demand needs. The water service tap and service line assembly location shall be approved in writing by the Water Works.
- (d) The Customer and/or Property Owner shall be responsible for all costs associated with the supply, installation, and maintenance of the complete water service line assemblies in accordance with the AWWA Manual.
- (e) All water service taps onto the water main shall be completed by the Water Works. The water service tap shall include excavation, backfill and restoration of the water tap location on the water main, tapping into the water main and the supply and installation of a rubber gasket tapping sleeve and corporation stop. The water service tap connection fees are set forth in the New Chicago Water Works Rate Charge Schedule.
- (f) The Property Owner shall be responsible for all costs associated with the supply and installation of the complete water service tap in accordance with the connection charges defined in the Rate Charge Schedules. The Water Works shall provide information to the Customer and Property Owner in writing of the cost of each tap including tapping instructions specific to the proposed use. The Water Works will only complete the water service tap work once all water tap connection fees are paid.
- (g) Water Service maintenance standards, policies, and procedures shall be set forth in the AWWA Manual.
- (h) Water Service line assembly design, materials, and construction standards including the restoration of affected roadways, sidewalk, and parkways shall be in accordance with the policies and procedures set forth in the AWWA Manual.
- (i) The customer and Property Owner of all property receiving water service from the Town Water Works shall be responsible to repair or replace, at their own expense, and in a timely manner, all leaks frozen pipes, or fixtures, pinholes, seepage, or other defects, whether caused by act of God or by neglect.
- (j) Water leaks shall be repaired, if reasonably possible, within three (3) business days from the date that owner or customer receives notice of the water leak, to minimize any water that is lost by reason of the defect. For good cause, as determined by the Town Waterworks, the Town may grant an extension in writing provided that the owner or customer timely contact the Town Water Works and provide sufficient information to show good cause.
- (k) Failure of the Property Owner to make timely repairs or replacement shall subject the Property Owner to the cost and expense of all lost water as reasonably estimated by the Water Works and/or the service being shut-off until repairs are made.
- (l) If any leak jeopardizes any property owned by any other person or entity, the Water Works shall have the right, but not the obligation, to make repairs reasonably needed and to charge all repair costs to the Customer and/or the Property Owner.

- (m) Water meter pits and vaults shall be installed and maintained by the Property Owner. Water meter unit and vaults design, construction, and maintenance standards, policies, and procedures shall be set forth in the AWWA Manual.
- (n) The Water Works shall have full and complete access at all reasonable times to all meters to read, repair, replace, remove, or lock off. Property Owners and any tenant(s) shall keep water meters accessible at all times.
- (o) Water meters shall be owned and maintained by the Water Works. The Property Owner and any tenant(s) shall protect the meter from freezing, loss, or damage. Only representatives of the Water Works shall be permitted to remove, repair, replace, or lock off water meters and associated equipment.
- (p) All meter boxes (including pits or vaults) constructed or installed by the owner, regardless of location, as well as all such meters and boxes constructed or installed by the utility and located on private property, shall be maintained in good repair by the owner of the property at the owner's sole expense.
- (q) Under no circumstances shall any Premises with water service supplied by the Water Works have a second water supply source that could cause a water cross contamination connection.
- (r) After the tap connection has been installed and the water service turned on to the Premises, the service location will be subject to all applicable rates, schedules, rules, and regulations.
- (s) The owner(s) of the property, including any subsequent owners, shall be responsible for any and all past due bills. In the event that the property is occupied by the tenant, the owner(s) and tenant(s) shall be jointly and severally liable. In the event that water is shut off due to nonpayment, service to the property shall not be reestablished until all arrears are paid.

(Added by Ord. 2017-^^)

Sec. 7-14 - Inspections

- (a) Water Works representatives shall have the right to enter upon the Premises of the Customer and Property Owner at all reasonable times for the purpose of inspection of cross connections & protective devices, atmospheric tank installations, booster pump vacuum break valves and general plumbing systems to protect the public water supply.
- (b) Water works represntatives shall have the right to enter upon the premises of the customer at all reasonable times for the purpose of reading, inspection, repairing, or replacing the meter or meters.
- (c) Water Works representatives shall also have the right to enter upon the Premises of the Customer and Property Owner at all reasonable times for the purpose of inspecting, reading, repairing replacing, locking off, or sealing water metering equipment.
- (d) All Water Works representatives shall have the proper credentials on their persons at all times.
- (e) Property owners any any applicant for water service shall keep the water meter accessible for reading and repairs at all times.
- (f) The Water Works shall have the right to immediately terminate service if an unlawful cross connection exists.
- (g) The following list of inspections and resulting approvals to be completed by the Water Works for Water Mains and Water Service. Assembly construction shall be required prior to turning on water service to a Premises.

- (1) Water main inspections
 - i. Daily inspection of water main construction.
 - ii. Water main pressure tests in accordance with the AWWA Manual.
 - iii. Water quality tests in accordance with the AWWA Manual.
- (2) Water Service Inspections
 - i. Connection of water service line to the water tap corporation stop.
 - ii. Connection of water service line to water meter pit.
 - iii. Connection of water service line to water shut off valve.
 - iv. Backfilling of all water service line trenches in roadways, parking areas, driveways, and sidewalks.
- (h) Fees specific to the construction and inspection of water mains and water service line assemblies shall be set forth in the New Chicago Rate Charge Schedules and be available for review and copying at the Town Hall. At least two (2) copies shall be available.
- (i) The Water Works may test water meters with its employees or it may contract for services. A meter will be tested by the utility upon request of the customer, but not more frequently than once in twelve (12) months. A report of the results of such a test will be made available to the customer and a complete record of the test will be kept on file in the office of the Water Works.

(Added by Ord. 2017-^^)

Sec. 7-15 - Frozen water meters and service lines

- (a) When a Property Owner or any tenant finds that a water meter or water service line assembly may be frozen to the extent of causing a discontinuation of water service, the Property owner and/or tenant shall immediately notify the business office of the Water Works of such condition. The Water Works shall determine if the discontinuation of water service is due to a frozen water main, frozen water meter, or a frozen water service line assembly.
- (b) In the event that the discontinuation of water service is a result of a frozen water main or frozen water meter, the Water Works will take corrective action to restore water service to the Premises as conditions permit. The costs associated with the corrective action on the water main will be the responsibility of the Water Works. Notwithstanding, the costs associated with corrective action of a frozen water meter which the Property Owner has failed to take steps to protect from freezing shall be borne by the Property Owner.
- (c) In the event the water service line assembly is determined to be frozen, the Property Owner is responsible for determining the procedures for remedying the frozen water service connection and for contracting with a contractor experienced and licensed in thawing frozen water services. The costs associated with the corrective action on the water service line assembly will be the responsibility of the Property Owner.
- (d) When a Property Owner has experienced a frozen water service and has taken action to restore water service, such Property Owner shall take immediate notice when weather conditions exist to affect the water service to the premises. The Property Owner shall thereafter cause the water service serving the Premises to run a flow of water in order to avoid future or subsequent freezing of said water service

line assembly. The avoidance of future or subsequent frozen water service line assembly shall be the Customer's responsibility and expense, including charges for water.

- (e) The Water Works will assume no responsibility for and will not attempt to complete the thawing of water line assemblies for Customers and property Owners along any portion of the water service line assembly.
- (f) Any party who attempts to eliminate a frozen water service shall be responsible for and liable to the Water Works for any damages caused to Water Works water main system infrastructure or to any other neighboring Customer and Property Owner.

(Added by Ord. 2017-^^)

Sec. 7-16 - Backflow prevention

- (a) All commercial or industrial customers of the Water Works shall be required to have a properly sized backflow prevention device. No new or existing commercial or industrial customer shall cause or allow the construction or maintenance of a cross connection to the Water Works water supply. Any piping installed to bypass a cross connection control device constitutes a cross connection unless the bypass piping is fitted with an acceptable cross connection control device.
- (b) No new or existing commercial or industrial customer shall cause or allow the construction or maintenance of a cross connection to the Water Works water supply.
- (c) Property Owners and tenants shall not cause or allow the installation or maintenance of a booster pump in a Customer water system unless a cross connection control device is installed to prevent operation of the booster pump when pressure to pump suction drops to a gauge below twenty (20) pounds per square inch (psi).
- (d) Any existing or new Property Owner who has a facility that is designated as a cross connection hazard by the Water Works shall construct an air gap or install a reduced pressure principle backflow preventer.
- (e) Any existing Premises not now designated as a cross connection hazard may be designated as a cross connection hazard by written notice from the Water Works. The notice shall specify the nature of the Customer activity which necessitates the designation of his/her facility as a cross connection hazard and will specify the date by which the Property Owner shall install a proper air gap or install a reduced pressure principle backflow preventer.
- (f) All Customers or Property Owners shall provide an air gap, install a reduced pressure principle backflow preventer or a double check valve assembly on the following facilities:
 - (1) Any tank used to store water from the public water supply for fire protection which are constructed to maintain the bacteriological quality of the water.
 - (2) No secondary source of supply shall be physically connected on the Customer's service line to or into the Premises.
 - (3) The Water Works may issue a written exception to a Customer from the requirements for a cross connection control device of the Customer can show the satisfaction of the Water Works that the activities taking place within the Premises and the materials used or stored within the Premises cannot endanger the health and wealth fare of the Customers of the Water Works' public water supply in the event a backflow would occur.

- (4) Customers or Property Owners shall supply and install an air gap, or reduced pressure principal backflow preventer, or pressure type vacuum breaker on any water line that connects the public water supply to any land irrigation system buried below grade which has a sprinkler outlet located less than 6-inches above grade.
- (g) Property Owners required to have a backflow prevention device shall maintain the backflow prevention device in working order at all times.
- (h) To ensure the required backflow prevention device is in working order at all times, the Property Owner or tenant shall have each device on the Premises inspected and tested by a certified backflow prevention device inspector at the time of installation and at the following intervals and manner:
 - (1) Air gaps shall be inspected at intervals not to exceed one (1) year.
 - (2) Reduced pressure principal backflow preventers shall be tested at intervals not to exceed six (6) months to ensure the check valves are drip tight under pressure differentials and that the pressure differential relief valve will maintain pressure in the center chamber of at least one (1) pounds per square inch below the inlet chamber.
 - (3) Double check valve assemblies shall be tested at intervals not to exceed one (1) year to ensure the check valves are drip tight under pressure differentials.
 - (4) Pressure type vacuum breakers shall be tested at intervals not to exceed six (6) months to ensure that the air inlet opens fully when water pressure is at or below atmospheric conditions.
- (i) The violation of this section shall be punishable by a fine of up to two thousand five hundred dollars (\$2,500.00) for a first offense and up to seven thousand five hundred dollars for any subsequent offense.

(Added by Ord. 2017-^^)

Sec. 7-17 - Water Works fees and charges

The Water Works System of the Town of New Chicago shall charge for the following services:

- (a) General service metered rates for consumption of water. This is applicable to the residential and commercial customers located within the corporate limits of the Town of New Chicago, the City of Gary, the City of Hobart, the City of Lake Station, and the rural areas of Hobart Township, Lake County, Indiana. For use of and service rendered by the Water Works based upon the amount of water supplied by the utility.
- (b) General service minimum rates for one (1) month consumption periods. This is applicable to residential and commercial customers located within the corporate limits of the Town of New Chicago, the City of Gary, the City of Hobart, the City of Lake Station, and the rural areas of Hobart Township, Lake County, Indiana. Each user shall pay a minimum rate in accordance with the applicable size meter installed, for which the user will be entitled to the quantity of water set out in the schedule for residential and metered rates as approved by the Town Council and kept on file at the Water Works office.
- (c) Fire Protection Service – Hydrants. – Service under these rates shall generally consist of standby service for fire emergencies and all water taken through such connections shall be restricted to fire

emergencies unless other temporary use shall have been authorized by the Water Department Superintendent.

- (d) Fire Protection Service-Suburban Charge. A monthly fee of one dollar and fifty cents (\$1.50) is applicable to General Service Customers who are:
 - (1) Situated in an unincorporated area of Hobart Township;
 - (2) Are served by one or more of the Utility's hydrants; and
 - (3) Do not otherwise contribute to the Utility's rate.
- (e) Connection Charge. Each metered user of the New Chicago Water Works system shall, at the time of connection, pay a charge to cover the cost of excavating and tapping the main. This charge shall vary depending upon the difficulty of excavation, the necessity of cutting streets and sidewalks, the length of the connecting pipes, and size of pipes necessary. The Water Works shall establish a standard tap fee for one inch (1") or smaller connections. Tap fees of over one inch (1") shall be charged at the Market Price at a price determined by the Water Manager based upon the actual costs of materials, labor, overhead, and equipment incurred for the installation, but shall not be less than the charge for a one inch (1") tap fee.
- (f) Reconnection Charge. When service is turned off for non-payment of bill, or whenever for any reason beyond the control of the Utility a re-establishment of service is required by any one customer, a charge of thirty dollars (\$30.00) will be made by the Property Owner or tenant to cover the cost of discontinuance and re-establishment of the service. The charge, together with any arrears due to the utility, shall be paid before service will be reestablished.
- (g) Dishonored check charge. In the event a check, draft, or other instrument tendered to the Utility by a customer in payment of charges made by the Utility for water service rendered to the customer is dishonored by the bank or other institution upon which it is drawn, by reason of "insufficient funds," "account closed," "check stopped," or other similar cause, a charge of thirty-five dollars (\$35.00) shall be added to the account. This amount shall be in addition to any other applicable charges, such as late fees or reconnection fees, which may be incurred due to nonpayment.
- (h) Meter Deposit. All applicants will be required to make a meter deposit depending upon the type and size of meter installed for the applicant. The deposit will be returned upon termination of service for that applicant less any outstanding arrears or damage charges assessed to the applicant. The deposit must be paid to the Utility prior to service establishment for the applicant. Any half (1/2) inch increments shall be charged at the next higher rate.
- (i) Collection and deferred payment charge. All bills for water service not paid on or before the due date thereof, as stated in such bills, shall be subject to a collection or deferred payment charge of ten percent (10%) on the first three dollars (\$3.00) and three percent (3%) on the excess over three dollars (\$3.00).
- (j) Temporary users. Water furnished to temporary users, such as contractors, circuses, etc., shall be charged on the basis of the metered use and billed on at a two inch (2") meter rate using (a) and (b).
- (k) Railroads. Water supplied for railroad use may be charged for on such terms as shall be fixed by specific contract approved by the Water Works or Town Council.
- (l) Remote meter reading devices. Customers who have a remote reading device shall be charged an additional fee of thirty-five cents (\$0.35) each month.
- (m) Mobile home parks. Mobile home parks will be billed for the quantity of water used as per the meter reading on a mobile basis. Charges will be determined from the schedules established in accordance with (a) and (b).

- (n) Customer Service Calls. A service call shall be referred to as a request by the customer to have a Water Works employee inspect the water service or meter at their place of residence or business. There shall be two (2) classes of service calls, chargeable and non-chargeable
- (1) Chargeable is a request by the customer to inspect their premises for leaks, re-check a meter reading that is correct, turn service on/off or any other task due to circumstances beyond the control of the Utility. A fee of thirty dollars (\$30.00) shall be assessed to the customer for each service call. The turning on and off of a service shall constitute only one (1) service call.
 - (2) Non-chargeable is a request to have a meter re-read if the original reading was in error.
 - (3) In the event that a service call does not fall into any of the above-mentioned classes, it shall be determined by the Water Works whether the call shall be chargeable or not.

(Added by Ord. 2017-^^)

Sec. 7-18 - Water Works fines and charges

The following fees and charges shall apply to the New Chicago Water Works:

- (a) Shut-off due to non-payment – Thirty dollars (\$30.00).
- (b) Pulled meter: - Sixty dollars (\$60.00)
- (c) Late Fees - The Water and Sewer Departments shall charge the following late fees to individuals and entities who fail to pay their bills on time
 - (1) Sewer: 10%
 - (2) MS4: 10%
 - (3) MNT 10%
 - (4) Water 10% on the first three dollars (\$3.00) and 3% on the balance

Sec. 7-19 - Rates and charges for repairs of damaged waterlines and Water Works property

- (a) All persons or entities damaging the waterlines, meters, or facilities and equipment of the Town's Water Works System shall be held accountable for damages caused and shall be responsible to reimburse the Town for all repairs that are necessitated thereby.
- (b) The Town hereby establishes the following Schedule Rates and Charges for repairs that must be performed in order to repair any damages that may have been caused to the Town's Water Works System in order that it can operate safely and efficiently.
 - (1) Labor charges - rate of time plus fifty percent (50%) per hour.
 - (2) Use of backhoe - seventy-five dollars (\$75.00) per hour.
 - (3) Use of pick-up or utility truck - thirty-five dollars (\$35.00) per hour.
 - (4) Use of dump truck - fifty dollars (\$50.00) per hour.
 - (5) Use of pumps - twenty-five dollars (\$25.00) per hour per pump.
 - (6) Use of a compressor - thirty-five dollars (\$35.00) per hour.
 - (7) Use of car - thirty-five dollars (\$35.00) per hour.
 - (8) Repair clamps - going rate plus twenty percent (20%) per clamp.
 - (9) Waterline - going rate plus 20% per linear foot.
 - (10) Sand - going rate plus 20% per load.

- (11) Gravel - going rate plus 20% per load.
- (12) Water meter - going rate plus 20% per residential meter.
- (13) Water meter - going rate plus 20% per commercial meter.
- (14) Service charge for coordinating work - one hundred fifty dollars (\$150.00) per incident.
- (15) All other charges for equipment or materials not specified herein shall be pursuant to a schedule to be established by the Water Works System and maintained for inspection at their main office in the Town Hall.
- (16) Any cost not incorporated into this Ordinance or a schedule of charges shall be charged at the actual cost of the Town of New Chicago plus twenty percent (20%).
- (c) The Town's Water Manager shall have the authority to review the charges in the event that it is determined that any exceptional or circumstances exist justifying a reduction in the charges to be certified.
- (d) Decisions by the Water Manager shall be subject to review by the Town Council upon written request from the person or entity from whom reimbursement is sought, whose decision shall be final.

(Added by Ord. 2017-^^)

Sec. 7-20 - Automatic rate adjustments

- (a) Water rates and charges shall be fixed by the Town Water Works with the approval of the Town Council.
- (b) Water rates shall be subject to a wholesale water cost tracking factor (hereinafter "WWCTF") occasional solely by changes in the cost of purchasing water for resale from the Town's wholesale water provider.
- (c) The WWCTF shall be amended, from time to time, whenever and to the extent that the Town's wholesale water provider changes its wholesale rate to the Town Water Works. The revised water rates and charges shall reflect the increase and/or decrease in the wholesale price charged to the Town.
- (d) The Town Water Works shall automatically, and without the need for any further ordinance or Town Council legislative approval, adjust and recalculate the water rates and charges based upon the WWCTF as soon as possible after receiving notice from the Town's wholesale bulk water provider of a change in the rate being charged to the Town and shall include notice of the new water rates and/or charges in or with the next regular billings made by the Town Water Works to each user receiving water service from the Town Water Works.
- (e) The revised water rates and charges shall go into effect and be charged, after the prior notice has been given, in all subsequent billings to users receiving the water service from the Town Water Works.
- (f) All water rate schedules, as automatically amended by this ordinance from time to time, shall be kept on file with the office of the Town's Clerk-Treasurer and copies, upon request, shall be made available to all customers of the Town Water Works.
- (g) Nothing in this chapter shall prevent or limit the Town and its Water Works from increasing water rates and charges from other costs and expenses incurred in operating and maintaining efficient water service to its users.
- (h) The invalidity of any section, clause, sentence, of provision in this Chapter shall not affect the validity of any other part of this Chapter and the valid portion of this Chapter shall be given full force and effect.

(Added by Ord. 2017-^^)

Sec. 7-21 – Discontinuation of water services

- (a) The Town Water Works and Sewer shall have the right to shut-off the water supplied to any property owner and/or applicant in accordance with Town Ordinances, Rules and Regulations of the Town Water Works, the AWWA manual, and/or applicable Indiana statutes for non-payment of bills when due , after being duly notified, including non-payment of any other utility services recieved by the owner/applicant at the described premises.
- (b) The Town Water Works sshall also have the right to turn off water service to water custoemrs residing in Lake Station, Indiana if the Town Water Works receives a shut-off request from Lake Station stating that the customer has not paid for other utility services provided to them by Lake Station, Indiana.
- (c) The Town Water Works shall have the right to turn off water services if necessary for public safety.
- (d) All unpaid bills shall be owed jointly and severally between the property owner and any tenant.
- (e) In the event that water service or other utilities are discontinued due to nonpayment, services shall not be resumed until arrears are paid in full or a suitable payment plan is entered between the Town and the debtor.
- (f) Nothing in this section will create an obligation to for the Town to provide a payment plan or a create a right to a payment plan.

(Added by Ord. 2017-^^)

Sec. 7-22 – Unauthorized use or access

- (a) Under no circumstances shall the owner or any other person be allowed, nor shall they permit others, to open the meter pit for any purpose without receiving the prior approval from an authorized representative of the Town Water Works.
- (b) No owner, applicant, or other person shall be permitted, nor are they authorized to permit anyone else, to turn on water service. All water service turn-ons shall be done by the Town Water Works or their representative.
- (c) It shall be considered conversion and/or theft for anyone to willfully and unlawfully turn on water service to a property and obtain water service without being billed for water used. The Town Water Works may refer any such conduct to the Lake County Prosecutor's Office.
- (d) A violation of this section shall be punishable by a fine of no less than two hundred fifty dollars (\$250.00).

Sec. 7-23 – Basis for Monthly Billing

- (a) All charges for water service, other than the service charge, if any, shall be calculated upon the reading of the meter installed.

- (b) The Water Works will make an effort to read meters at least monthly and such reading shall be prima facie evidence of the amount of water used, provided the meter and/or liens have not been tampered with by the property owner, tenants, or other applicant for water service.
- (c) If the utility is unable to gain access to a customer's inside or reliable remote meter, the average use of previous meter readings will be the basis for billing. The first billing made after the inside or reliable remote meter is read shall be adjusted according to the meter reading. No more than six estimates billings will be allowed; after that, the customer shall be required to have an outside reading device installed.
- (d) Where water is taken through more than one meter, and where such arrangement is for the convenience of the customer, then each meter shall be read and billed separately. Where water is taken from more than one main or more than one meter for the convenience of the utility, then the meter readings shall be aggregated and billed as one reading.
- (e) All water passing through meters shall be charged for, whether actually used, wasted, or lost through leakage.
- (f) All water charges shall be attached to the premises served as well as to the customer. If water service charges are left unpaid by a customer upon vacation of the premises served, the utility shall withhold water services to said premises until the charges are paid. The Town Water Works shall be authorized to waive this requirement in their discretion for good cause shown.
- (g) All meters or other appliances and equipment which are furnished by the utility and which may at any time be on the customer's premises shall, unless otherwise expressly provided herein, be and remain the property of the utility; the customer shall protect such property from freezing and from loss or damage, and no one who is not a representative of the utility shall be permitted to remove such property or tamper therewith.
- (h) Ordinary repairs to meters due to natural use will be made by the utility without expense to the customer. Repairs or damages caused by carelessness or neglect on the part of the customer will also be made by the utility, but the cost of such repairs shall be charged to the customer and/or property owner.
- (i) For the determination of meter accuracy, the utility shall use the appropriate test flows tested by the American Water Works Association for the various types of meters.
- (j) These rules and regulations shall be part of the contract with every person who uses water services supplied by the utility, and every such person shall be considered as having agreed to these terms by accepting water service from the Town Water Works.

Sec. 7-24 – Authority to establish additional regulations

The Town Water Works may adopt further reasonable rules and regulations to carry out the provisions of this Chapter or provide for the efficient operation of the Water Works as long as they are not inconsistent with this Chapter, State law, or Federal law.

Sections 7-25 through 7-40 – Reserved.

Article 3 – Sewer

Sec. 7-41 - New customer fees

- (a) Each new sewer customer shall pay an initial fee of fifteen dollars (\$15.00), non-refundable, for administration cost.
- (b) There will be a connection charge for any customer tapping into the Town's sanitary sewer system. These fees will be approved by the Town Council and incorporated into the Town's Fee Schedules.
- (c) The Sewer Department shall review the costs of said projects and may request rate modifications from time to time. Any rate adjustment shall be approved by the Town Council.
- (d) The Sewer Department shall maintain a copy of the current rates at the Town Hall. At least two (2) copies shall be available for public inspection and review.

(Added by Ord. 2017-^^)

Sections 7-42 through 7-60 – Reserved.

Article 4 - Stormwater

Sec. 7-61 - Stormwater rates and charges

The Town may establish fees to residents and businesses for stormwater services. These fees shall be approved by the Town Council and at least two (2) copies of the schedule of stormwater rates shall be available at the Town Hall for public inspection and review.

(Added by Ord. 2017-^^)

Chapter 8 – Streets and sidewalks

Article 1 – In general

Sec. 8-1 - Street construction generally

All construction shall be performed in the manner prescribed in the current edition of Standard Specifications of the State Highway Department of Indiana, and in a manner prescribed in any subsequent and applicable Town ordinances. In any instance where conflicting requirements may appear between Standard Specifications and an applicable Town ordinance, the regulation requiring the higher standards shall be binding.

(Added by Ord. 2017-^^)

Sec. 8-2 - Construction and maintenance permit required

It shall be unlawful for any person, partnership, or corporation to construct or maintain any street or alley within the corporate limits of the Town of New Chicago unless such person, partnership, or corporation shall first obtain a permit from the Street Superintendent, provided, that no permit shall be required when streets, sidewalks, or curbs are being constructed under improvement resolutions of said Town of New Chicago.

(Added by Ord. 2017-^^)

Sec. 8-3 – Specifications for new streets

No new or rebuilt street shall be constructed or altered within the Town that does not conform to the following specifications, except as herein after provided:

- (a) No street shall be constructed with a riding surface of less than twenty (20) feet edge of curb to edge of curb.
- (b) Minimum construction requirements, quality, and workmanship shall conform to the latest standards as specified in the Standard Specification of the Indiana State Highway Commission.

(Added by Ord. 2017-^^)

Sec. 8-4 - Specifications – resurfacing

- (a) Streets that are to be resurfaced shall be swept with a mechanical street sweeper.
- (b) A tack coating shall be applied at a rate of approximately 0.25 gat./sq. yd. using AEP or MC-70 over the existing surface.
- (c) HAC Surface shall then be applied at a depth of at least one and one-half (1 ½) inches thick and feathered to the gutter line leaving full curb exposure.

(Added by Ord. 2017-^^)

Sec. 8-5 – Specifications – alleys

Alleys are to be built with at least a ten (10) foot riding surface of either stone, screened stone, or slag wherever permissible due to utility structures within the right-of-way.

(Added by Ord. 2017-^^)

Sec. 8-6 - Specifications – miscellaneous

If in the opinion of the Street Superintendent, a street may be required to have special consideration as to the minimum specifications, such as but not limited to: heavy constant truck traffic, soft or unstable areas, tree growth additional traffic lanes, etc., then recommendations to the Town Council shall be made before the issuance of a permit.

(Added by Ord. 2017-^^)

Sec. 8-7 – Bond required

- (a) Before said road or street is laid, the sub-divider, builder, or contractor shall deposit with the New Chicago Town Clerk-Treasurer a bond in the principle sum equal to three dollars and fifty cents (\$3.50) for every square yard of road laid, conditioned upon compliance with this chapter.
- (b) This section does not apply if work is under a bid contract with the Town.

(Added by Ord. 2017-^^)

Sec. 8-8 – Curbs

All streets constructed or maintained by a contractor on new development under this chapter shall have constructed (at the same time as the street) a curb, at each side.

(Added by Ord. 2017-^^)

Sec. 8-9 - Acceptance of streets by the Town

- (a) Prior to acceptance of the street by the Town of New Chicago, the individual constructing the street must have a boring test conducted by an independent firm to substantiate compliance with the requirements of the specifications and all compaction to be ninety-five (95) percent by the standard proctor; said test to be forwarded to the Town engineer.

- (b) Before acceptance of the street, the Town engineer shall review the test reports and shall inspect said streets and submit a report to the Town Council on the condition of the street and make a recommendation for action thereon. The Individual seeking approval shall compensate the engineer for his/her time.

(Added by Ord. 2017-^^)

Sec. 8-10 - Curbs, sidewalks and streetlights in residential subdivisions

- (a) Any developer of residential subdivisions shall be required to install sidewalks and curbs as required in this Code. The sidewalks and curbs so installed shall be inspected by the Building Commissioner prior to issuance of any occupancy permit.
- (b) Any developer of residential subdivisions containing three (3) or more lots on any block, street, or subdivisions, shall install a minimum of one (1) streetlight per each five (3) lots developed.

(Added by Ord. 2005-06. Amended by 2017-^^)

Sec. 8-11 - Trees, shrubs, and grass

- (a) The Town, through its Street Superintendent, shall have charge, custody, and control of all trees, shrubs, and grass growing now or hereafter on any street, highway, or public place in the Town.
- (b) Until such time as it is practical for the Town to assume the responsibility for the purchase, planning, maintenance, and removal of all trees, shrubs, and grass now growing or hereafter planning in the public way, the responsibility of such purchase, planting, maintenance, and removal shall be that of the property owner of the owner who abuts the area in question.
- (c) A violation of this chapter shall be punishable by a fine of one hundred dollars (\$100.00). Each day on which the condition persists shall be deemed a separate violation.

(Added by Ord. 2017-^^)

Sec. 8-12 – Violations; penalty

- (a) Any person violating any provisions of this chapter shall, upon conviction thereof, be fined in a sum not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1000.00) plus court and attorney costs for a first offense. Subsequent offenses shall be punishable in an amount of not less than five hundred dollars (\$500.00) or more than seven thousand five hundred dollars (\$7,500.00).
- (b) Any person violating any provisions of this ordinance shall, upon conviction thereof, also be responsible for the cost of correcting the violations.
- (c) No further permits relating to street, sidewalk, driveway, or curb construction will be granted until all conditions are brought into compliance and all fines are paid.

(Added by Ord. 2017-^^)

Sections 8-13 through 9-20 - Reserved.

Article 2 – Street cuts or alterations

Sec. 8-21 - Street cut permit required

- (a) Before any person shall cut into or alter any street, alley, sidewalk, or bridge in the Town, he shall obtain written permission from the Town of New Chicago.
- (b) Such permission shall be given if the proposed work will comply with the standards of this chapter and state law.
- (c) No person shall make an excavation in or under any street, alley, sidewalk or right-of-way of the Town without paying a fee of seventy-five dollars (\$75.00) and obtaining a written permit to do so.
- (d) Such permit shall be issued only upon a written application with the planning department signed by the person desiring to make the excavation. The application shall describe the place where the excavation is proposed to be made and shall specify the purpose for which the excavation is to be made, and when the proposed excavation is proposed to begin and when the excavation is to be refilled and completed.
- (e) Yearly street cut permit. For those utilities within the Town of New Chicago that often have to cut into the Town's streets for utilities repairs, installation or maintenance shall fill out and file with the public works department of the Town a permit form. That the form shall be maintained at the City Hall in the Town of New Chicago. The utility shall tender a ten thousand dollar (\$10,000.00) performance bond to cover any damages done by the utility or its contractor to the Town's property or adjacent private properties. The form shall be as follows:

YEARLY STREET CUT PERMIT

Date _____

Utility _____

Contact _____

Address _____

Phone No(s). _____

Permission is hereby given to _____ for
yearly street cuts Town wide, under the following conditions:

1. The road must be saw cut to assure smooth edges.

2. Only one-half (½) of the road may be closed at a time to provide at least one (1) lane of traffic.
3. Compactable stone must be used throughout the full depth of the cut. A compactor must be used, and stone must be compacted in twelve inch (12”) lifts. Cold patch is the only acceptable temporary pavement accepted.
4. A minimum of four inches (4”) of hot asphalt must be used for the surface.
5. The remaining right-of-way, including landscaping, must be put back in the original condition. This is to include seed or sod.
6. A compaction test may be required if deemed necessary by the public works director or Town engineer.
7. Complete street and yard restoration to be finished within thirty (30) days of the start of initial work, weather permitting.
8. The utility will maintain the street cut for a period of two (2) years as directed by the Town of New Chicago.
9. A maintenance/performance bond in the amount of ten thousand dollars (\$10,000.00) shall be posted per year with the Town of New Chicago. This bond will be released upon completion of the year and the approval of the director of public works or Town engineer.
10. The utility will contact the New Chicago Public Works Department fourteen (14) days prior to any scheduled work.
11. In an emergency, the utility will contact the New Chicago Public Works Department the next business day, concerning the work being performed.
12. Restoration shall be inspected and approved by the Town.

Town of New Chicago

Acceptance signature of Utility

- (f) Maintenance of excavations. The person to whom a street cut permit is issued pursuant to this chapter shall maintain and make good all settlements of the excavation occurring within thirty (30) days after the excavation and shall be liable for all damages resulting from failure to do so. The failure of the person to whom the excavation permit is issued that fails to comply with its cover up and repair obligations under this ordinance authorizes the Town to collect the cost of the cover up and repair from the bond posted.

(Added by Ord. 2017-^^)

Sec. 8-22 - Bond

- (a) The Building Inspector shall establish the amount of a bond that shall be posted before permission is granted to any person to cut into any street, alley or bridge in the Town. The bond shall be posted with the Clerk-Treasurer with sufficient surety, payable to the Town in an amount as determined by the Building Inspector to be adequate to protect the Town from any damage that may be caused to the street, alley or bridge by such person.
- (b) The bond shall insure the faithful performance by any person wishing to cut into any street, alley or bridge that said person will repair, replace and put the street, alley or bridge in as good a condition as said street, alley or bridge was in before said person entered upon and altered said street, alley or bridge.

In the event that the amount established by the Building Inspector is deemed unreasonable, arbitrary, or capricious by the person requesting permission, said person may appeal the Building Inspector's determination of the bond amount to the Planning Commission.

(Added by Ord. 2017-^^)

Sec. 8-24 - Approval of sidewalks

- (a) A fee of twenty-five dollars (\$25.00) shall be charged for the construction of any sidewalks which are not done by the Town. If the sidewalks are part of a new construction, this fee shall be waived.
- (b) The permit shall be issued by the Clerk-treasurer and will expire six (6) months from the date of issuance.
- (c) Sidewalks will be inspected by the New Chicago Building Inspector.

(Added by Ord. 2017-^^)

Sec. 8-25 through 8-40 – Reserved.

Article 3 - Driveways

Division 1 - Generally

Sections 8-41 through 8-50 - Reserved.

Division 2 - Access standards

Sec. 8-51 - Introduction

- (a) The purpose of this division is to establish standards, criteria and guidelines subject to variation, based on engineering judgment, so as to provide a basis for the review and approval of all requests for access to public streets and thoroughfares.

- (b) It is the scope of this division to cover in detail as many conditions as possible regarding various types of commercial, industrial, school, church, and residential access to public highways regardless of the type of access control exercised. The intent is to consider all types of access within the jurisdiction of the Town.
- (c) The efficiency and safety of a roadway facility with limited access control, or without access control, depends greatly upon the character of roadside interferences. Most of these interferences originate in vehicular movements to or from residential, commercial, and industrial developments along the facility.
- (d) Although the Town recognizes the rights of abutting property owners to access, it is necessary for the Town to establish controls regarding the number, location and geometrics of access points. This is necessary to maintain sound operational characteristics of the facility, and to provide adequate safety features for the expeditious movement of people and goods.
- (e) Highway interference resulting from excessive roadside development and uncontrolled driveway connections precludes the orderly and safe movement of traffic in and out of properties, and therefore results in poor levels of service, increased hazards, and early obsolescence of the highway.
- (f) The necessary regulations and geometrics of access points are very closely associated with traffic volumes, operations, rights-of-way, land use, and zoning control.
- (g) It is understood that commercial and industrial growth within an expanding urban area is inevitable. Therefore, it is necessary to provide access to these concerns in accordance with a well-developed plan, as compatible as possible with the adjacent highway facilities.
- (h) Traffic congestion adversely affects conditions for transacting business, produces accidents, interferes with the effective operations of fire and police services, and in general reduces the enjoyment of many phases of urban life and activity.

(Added by Ord. 2017-^^)

Sec. 8-52 - Definitions

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Access control (full) means the access is controlled to such a degree that no access will be permitted directly to the roadway from abutting property. The physical means of access shall be limited to interchange ramps, approaches, or other facilities located on the public right-of-way at points designated by the Town for specific entrance to or exit from the facility by the general public.

Access control (limited) means those facilities where the right of the owners or occupants of abutting land or other persons to access, light, air, or view in connection with a highway, street or roadway is fully or partially controlled by the Town.

Access control (normal) means the rights of abutting property owners of access to the public roadway are recognized. On these facilities, entrances to the roadway will be permitted for abutting property, providing such access points comply with the standards and regulations established in this division.

Access control (partial) means the access is controlled to such a degree that public access will be restricted to interchange ramps, at-grade intersections, approaches, or other facilities located on public right-of-way. Private driveways may be permitted at locations designated by the Town solely for residential or agricultural purposes, when so agreed or stipulated with the property owner, when access rights are required. Any permit for such an entrance will show these restrictions.

Approach pavement means a portion of the roadway adjoining the traveled way, which includes tapers for recovery lanes, deceleration, speed change, turning movements, or other purposes supplemental to the through traffic movement. The auxiliary lane may be in existence or proposed for construction by the applicant.

Channelization means the separation of conflicting traffic movements into definite paths of travel by use of pavement markings, raised islands, or other suitable means to facilitate the safe and orderly movement of traffic.

Commercial means the purchase, sale or any other transaction involving the handling or disposition (other than that included in the term "industry," as herein defined) of any chapter, substance, or commodity for profit or a livelihood including and in addition to the operation of automobile or trailer courts, motels, public garages, office buildings, professional offices, outdoor advertising signs and structures, public stables, recreational and amusement enterprises conducted for profit, and shops for the sale of personal goods or services either directly or by agreement to furnish, but not including dumps or junk yards.

Design speed means a speed determined by design and correlated to the physical features of a highway which influences vehicle operation. It is the maximum safe speed that can be maintained over a specific section of highway when the conditions are at optimum.

Design volume means a volume representing the expected traffic use of the facility, stated as an hourly volume.

Divided highway means a highway with separate roadways for traffic heading in opposite directions.

Driveway means every way or place not in the right-of-way of any public highway and which is used for vehicular traffic.

Entrance means the connecting line of the driveway and the approach.

Highway, street or roadway is a general term denoting a public way for the purpose of vehicular travel, including the entire area within the right-of-way.

Industrial means the manufacture, fabrication, processing, reduction, or destruction of any article, substance or commodity, or any other treatment thereof in such a manner as to change the form, character, or appearance thereof, including storage elevators, truck storage, yard warehouses, wholesale storage, and other similar types of enterprises.

Median means the portion of a divided highway separating the traveled ways for traffic heading in opposite directions.

Median lane means a speed change lane within the median to accommodate left-turning vehicles.

Median opening means a gap in a median to provide for crossing and turning traffic.

Multi-residential means a building or buildings designed and used for occupancy by two or more families, all living independently of each other, and having separate kitchen and toilet facilities per unit.

Operating speed means the highest overall speed at which a driver can travel on a given highway under favorable weather conditions, and under prevailing traffic conditions, without at any time exceeding the safe speed as determined by the design speed on a section by section basis. On posted sections of highways and streets, the properly posted speed can be considered the operating speed.

Parking capacity means the maximum number of parking spaces available within the proposed facility to which clear access is available.

Permit means an authorization to construct an access driveway of a specified class which is granted by the Town upon application, and in accordance with this division.

Permittee means the applicant or recipient of a permit.

Residential means detached buildings designed or used exclusively for occupancy by one or more families with separate kitchen and toilet facilities for each unit.

Right of access means the right of ingress and egress to and from a highway abutting land.

Right-of-way is a general term denoting land, property or interest therein, usually in a strip, acquired or dedicated for use as a highway, street, or roadway, to include any additional right-of-way as designated by this Code.

Setback line means a line outside the right-of-way established by the Town in which the erection of buildings or other permanent improvements are allowed.

Sight distance means the length of unobstructed view required by a motorist entering the traffic stream from a stopped position with the front bumper five feet from the edge of the traveled way.

Site means one area consisting of one or more contiguous lots or parts of lots, which are to be used as one consolidated area.

Speed change lane means an auxiliary lane including tapered areas, which is used for the acceleration or deceleration of vehicles entering or leaving the through traffic lanes.

Storage means the distance between the right-of-way line and the vehicle/customer service point.

Town or Town authorities means the Town of New Chicago, the Town Planning Commission, the Town Building Commissioner, the Town building commissioner, the Town engineer, the Town traffic commission, or the department of public works for the Town.

Traffic lane means the portion of the traveled way used for the movement of a single line of vehicles.

Traveled way means the portion of the roadway used for the movement of vehicles, exclusive of the shoulders and auxiliary lanes.

Zoning means the division of the Town into districts, and the regulation within those districts of types of structures or land uses.

(Added by Ord. 2017-^^)

Sec. 8-53 - General requirements

- (a) *Permit required.* No person, firm, corporation, or development shall construct any entrance, driveway, or approach connecting with any public roadway, nor shall any curb along such roadway be cut or removed, without a written permit from the Town, and then only in accordance with the regulations and requirements contained in this chapter.
- (b) *Establishment of requirements.* The Town shall determine and establish such requirements and restrictions for such private entrances, driveways, and approaches as may be necessary to provide for drainage and preservation of the roadway, and for the safety and convenience of traffic on the roadway.
- (c) *Setbacks.* Regulations and requirements to facilitate storage may include the minimum distance that gasoline pumps, buildings, and other structures to which such private entrances, driveways or approaches make a connection may be placed next to the right-of-way line of the roadway or next to the outside edge of sidewalks along these roadways.
- (d) *Supervision of work; payment of costs.* All work on such private entrances, driveways and approaches shall be done under the supervision and to the satisfaction of the Town, and the entire expense of constructing such private entrances, driveways, and approaches shall be borne by the permittee.
- (e) *Authority to require bond or cash deposit.* The Town is authorized to require that a sufficient bond or cash deposit be given prior to the issuance of a permit to insure the carrying out of the terms under which the permit was granted, and that such a bond or cash deposit shall be returned when the requirements of the permit have been met.
- (f) *Maintenance.* The owners or occupants of the abutting property shall maintain, and keep in a state of repair, all such private entrances, driveways and approaches, and same shall be constructed and maintained in such a manner as not to obstruct or interfere with the roadway or the traffic thereon. Any ditch or drainageway shall not be impeded in performing the function for which it was constructed.
- (g) *Roadway improvement or construction.* Whenever a roadway is constructed or reconstructed, the construction of all public roadway approaches, and existing private approaches, together with the required drainage structures, shall be included as part of the improvement of the roadway. The Town may require that the location of existing drives be changed in the interests of public safety, and such changes shall be made under the direction of the Town. Upon completion of the roadway, the owners or occupants of adjoining lands shall keep in repair all private approaches or driveways from the highway.

- (h) *New uses.* When there is a change in the type of business and/or land use of any existing property, regardless of how slight or minor, a new application for a permit must be submitted to the Town for approval. The Town may require changes to existing driveways as a result of such changes in use.
- (i) *Permit prerequisite to issuance of improvement location permit or building permit.* The person, firm, corporation, or developer must obtain a driveway permit before an improvement location permit or building permit can be issued.
- (j) *Violations.* Any person, firm, corporation, or developer violating any of the provisions of this chapter shall be subject to a fine not to exceed the amount as set forth herein.
- (k) *Relocation or replacement of improvements.* The expense of relocating or replacing any and all improvements within the right-of-way shall be the sole responsibility of the permittee.
- (l) *Vehicles standing in roadway prohibited.* In no case shall vehicles be allowed to stand on any portion of the roadway. It shall be the owner's responsibility to close the entrance to the facility before such a condition occurs.
- (m) *Alteration.* No entrance shall be altered, relocated, or remodeled without the permission of the Town.
- (n) *Time limit for completing construction.* Construction of entrances and approaches shall be completed within one year of the issuance of a permit. If such construction is not completed within said time, an application for a new permit must be made.
- (o) *Angle.* The angle of any drive or approach shall be ninety (90) degrees unless otherwise approved by the Town.
- (p) *Loading docks.* When access is requested to a loading dock, there must be sufficient distance between the dock and the sidewalk or right-of-way to prevent encroachment while parking or maneuvering.
- (q) *Performance bond.* A performance bond shall be posted to insure compliance with the terms of the permit at the discretion of the Town department of public works or the Town building commissioner.
- (r) *Liability insurance.* Proof of liability insurance must be furnished to the Town.
- (s) *Right of Town to remove or barricade.* The Town reserves the right to remove or barricade any non-conforming access installations.

(Added by Ord. 2017-^^)

Sec. 8-54 - Application for permit

- (a) *Drawings required.* All applications for permits under this division shall be accompanied by clear drawings. One drawing must accompany each application form.
- (b) *Information to be shown on drawings.* Information to be shown on the drawings shall include a plot plan drawn to scale of the entire tract of land as recorded in the office of the county recorder. The drawings must also include properly dimensioned indications of the proposed improvements, their location, and intended use. The plot plan or additional detailed plans drawn to scale must also depict the following:
 - (1) Property lines.
 - (2) Rights-of-way lines and width.
 - (3) Nearest intersecting roads, streets or railroads on either side of the proposed driveway.
 - (4) Existing width and type of road surface.

- (5) Necessary and existing pipe, tile, or other drains, stating size and kind.
 - (6) Existing utilities.
 - (7) Proposed and existing driveways and approaches.
 - (8) Distance from right-of-way lines to existing and proposed structures, including gasoline pumps, signs, barriers, landscaping, etc.
 - (9) Proposed type of surface and width of driveways.
 - (10) Proposed type of surface and width of approaches.
 - (11) Proposed type of surface, length, and width of recovery and deceleration lanes, if required.
 - (12) Proposed radii.
 - (13) Proposed treatment of right-of-way areas adjacent to and between approaches.
 - (14) Proposed rate of slope or grade of approaches and driveways.
 - (15) Proposed internal parking details.
- (c) *Class III and Class IV.* Class III and Class IV entrance permit applications shall include a plot plan with all pertinent topography drawn to scale and properly dimensioned for at least 150 feet in each direction of the property, and on both sides of all roadways affected, i.e., all existing driveway entrances, approaches, and crossovers in the case of a median.
- (d) *Class I, Class II and Class V.* Class I, Class II, and Class V entrance permit application
- (e) Plans shall include to reasonable scale and reasonable dimensions all adjacent properties in each direction of the property requiring access and on both sides of all roadways, existing driveway entrances, approaches, and, in the case of a median, the crossovers affected.

(Added by Ord. 2017-^^)

Sec. 8-55 - Temporary permits

- (a) The issuance of a temporary permit for the construction of access driveways will be considered under the following circumstances:
- (1) Existing facilities which have been designated "limited access control highways"; or
 - (2) Existing highways with normal access control which are scheduled for improvement.
- (b) The temporary permit shall be submitted on a form designated by the Town.

(Added by Ord. 2017-^^)

Sec. 8-56 - Classes of entrances

- (a) All entrances from a street or highway to public or private property shall be generally classified as follows, and a permit required accordingly:
- (b) Residential entrance.
- (1) Class I: A driveway by which a street with a raised curb is connected to a one or two family residence and is used primarily by the owner or occupant of the premises. Access is gained to a residence, garage, barn, or other improved property.

- (2) Class II: A driveway by which a street without a raised curb, but only shoulders, is connected to a one or two family residence by the owner or occupant of the premises. Access is gained to a residence, garage, barn, or other improved property.

(c) Commercial entrance.

- (1) Class III: A driveway or driveways by which a street with a raised curb is connected to public or private property which is multi-residential, commercial, industrial, school, or church in nature.
- (2) Class IV: A driveway or driveways by which a street without a raised curb, but only shoulders, is connected to public or private property which is multi-residential, commercial, industrial, school, or church in nature.

(d) Private entrance.

- (1) Class V: A driveway connecting a street with unimproved property that is not used commercially, such as fields or vacant lots.

(Added by Ord. 2017-^^)

Sec. 8-57 - Specifications

- (a) The following general specifications shall apply to driveway entrances:

Class	Maximum Driveway Width	Divided Entrance	Recommended Entrances per Street	Approach Pavement Required
I	16	No	1	No
II	16	No	1	No
III	30	Yes	2	Yes*
IV	30	Yes	2	Yes*
V	20	No	1	No

- (b) Approach pavement may be required as specified herein, or as otherwise required by the Town.

(Added by Ord. 2017-^^)

Sec. 8-58 - Class I, II and V entrances for residential property, private garages, and other improved and unimproved properties

- (a) The following shall apply to Class I, II and V entrances for residential property, private garages, and other improved and unimproved properties:
- (1) The application shall be accompanied by a plot plan properly dimensioned, showing all existing driveway entrances, approaches, and other pertinent features.
 - (2) The location of driveways shall be such that no part of the radius shall extend beyond the extension of the adjacent property line, unless a written agreement is obtained from the adjacent property owner.
 - (3) Drive approach surfaces shall be of a type in accordance with the New Chicago Master Plan.
 - (4) All access geometrics, such as entrance, location, and driveway width, shall be in accordance with this division and current Town standards.

(Added by Ord. 2017-^^)

Sec. 8-59 - Class III and IV entrances for multi-residential, commercial, industrial, school and church properties

- (a) The following shall apply to Class III and IV entrances for multi-residential, Commercial, industrial, school and church properties:
- (1) General requirements.
 - i. No application for access to a public street or highway will be considered until all facilities within the development have been agreed upon. A completed site plan showing proposed use, improvements and layout of parking spaces shall be submitted to the Town.
 - ii. The application shall be accompanied by a plot plan (minimum scale 1" = 50'), properly dimensioned, showing all existing driveway entrances, approaches, and other pertinent planimetric and topographic features for distance equal to the sight distance as established by current Town standards.
 - iii. All access geometrics (minimum scale 1" = 50'), such as entrance location, driveway spacing and width, deceleration, recovery, and passing lanes, shall be in accordance with current Town standards.
 - iv. It shall be the responsibility of the permittee to construct any and all improvements as set forth by the permit at the time of the entrance construction.
 - (2) Special requirements.
 - i. *Two entrances.* Two (2) entrances may be permitted with a minimum of one hundred fifty (150) feet of frontage, based upon anticipated traffic generation, provided the distance from any driveway approach to an adjacent property line or alley way is a minimum of ten (10) feet. Minimum distance between drives shall be twenty (20) feet.
 - ii. *Divided entrance.* A divided entrance may be required for major traffic generators. The Town reserves the right to permit or require a divided entrance, based on the parking

- capacity of the establishment and the effect on the traffic service of the adjacent highway. Driveways shall be operated in a one-way pattern. The length of the median and barrier curb along the right edge of the entrance should be of sufficient length as to preclude the internal conflicts within the parking lot causing interference with traffic on the roadway.
- iii. *Entrances for use by tractor-trailers.* Entrances for use primarily by tractor-trailer combinations may be permitted by the Town. Wheel path templates shall be used to determine geometric design.
 - iv. *Traffic control signals.* Traffic control signals, if warranted, shall be in accordance with current standards. Installation shall be at entrances or exits, directly to or from the development, and power shall be furnished in compliance with the Industrial and Commercial Signal Policy, and in accordance with the terms of the permit. Subsequent to the installation, all traffic control signals will be operated, maintained, and be the property of the industry or commercial establishment requesting the signal. The Town shall determine the need for signal control, the design, and the type of signal to be installed. The Town shall regulate the timing and synchronization of the signals. A signed agreement between the Town and the permittee will be required.
 - v. *Median crossovers.* On divided highways, median crossovers will not be permitted unless the spacing is in conformance with current Town standards.
- (3) Design details.
- i. For establishments or developments with high turnover rates and limited parking area (i.e. restaurants, drug stores, grocery stores, etc.), the parking spaces shall be laid out in such a manner as to preclude entering vehicles from interfering with traffic on the roadway.
 - ii. The near edge of the driveway shall be a minimum of fifty (50) feet, or twenty-five (25) percent of the frontage, whichever is greater, from the existing or future proposed right-of-way line (extended) of the intersecting street.
 - iii. The capacity and storage requirements of the subject intersection shall be checked by the Town and based on a projection of the existing traffic volume for a period of ten (1) years, and if the indicated minimum dimensions are below storage requirements, they shall be increased accordingly.
 - iv. The permittee shall be responsible for any curbing, pavement widening, deceleration lanes, recovery lanes, islands, or drainage structures required.
 - v. All construction shall be of a structural design and type acceptable to the agency responsible for the adjacent roadway.
 - vi. No part of the driveway entrance may extend beyond a line extended perpendicularly from the roadway centerline to the point of intersection of the property line and the right-of-way without the written permission of the adjacent property owner.
 - vii. When the parking or driving area of a property is adjacent to a sidewalk or alley, then a suitable non-mountable barrier must be constructed to prevent encroachment.

(Added by Ord. 2017-^^)

Sec. 8-60 - Class III and IV entrances for gasoline service stations

The following shall apply to Class III and IV entrances for gasoline service stations:

(a) General requirements.

- (1) No application for access to a public street or highway will be considered until all facilities within the development have been agreed upon. A completed site plan showing improvements and layout shall be submitted to the Town.
- (2) The application shall be accompanied by a plot plan (minimum scale 1" = 50'), properly dimensioned, showing all existing driveway entrances, approaches, and other pertinent planimetric and topographic features for a distance equal to the sight distance as established by current Town standards.
- (3) All access geometrics, such as entrance location, driveway spacing and width, deceleration, and recovery and passing lanes, shall be in accordance with current Town standards.
- (4) No service station entrance will be permitted on any corner lot which has a frontage of one hundred (100) feet or less.

(b) Special requirements.

- (1) *Two entrances.* Two (2) entrances may be permitted with a minimum of one hundred fifty (150) feet of frontage based on the anticipated traffic generation provided the distance from any driveway approach to an adjacent property line or alley is a minimum of ten feet. Minimum distance between drives shall be twenty (20) feet.
- (2) *Multiple land use complexes.* Multiple land use complexes will be considered as a single site. Service stations constructed or to be constructed as an integral part of such a complex will not receive separate consideration for an entrance.
- (3) *Median crossovers on divided highways.* Median crossovers on divided highways will not be permitted unless the spacing is in conformance with current Town standards.

(c) Design details.

- (1) No part of the driveway entrance may extend beyond a line perpendicular from the roadway centerline to the point of intersection of the property line and the right-of-way without the written permission of the adjacent property owner.
- (2) A tangent line projected from the end of the approach curb radius must be parallel to the centerline of the roadway.
- (3) The permittee shall be responsible for any curbing, pavement widening, deceleration lanes, recovery lanes, islands, or drainage structures required. All construction shall be of a structural design and type acceptable to the agency responsible for the adjacent roadway.
- (4) All pump islands must be located a minimum of ten feet from the right-of-way line, or as required by the state fire marshal.
- (5) The near edge of the driveway shall be a minimum of fifty (50) feet or twenty-five (25) percent of the frontage, whichever is greater, from the existing or future proposed right-of-way line (extended) of the intersecting street.
- (6) When parking or driving area of a property is adjacent to a sidewalk or an alley, then a suitable non-mountable barrier must be constructed to prevent encroachment.

(Added by Ord. 2017-^^)

Sec. 8-61 - Class III and IV entrances for car washes and drive-in businesses

The following shall apply to Class III and IV entrances for car washes and drive-in businesses:

- (a) No application for access to a public street or highway will be considered until all facilities within the development have been agreed upon. A completed site plan showing improvements and layout shall be submitted to the Town.
- (b) The application must be accompanied by a plot plan (minimum scale 1" = 50'), properly dimensioned, showing all existing driveway entrances, approaches, and other pertinent planimetric and topographic features for a distance equal to the sight distance established by current Town standards.
- (c) All access geometrics such as entrance location, driveway spacing and width, deceleration, and recovery and passing lanes, shall be in accordance with current Town standards.

(Added by Ord. 2017-^^)

Chapter 9 – Building Code

Article 1 – In general

Sec. 9-1 - Title

This Chapter, and all ordinances supplemental or amendatory hereto, shall be known as the Building, Structure, and Location Improvement Code of the Town of New Chicago, may be cited thus, and will be referred to herein as this chapter.

(Added in 1997)

Sec. 9-2 - Purpose

The purpose of this chapter 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, structures, and other location improvements.

(Added in 1997)

Sec. 9-3 - Authority

- (a) The Building Commissioner of the Town, hereinafter referred to as the Administrator, is hereby authorized and directed to administer and enforce all of the provisions of this chapter. The electrical inspector and plumbing inspector shall also be considered as the “Administrator” for any purpose which falls within said inspector’s authority.
- (b) Whenever in this chapter it is provided that anything must be done to the approval of, or subject to the direction of, the Administrator, or any other officer of the Town, this shall be construed to give that officer only the discretion of determining whether this chapter has been complied with; and no provision shall be construed as giving any officer discretionary powers as to what this chapter shall be, in an arbitrary or discriminatory manner. Any variance from the adopted building rules is subject to approval under IC § 22-13-2-7(b).

(Added in 1997)

Sec. 9-4 - Application

The provisions of this chapter apply to the construction, alteration, repair, use, occupancy, and addition to all buildings, structures, and other location improvements other than industrialized building systems or mobile structures certified under IC § 22-15-4, in the Town.

(Added in 1997)

Sec. 9-5 – State regulations adopted by reference

- (a) Pursuant to IC § 22-13-2-3(b), the rules of the Indiana Fire Prevention and Building Safety Commission as set out in the following Articles of Title 675 of the Indiana Administrative Code are hereby incorporated by reference in this Code and shall include any later amendments to those rules:

- (1) Article 13--- Building Codes:
 - i. Fire and Building Safety Standards.
 - ii. Indiana Building Code.

A. Indiana Building Code Standards.

(2) Indiana Handicapped Accessibility Code

- i. Article 14---Indiana Residential Code.
- ii. Article 16---Indiana Plumbing Code.
- iii. Article 17---Indiana Electrical Code.
- iv. Article 18---Indiana Mechanical Code.
- v. Article 19---Indiana Energy Conservation Code.
- vi. Article 20---Indiana Swimming Pool Code.
- vii. Article 22---Indiana Fire Code.
- viii. Article 24---Migrant Day Care Nursery Fire Safety Code.
- ix. Article 25---Indiana Fuel Gas Code.

(b) The Building Commissioner and the Fire Department may grant a variance to the fire safety laws and building laws adopted in this section. Pursuant to IC § 22-13-2-7(b), a variance granted by the Building Commissioner is not effective until it has been approved by the Fire Department.

Sec. 9-6 – Standards

- (a) All work on the construction, alteration, and repair of buildings, structures, and other location improvements shall be performed in a good and workmanlike manner according to accepted standards and practices in the trade.
- (b) All work on the construction, alteration, and repair of buildings, structures, and other location improvements which shall be audible outside of the structure shall be performed between 7:00 a.m. and 9:00 p.m.

(Added by Ord. Ord. 2017-^^)

Sec. 9-7 – Inspections by the Building Commissioner

The building commissioner shall regularly inspect twice a year all buildings used for schools, auditoriums, theaters, hotels, hospitals, lodge halls, and places of public assembly, and once each year all buildings used for manufacturing purposes, factories, storage, and warehouses. He shall examine such building for the purpose of determining the safety thereof in the event of fire or accident, the entrances, openings, passageways, halls, stairways, fire escapes and other means of exit or egress. He shall examine the strengths of floors of such building, examine the storage contents both from the standpoint of load and the safeguard taken therefore for the control of fires and limitations of conflagration. He shall issue orders for remedying any difficulties of this character under his observations and cause the immediate prosecution of any person violating the law or ordinance in relation thereto.

(Added in 1997)

Sec. 9-8 – Violation

Any person violating any provision of this chapter shall commit a violation. A first violation shall be punishable by a fine of no less than one hundred dollars (\$100.00) or more than two thousand five dollars

(\$2,5000.0). Any subsequent violation shall be punishable by a fine of no more than seven thousand five hundred dollars (\$7,500.00).

(Added in 1997)

Sections 9-9 through 9-20 – Reserved.

Article 2 – Building permits

Sec. 9-21 – Permit for construction, alteration, plumbing, or electrical work required.

No home, building, garage, outhouse, or portion thereof shall be installed, constructed, repaired, or altered except in conformity with this chapter before a permit has been issued for such work, providing, however, that no permit shall be issued for the installation, construction or building of any home, building, or garage fronting on any street unless a proper road shall be built on said street in accordance with applicable ordinances. Permits are also required for electrical, plumbing, swimming pools, and any other alteration to or building a new home. Any other Chapters of the Town Code in conflict with Chapter 3 shall be null and void. In addition to the above requirements the following are also part of this ordinance.

- (a) A permit need not be obtained if the cost of the work is less than two-hundred dollars (\$200.00) as calculated by the Commissioners
- (b) A permit is required prior to the occupancy of any building or structure.
- (c) A permit shall be obtained prior to the installation of any solid fuel burning appliance in any building or structure.
- (d) A permit shall be obtained prior to the construction of any fence.
- (e) All permits shall be issued by the commissioner in charge and are payable to the Clerk-Treasurer of New Chicago in the name of the appropriate commissioner.
- (f) New homes are required to put in sidewalks, curbs streets, and storm sewers.
- (g) Electrical power shut off to any facility for a period of ninety (90) days requires an electrical certification by the electrical inspector prior to turning on power.
- (h) Anytime police or fire department are called for damage to public building or private dwelling, a building and electrical inspection are required.

(Last amended in 1997 as former ordinance 3-8. Recodified without changes by 2017-^^)

Sec. 9-22 – Compliance with other ordinances

All work done under any permit shall be in full compliance with all other ordinances and Codes of the Town, the county, and the state pertaining thereto, and in addition to the fees for permits, there shall be paid the fees prescribed in any applicable ordinances.

(Added by Ord. 2017-^^)

Sec. 9-23 – Permit application, certification of inspections

- (a) The application for a permit shall be a sworn affidavit to cover the exact cost of work contemplated, its cost in full, and its location, the proper drawings must accompany the application for a permit with all necessary details and data sheets. The permit shall give all information relative to the owner, the architect or superintendent, the contractor, the cost of the building and the price of the building permit. It shall also state the length of time allowed for the construction of the building.
- (b) The applicant for a building permit shall be required to state in the affidavit made by him or his architect, engineer, contractor, or agent that:
 - (1) The plans and specifications covering the contemplated operations are intended to comply with this chapter.
 - (2) The plans and specifications do or do not include everything required for the completion of the contemplated operations and its intended occupancy.
 - (3) The exact cost of the operation is inclusive of all items necessary for completion and if not inclusive shall state such items as may be omitted for the total cost and estimate of their cost.
 - (4) All calculations and computations pertaining to the strength and stability of the contemplated structure have been made by an individual recognized as legally competent to make such computations, be exhibited to the building commissioner for the purposes of verification, investigation, or public record.
 - (5) An accurate copy of all such computations shall be on file and preserved by such person making such computation; and will upon demand be exhibited to the building commissioner for the purpose of verification, investigation, or public record.
 - (6) If additional work is required that is not covered in full in an original application, he shall be required to submit additional affidavits to conform to meet the requirements of clauses (b), (1) to (5), inclusive, and an additional permit must be applied for before any actual work is begun.
 - (7) The building commissioner will be notified in writing seven days before the occupancy of any building constructed under the terms of this chapter.
 - (8) A certificate of inspection will be issued by the building commissioner when the construction of same conforms to the terms of this chapter, provide, however, that no certificate of inspection shall be required where the total cost of a building operation is less than two-thousand dollars (\$2000.00).

(Last amended in 1997 as former ordinance 3-9. Recodified without changes by ord. 2017-^^)

Sec. 9-24 - Fees

(a) Building

- (1) The building permit fee shall be \$3.00 per \$1,000.00 of the estimated construction cost. Estimated construction cost for buildings, maintenance, and remodeling projects shall be based on the square footage multiplied by the building valuation data average costs published by the International Conference of Building Officials as amended from time to time.

- (2) The minimum permit fee shall be twenty dollars (\$20.00). An occupancy permit fee, in the amount of twenty dollars (\$20.00), shall be charged for each permit issued, excepting for residential accessory buildings or structures or maintenance work.
- (3) The occupancy fee shall be collected at the time the building permit was issued.
- (4) An additional inspection fee in the amount of fifty dollars (\$50.00) shall be due and payable in advance for each inspection required in excess of three (3) when these inspections are necessary because of the owners or contractor's incomplete or deficient work or the inspector's inability to gain access to the premises.
- (5) All recorded calls for damage to public buildings or private dwellings requires both electrical and building inspections.

(b) Electrical

- (1) When obtaining an electrical permit, a fee of twenty-five dollars (\$25.00) payable to the electrical inspector shall be collected by the Clerk-Treasurer to cover the first two (2) inspections by the electrical inspector for work provided under the permit.
- (2) Fees and applications for electric signs: Applications for all electric signs shall be ten cents per square foot per side (no work shall be started until a building and electrical permit is obtained).
- (3) Temporary electric service. The electrical inspector may issue a temporary use permit for electric power to the owner or contractor of a building or structure being erected, altered, or repaired in compliance with the provisions of this article. Each owner or contractor shall be required to deposit with the Town Clerk-Treasurer at the time said temporary use permit is used the sum of one hundred fifty dollars (\$150.00) for each temporary service. The deposit will be refunded to the owner or contractor at the time an "Occupancy permit" is issued. In the event the building or structure is occupied prior to final inspections as provided in this article had prior to the issuance of an "Occupancy permit", said deposit shall be forfeited and paid into the General Fund of the Town of New Chicago.
- (4) Any additional inspections shall result in additional fees being charged when these inspections are the result of the owner or the contractor's incomplete or deficient work, or inspector's inability to gain access to the premises. This fee shall be at the rate of twenty-five dollars (\$25.00) per hour or fraction thereof.

(c) Plumbing.

- (1) The fees for a plumbing permit shall be computed on the following schedule
 - i. Installation of a water heater, waste discharging device or plumbing fixtures: three dollars (\$3.00)
 - ii. Repair or alteration of plumbing system: twenty-five dollars (\$25.00)
 - iii. Extra inspections: Twenty-five dollars (\$25.00) in excess of three inspections.
 - iv. Minimum fee for any permit requiring an inspection: twenty-five dollars (\$25.00)
 - v. Swimming pools: Twenty-five dollars (\$25.00) over 2500 gallons along with a building permit.
 - vi. All fees are payable to the Clerk-Treasurer in the name of the Plumbing Inspector.

(Codified in 1997 as former ordinance 3-11. Recodified without changes by 2017-^^)

Sec. 9-25 - Waste and recycling

- (a) Each person and/or entity applying for business building permits shall provide as part of their submission a plan describing how their solid waste will be managed, including reduction, reuse, and recycling steps taken to reduce their waste stream, which plan shall be subject to approval as provided under the applicable chapter.
- (b) Each person or entity applying for building permits for multi-family structures, including but not limited to duplexes, fourplexes, and other such structures, shall provide as part of their submission a plan describing how the solid waste for the occupants of such structures will be managed, including reduction, refuse, and recycling steps taken to reduce their waste stream, which plan shall be subject to approval as provided under the above-cited ordinance.
- (c) Each individual, business, or other entity or any other applicant, upon being permitted to demolish any structure, be it residential, business, or otherwise, or obtaining any renewal thereof, to provide as part of its submission plan describing how the material will be managed, including education, reuse and recycling steps taken to reduce its waste stream, which plan shall be subject to approval as provided under the above-cited ordinance.

(Added by Ord. Ord. 94-13. Amended by Ord. 2005-12, 2005-14 and 2017-^^)

Sec. 9-26 - Application review

Prior to the issuance of any building permit, the Administrator shall:

- (a) Review all building permit applications to determine full compliance with this chapter.
- (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 floodplain 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 floodplain 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 flotation, collapse, or lateral movement of the structure, flood damage; and
 - (3) Uses construction methods and practices that will minimize flood damage.
- (e) Review Town records to determine whether the applicant has any outstanding fees, fines, or other costs due the Town. All such outstanding fees, fines, or other costs due the Town shall be paid in full prior to the issuance of any new permit under this chapter.
- (f) All permits shall expire six (6) months from the date of issue. In the event that the project is not yet complete, the permit holder may apply for one (1) six month extension at no additional fee upon presentation of evidence that substantial steps have been taken to complete the project.

(Added by Ord. 2017-^^)

Sec. 9-27 – Manner of obtaining records of applications and fees: Record of operations

A permit licensing building operations shall be obtained in the following manner.

- (a) The applicant, upon submitting the plans and specifications for the contemplated operations, shall sign an application form furnished by the building, electrical, or plumbing commissioners.
- (b) This application shall state in detail everything contemplated in the proposed operations and shall be in duplicate. The duplicate then upon presentation to the Town Clerk becomes an order upon the Town Clerk for the issuance of such license for these operations.
- (c) The fee stated upon the application form shall be the amount paid to the Town Clerk for the license. This fee will then be remitted to the building commissioner.
- (d) The record of all applications shall be maintained by the building commissioner and the number on the application forms shall correspond with the numbers on the license forms issued by the Town Clerk and all records of operations shall be maintained in detail by the Building Commissioner.

(Codified in 1997 as former ordinance 3-10. Recodified without changes by 2017-^^)

Sec. 9-28 – Commencement of Preliminary work – Display of Permit

No work shall be started, no materials shall be stored on any premises for the construction of any work, no enclosing or protecting devices shall be used or erected, nor excavations shall be made without first obtaining a permit to carry on the contemplated work. Upon the issuance of the permit, the permit must be immediately displayed in a conspicuous place upon the building or premises and shall not be removed until the work is completed. The failure to obtain a license or to display the same in a conspicuous place shall be prosecuted as a violation.

(Codified in 1997 as former ordinance 3-12. Recodified without changes by 2017-^^)

Sec. 9-29 – Rights and privileges conveyed

- (a) The license for the building operations cover only the work contemplated for the licensed project and does not give any owner, agent, architect, contractor, or craftsman any right or privilege except those pertaining to the construction of the work or the maintenance of the same under the terms of his chapter.
- (b) The rights of the use of sidewalks, streets, alleys and public thoroughfares for the storage of building materials or the preparation of same is hereby forbidden; provided however, in isolated places storage of materials on public ways may be permitted if the owner, contractor, or sub-contractor will enter into an agreement in writing with the Town assuming all liabilities of any nature growing out of a suit, this can only be obtained upon written application and a permit from the Clerk-Treasurer and approval by the Street Superintendent and Chief of Police.

(Codified in 1997 as former ordinance 3-13. Recodified without changes by 2017-^^)

Sec. 9-30 – Permit for electrical and plumbing work

No permit for electrical or plumbing work shall be issued unless there first shall be issued a building permit where such building permit is otherwise required under this chapter.

(Codified in 1997 as former ordinance 3-14. Recodified without changes by 2017-^^)

Sec. 9-31 – Precautions to be taken for protection of life and property

- (a) No building project may proceed without the contractor or his authorized agent taking the proper precautions for the protection of life and property.
- (b) Where the permission is given for the storage of materials or where excavations have been made, or where anything in or about any work or construction is being undertaken, there shall be properly displayed all necessary warning signs, red lights, and danger signals.
- (c) All red lights or lanterns must be lighted before sundown and kept burning throughout the night until sunrise.

(Codified in 1997 as former ordinance 3-15, Recodified without changes by 2017-^^)

Sec. 9-32 – Permit for moving buildings

- (a) No building, including mobile homes or manufactured homes, shall be moved to a new location within the Town limits without a permit being first issued therefore by authority of the Town Council. The person desiring such removal shall file with the Building Commissioner his written application, setting forth the kind of building to be moved, its original cost, its dimensions, in extreme length, height and width, its present locations, and the particular lot or site to which it is proposed to be moved.
- (b) The Building Commissioner shall thoroughly examine such building and refer the papers aforesaid relating to its removal, to the Town Council, together with his opinion endorsed in writing upon the application, as to the present value of the building, compared with the original costs, and whether the proposed removal can be made without serious injury to person or property. The Town Council may then issue a permit for such removal designating therein the particular streets or alleys along which the removal shall be made. Serious damage to pavements or other public improvements will be reimbursed to the Town.
- (c) The Town Council as a condition precedent to the issuance of such permit shall require a bond to be executed by the person desiring such removal with surety to the satisfaction of the Council. The bond shall be in terms and for such amount to compensate or repair all damage whatsoever occasioned by or incident to such removal and to pay to the Town as liquidated damages an amount not exceeding fifty (50) dollars to be prescribed by the council for each and every day delayed in completing such removal or in repairing any damages to the public property or public improvements, in clearing public highways of all debris occasioned thereby. Damages above mentioned relate to shade trees,

pavements, curbing, and other public property which may in any way be effected by the removal of house and structures.

- (d) No building or part of a building shall be moved through the highways of the town without the payment of a fee of ten dollars (\$10.00). Buildings in excess of twenty-five thousand (25,000) cubic feet in area shall be estimated on the basis of two dollars (\$2.00) for each one thousand (1,000) cubic feet or fractional part thereof. Such payments to be made under the conditions as expressed for general permits as provided in this chapter.

(Codified in 1997 as former ordinances 3-16, 3-17, 3-18, and 3-19. Each former ordinance is recodified, verbatim, as a subpart herein)

Sec. 9-33 through 9-40 – Reserved.

Article 3 – Building Code; administration and enforcement

Sec. 9-41 – Inspections

- (a) After the issuance of any building permit, the Administrator shall make, or cause to be made, 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.
- (b) Reinspections are required for any work found to be not in compliance with this chapter, incomplete, or not ready for inspection. Reinspections are subject to assessment of reinspection fees as prescribed by any fee schedule adopted by Town ordinance.
- (c) The Chief of the Fire Department having jurisdiction in the specific area of the Town affected, or his or her designated representative, shall assist the Administrator in the inspection of fire suppression, detection, and alarm systems and shall provide reports of this inspection to the Administrator. The Fire Department may also designate a representative to participate in review of permit applications which have or should have fire suppression, detection, or alarm systems.

(Added by Ord. 2017-^^)

Sec. 9-42 – Right of entry

Upon presentation of proper credentials, the Administrator, plumbing inspector, electrical inspector or any of his or her duly authorized representatives, may enter at reasonable times any building, structure, or premises in the Town to perform any duty imposed on him or her by this chapter.

(Added by Ord. 2017-^^)

Sec. 9-43 – Stop order

Whenever any work is being done contrary to the provisions of this chapter, the Administrator may order the work stopped by notice in writing served on any persons engaged in the doing or causing that work to be done, and those persons shall forthwith stop that work until authorized by the Administrator to proceed with the work.

(Added by Ord. 2017-^^)

Sec. 9-44 – Certificate of occupancy; compliance required

- (a) No certificate of occupancy for any building or structure constructed after adoption of this chapter shall be issued unless that building or structure was constructed in compliance with the provisions of this chapter.
- (b) It shall be unlawful to occupy any thus described building or structure unless a full, partial, or temporary certificate of occupancy has been issued by the Administrator.

(Added by Ord. 2017-^^)

Sec. 9-45 - Violations

- (a) It shall be unlawful for any person, firm, or corporation, whether owner, lessee, sub-lessee, or occupant, to erect, construct, enlarge, alter, repair, improve, remove, convert, demolish, equip, use, occupy, or maintain any building, structure, or other location improvement, including but not limited to changes or improvements to drainage and stormwater management systems in the Town, or to cause or permit the same to be done, contrary to or in violation of the provisions of this chapter.
- (b) Upon the request by the Administrator or Planning Commission, the Town Attorney shall in the name of the Town of New Chicago bring actions in courts of competent jurisdiction for mandatory and injunctive relief in enforcement of and to secure compliance with any order made by the Hearings Officer, and any such action for mandatory or injunctive relief may be joined with an action to recover any penalties provided for by ordinance.

(Added by Ord. 2017-^^)

Sec. 9-46 - Right of appeal

All persons shall have the right to appeal any order of the Administrator, first through the Town and then to the Fire Prevention and Building Safety Commission of the state, in accordance with the provisions of IC § 22-13-2-7 and IC § 4-21.5-3-7.

(Added by Ord. 2017-^^)

Sec. 9-47 - Remedies

- (a) The Administrator shall refer matters to the Town Attorney who may, in the name of the Town, bring actions in the superior or circuit courts of the county for mandatory and injunctive relief in the enforcement of, and to secure compliance with, any order or orders made by the Administrator. Any action for mandatory or injunctive relief may be joined with an action to recover the penalties provided for in this chapter.
- (b) 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 Administrator, or shall fail, neglect, or refuse to obey any lawful order given by the Administrator in connection with the provisions of this chapter, then for each violation, failure, or refusal, that person, firm, or corporation shall be fined. Each day of unlawful activity as is prohibited by the first sentence of this division shall constitute a separate offense.
- (c) The penalty for a failure to obtain any license or permit pursuant to the requirements of this article shall be punishable by the greater of one hundred dollars (\$100.00) or triple the cost of the fine or permit. However, any fines which would be tripled to an amount between two hundred fifty (250.00) to three hundred dollars (\$300.00) shall be reduced to no greater than two hundred fifty dollars (\$250.00).

(Added by Ord. 2017-^^)

Sections 9-48 through 9-60 – Reserved.

Article 4 - Supplemental electrical regulations

Division 1 - Generally

Sec. 9-61 - Purpose

The following article is adopted by the Town, as necessary for the protection of public health, governing the work of electrical contractors and the installation of electrical systems in the Town.

(Added by Ord. 2017-^^)

Sec. 9-62 - Exemptions

This article does not apply to the installation, maintenance, or repair of elevators or to work in connection with the erection, construction, maintenance, or repair of lines for the transmission of electricity from the sources of supply to the service head on the premises where used by public service companies authorized to make or sell electricity, nor to the work of such companies whose buildings are fireproof by nature and located two hundred (200) feet from any residence and who regularly employ electricians for that work.

(Added by Ord. 2017-^^)

Sec. 9-63 - Electrical work to be tested and inspected

- (a) No wiring and electrical work of any nature shall be covered or concealed from view until the work has been inspected, tested, and approved by the electrical inspector. The electrical contractor shall notify the inspector when work is ready for inspection.
- (b) In the event that any work is covered or concealed, the Inspector may require any work to be uncovered or unconcealed in order to inspect the electrical work.
- (c) No person shall use any electrical system, or cause or allow electricity to be turned into new systems except for the purpose of testing the system before the inspector has tested and approved the system.
- (d) Upon receipt of the electrician's notification that work is ready for test and inspection, the inspector shall, within twenty-four (24) hours, make one (1) inspection or fix an appointment within a reasonable time when such inspection shall be made.
- (e) The first inspection shall be made when the electrical work has been roughly fixed and regulated in accordance with the provisions of this article. The second inspection shall be made upon the completion of the electrical work. If deemed necessary to ensure compliance with this code, the Inspector may require additional inspections. Contractors or persons making application for inspection of the electrical work shall make provisions for the inspector to gain entrance or have access to the building in which work is being done.

(Added by Ord. 2017-^^)

Sec. 9-64 - Certificates of inspection

- (a) After all electrical work in and for a building has been completed, tested, and inspected and approved in accordance with provisions of this article, the inspector shall issue to the electrical contractor a certificate of inspection.
- (b) No electric current shall be turned on in any building until a certificate has been issued by the Town electrical inspector, showing that the wiring has been done according to the rules and regulations covering the wiring.
- (c) The use of electrical current previous to the issuance of the certificate of final inspection is declared to be unlawful.
- (d) Current needed during the course of construction (i.e. for lighting or use of tools) or alteration may be had by a temporary pole installation or portable generator.

(Added by Ord. 2017-^^)

Sec. 9-65 - Dangerous and unsafe installations

- (a) Whenever any unsafe conditions exist or any construction or work regulated by this article is dangerous, unsafe, or a menace to life, health, or property, or is in violation of this article, the electrical inspector shall order any person using or maintaining any such condition or responsible for

the use or maintenance thereof to discontinue, repair, alter, change, remove, or demolish same as he may consider necessary for the proper protection of life, health, or property and may order any person supplying electricity to any such wiring or device to discontinue such supply until the same is made safe to life, health, or property.

- (b) Every such order shall be in writing, addressed to the owner, agent, or person responsible for the premises in which such condition exists and shall specify the date or time within which correction shall be made.
- (c) A reasonable time shall be allowed for compliance with the order commensurate with good safety standards, as locally practiced.

(Added by Ord. 2017-^^)

Sections 9-66 through 9-75 – Reserved.

Sec. 9-76 - Electrical inspector—office created

There is created and continued in the Town the office of electrical inspector, such inspector to be appointed by the Town Council. He shall be well versed in the National Electrical Code. He shall not be actively engaged or financially interested, directly or indirectly, in the electrical business in the Town. The Town Council may appoint such assistants to the electrical inspector as may be necessary to efficiently carry out the duties prescribed in this division. Each such assistant shall have the qualifications as set forth in this section.

(Added by Ord. 2017-^^)

Sec. 9-77 - Same—Duties

The electrical inspector shall efficiently administer the provisions of this chapter, and amendments thereto, and shall perform the following duties:

- (a) Require submission of, examine and check plans and specifications, drawings, descriptions, or diagrams necessary to show clearly the character, kind, and extent of electrical work covered by applications for a permit, and upon approval thereof, the Clerk-Treasurer shall issue the permit applied for.
- (b) Inspect all electrical work authorized by any permit to ensure compliance with provisions of this chapter, or amendments thereto, approving or condemning the work in whole or in part, as conditions require.
- (c) Issue a certificate of approval for any work approved by him/her.
- (d) Condemn and reject all work done or being done or materials used or being used which do not in all respects comply with the provisions of this chapter, and amendments thereto, and notify the person in writing of any condemnations or violations.

- (e) Order changes in workmanship or materials essential to obtain compliance with all provisions of this chapter.
- (f) Investigate any construction or work regulated by this chapter and issue such notices and orders as provided for in this chapter.
- (g) Keep a complete record of all the essential transactions of his/her office.
- (h) Enforce rules from time to time to meet conditions that may arise and which are not specifically covered by this chapter.
- (i) Maintain an official register of all persons entitled to carry on or engage in the business of electrical work or to labor at the trade of electrical work to whom an electrical license has been issued in accordance with the provisions of this chapter.

(Added by Ord. 2017-^^)

Sec. 9-78 - Same—Identification; right of entry for inspection

The electrical inspector and assistant electrical inspectors shall carry credentials of their office, upon exhibition of which they shall have the right of entry, at a reasonable time, to inspect any and all buildings and premises in the performance of their duties.

(Added by Ord. 2017-^^)

Sections 9-79 through 9-90 - Reserved.

Division 2 - Permit

Sec. 9-91 - Required; exception

- (a) No person, whether acting as principal, servant, agent, or employee shall do, or cause or permit to be done, any electrical work for which a permit is required without first securing such a permit therefor from the Electrical Inspector.
- (b) No permit shall be required in the case of any minor electrical repair work; however, such work shall be done by a licensed electrical contractor or by the homeowner occupying the premises. Minor electrical repairs shall include the following only:
 - (1) Replacing or repairing flush and snap switches.
 - (2) Repairing cutouts.
 - (3) Changing lamp sockets and receptacles.
 - (4) Taping bare joints and the repairing of drop cords.

(Added by Ord. 2017-^^)

Sec. 9-92 - Eligibility

- (a) No permit shall be issued to do, or cause to be done, anything or act regulated by this chapter except to a person holding a valid, unexpired, and unrevoked electrical license, as required by this chapter, except as otherwise provided in this section.
- (b) A permit may be issued to any person to do anything or act regulated by this chapter in a single-family dwelling used exclusively for living purposes, including the usual accessory buildings, if such a person is the bona fide owner of any such dwelling and accessory buildings and the same are occupied by or designed to be occupied by the owner, provided that the owner shall personally purchase all materials and shall personally perform all labor in connection therewith.
- (c) The electrical permit fee shall be paid before starting work.
- (d) No electrical work for which a permit is required shall be commenced in any building or premises until a permit to do such work is first obtained.
- (e) No electrical permit shall be issued to any electrical contractor while the contractor is in violation of any of the provisions of this chapter or rules or regulations provided in this chapter.
- (f) Neither the issuance nor granting of a permit, nor the approval of plans and specifications shall be deemed or construed to be a permit for, or an approval of, any violation of any of the provisions of this chapter.
- (g) No permit presuming to give authority to violate or cancel the provisions of this chapter shall be valid except insofar as the work or use which it authorizes is lawful.

(Added by Ord. 2017-^^)

Sec. 9-93 - Application

- (a) Any person legally entitled to apply for and receive a permit shall make such application at the Town Hall for review and approval by the electrical inspector.
- (b) He shall give a description of the character of the work proposed to be done and the location, ownership, occupancy, and use of the premises in connection therewith.

(Added by Ord. 2017-^^)

Sec. 9-94 – Reserved.**Sec. 9-95 - Expiration**

Every permit issued by the Electrical Inspector under the provisions of this chapter shall expire by limitation and become null and void if the work authorized by such permit is not commenced within six (6) months from the date of such permit, or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of sixty (60) days. Before such work can be recommenced, a new permit therefor shall be first obtained.

(Added by Ord. 2017-^^)

Sec. 9-96 – Allowing others to use permit; penalty

Any electrical contractor who permits any unlicensed contractor to use his/her electrical permit to do any electrical work in the Town shall be guilty of an offense, pay a fine of no less than three hundred dollars (\$300.00), and shall forfeit his/her license in the Town of New Chicago. He shall be ineligible to receive a new license in a town of New Chicago for a period of six (6) months. If said contractor has been previously suspended under this article, he shall be suspended for a period of twelve (12) months. Any contractor who has been suspended twice under this provision who commits a third such violation shall be permanently barred from receiving a license in the Town.

(Added by Ord. 2017-^^)

Sections 9-97 through 9-160 – Reserved.

Article 5 – Supplemental plumbing regulations

Division 1 - Generally

Sec. 9-161 - Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Plumbing means the installing of the pipes, fixtures, and other apparatus necessary either for supplying water or for removing liquid and waterborne wastes, or both. The term is also used to denote installed fixtures, drainage and vent systems, water distribution systems, and gas piping.

Plumbing contractor means any principal connected with and engaged in the plumbing contracting business for the installation of plumbing and gas piping.

(Added by Ord. 2017-^^)

Sec. 9-162 - Privies and septic tanks

- (a) No permanent privy shall be allowed on any premises in the Town.
- (b) Sanitary sewage drainage shall be provided for either by septic tank or connection with Town sewers.
No septic tank shall be allowed on any premises adjacent to an accepted sewer, and in such cases all drains, soil and waste pipes shall be connected with sewers before the job will be approved.
- (c) Septic systems shall be installed in accordance with the state board of health regulations.

(Added by Ord. 2017-^^)

Sec. 9-163 - Connecting sewers to old buildings

There shall be no connecting sewers to old buildings until after an inspection is conducted by the plumbing inspector.

(Added by Ord. 2017-^^)

Sec. 9-164 - Soil or waste pipes

Soil or waste pipes placed in any building for future use shall be ventilated, tested, and inspected and conformed to the rules in every way as though intended for immediate use. All openings shall be closed by screw plugs, caulked, or soldered.

(Added by Ord. 2017-^^)

Sec. 9-165 - Water service pipes; size

- (a) The minimum size of water service pipe reaching from property line to building shall be of three-quarter inch and of type K copper.
- (b) It shall be permissible for such water service pipe, two-inch or larger, to be cast iron water main with approved gasket.
- (c) Installation of any new or replacement lead pipe is prohibited.

(Added by Ord. 2017-^^)

Sec. 9-166 - Water pressure

- (a) *Inadequate water pressure.* Whenever the water pressure in the main or other sources of supply will not provide a water pressure of at least fifteen (15) pounds, after allowing for friction and other pressure losses, a tank pump or other means which will provide the fifteen (15) pounds pressure shall be installed.
- (b) *Excessive water pressure.* Where the local water pressure is in excess of one hundred (100) pounds per square inch, a pressure regulator shall be installed, and the pressure reduced to one hundred (100) pounds per square inch or less. However, all pipe sizes must be based on eighty (80) percent of the reduced pressure.

(Added by Ord. 2017-^^)

Sec. 9-167 - Lawn sprinkler systems

Lawn sprinkler systems shall be equipped with vacuum breakers on the discharge side of each of the last valves. The vacuum breakers shall be mounted not less than four (4) inches above the highest sprinkler head and not less than four inches above the surrounding finish grade. Where combination control valves and vacuum breakers are installed, the bottom of the valve shall be the bottom of the vacuum breakers.

(Added by Ord. 2017-^^)

Sec. 9-168 - Well pumps, gas installations, sump pits

- (a) Installation of well pumps shall be in accordance with the state board of health regulations.
- (b) Gas installations to be in accordance with the current rules and regulations of the American Gas Association.
- (c) All sump pits shall have solid watertight bottoms.

(Added by Ord. 2017-^^)

Sec. 9-169 - Cross connections between private, public water systems

There shall be no cross connection between private water supply and the public water supply.

(Added by Ord. 2017-^^)

Sections 9-170 through 9-180 – Reserved.**Division 2- Administration and enforcement****Sec. 9-181 - Inspector of plumbing; appointment; duties**

- (a) The Town Council shall appoint an inspector of plumbing and such assistants as needed, each of whom shall be duly licensed plumbers.
- (b) Such persons shall not be actively engaged or financially interested, directly or indirectly, in the plumbing business in the Town.
- (c) The plumbing inspector shall efficiently administer the provisions of this article, and
 - (1) Require submission of, examine and check plans and specifications, drawings, descriptions, or diagrams necessary to show clearly the character, kind, and extent of plumbing work covered by applications for a permit, and, upon approval thereof, the Plumbing Inspector shall issue the permit applied for.
 - (2) Inspect all plumbing and drainage work authorized by any permit to ensure compliance with provisions of this article, or amendments thereto, approving or condemning the work in whole or in part as conditions require.

- (3) Issue a certificate of approval for any work approved by him/her.
- (4) Condemn and reject all work done or being done or materials used or being used which do not in all respects comply with the provisions of this article, and amendments thereto, and notify the person in writing of any condemnations or violations.
- (5) Order changes in workmanship or materials essential to obtain compliance with all provisions of this article.
- (6) Investigate any construction or work regulated by this article and issue such notices and orders as provided for in this article.
- (7) Keep a complete record of all the essential transactions of his/her office.
- (8) Maintain an official register of all persons entitled to carry on or engage in the business of plumbing or to labor at the trade of plumbing to whom a plumber's license has been issued in accordance with provisions of this article.

(Added by Ord. 2017-^^)

Sec. 9-183 - Right of entry; identification

The plumbing inspector and assistant plumbing inspectors shall wear official badges and carry credentials of their office, upon exhibition of which they shall have the right of entry, at a reasonable time, to inspect any and all buildings and premises in the performance of their duties.

(Added by Ord. 2017-^^)

Sec. 9-184 - Correction, removal of unsanitary or unlawful conditions

- (a) Whenever brought to the attention of the Plumbing Inspector or the department having jurisdiction that any unsanitary conditions exist or that any construction or work regulated by this article is dangerous, unsafe, unsanitary, or a menace to life, health, or property, or is in violation of this article, the plumbing inspector shall investigate said report. Upon determining such information to be fact, he/she shall order any person using or maintaining any such condition or responsible for the use or maintenance thereof to discontinue the use of or maintenance thereof or to repair, alter, change, remove, or demolish same as he may consider necessary for the proper protection of life, health or property.
- (b) In the case of any gas pipe or piping, the plumbing inspector may order any person supplying gas to such pipe or piping to discontinue supplying gas thereto until such gas pipe or piping is made safe to life, health, or property.
- (c) Every such order shall be in writing, addressed to the owner, agent, or person responsible for the premises in which such condition exists and shall specify the date or time when such order shall be complied with, which time shall allow a reasonable period in which such order can be complied with by the person receiving such order but shall never exceed the maximum period for which such construction can be safely used or maintained in the judgment of the plumbing inspector.

- (d) Refusal, failure, or neglect to comply with any such notice or order shall be considered a violation of this article.

(Added by Ord. 2017-^^)

Sec. 9-185 - Inspection of plumbing work; issuance of certificate of inspection

- (a) Plumbing shall remain exposed until inspected. No soil, drain, or vent pipe, or other plumbing shall be covered or concealed from view until the work has been inspected, tested, and approved by the plumbing inspector. The plumbing contractor shall notify the inspector when the work is ready for inspection. The whole system of plumbing may be required to be prepared for the inspector or his/her assistants for a thorough inspection of same by the plumbing contractor or his/her or its servant or agent having filled the pipes with water to the highest point, or by air pressure of not less than five pounds to the square inch.
- (b) Plumbing and fixtures shall be unused until inspected and approved. No person shall use any plumbing or fixtures, or cause or allow water to be turned into new pipes except for the purpose of testing the pipes before the inspector has tested and approved the work.
- (c) Test, inspection, certificate.
- (d) Upon receipt of a plumber's notification that work is ready for test or inspection, the inspector shall, within forty-eight (48) hours (weekends and holidays excluded), make one inspection or fix an hour within a reasonable time when such inspection shall be made.
 - (1) The first inspection shall be made when the vent and soil pipes have been fixed and regulated in accordance with the provisions of this article.
 - (2) The second inspection shall be made upon the completion of the work after the water has been turned on and the traps have been filled; provided, however, that the plumbing inspector may take a partial or final inspection and issue a certificate for that portion of the completed work and authorize its use.
- (e) Certificate. After all plumbing in and for a building has been completed, tested, and inspected and approved in accordance with provisions of this article, the inspector shall issue to the plumbing contractor a certificate of inspection.

(Added by Ord. 2017-^^)

Sec. 9-186 – Allowing others to use permit; penalty

Any plumbing contractor who permits any unlicensed contractor to use his/her plumbing permit to do any plumbing work in the Town shall be guilty of an offense, pay a fine of no less than two hundred fifty dollars (\$250.00), and shall forfeit his/her license in the Town of New Chicago. He shall be ineligible to receive a new license in a town of New Chicago for a period of six (6) months. If said contractor has been previously suspended under this article, he shall be suspended for a period of twelve (12) months. Any contractor who has been suspended twice under this provision who commits a third such violation shall be permanently barred from receiving a license in the Town.

(Added by Ord. 2017-^^)

Sections 9-187—9-200 - Reserved.

Article 56 -Supplemental general building requirements

Sec. 9-201 - Minimum wall heights for new construction

- (a) The minimum outside interior wall height on any interior walls for any building, including residential buildings, under construction shall be a minimum height of eight feet (8') as measured from the final floor elevation to the lowest part of the ceiling.
- (b) This minimum height requirement specifically excludes basements and crawl spaces.

(Added by Ord. 2002-02).

Sec. 9-202 through 9-230 - Reserved.

Article 7 – Swimming pools

Division 1 - Generally

Sec. 9-231 – Compliance with Code required

Every existing private swimming pool and every such pool constructed, installed, and maintained hereafter shall comply with all applicable provisions of this Chapter, and with all the provisions of the Building Code of the Town.

(Added by Ord. 2017-^^)

Sec. 9-232 – Swimming pool – defined

For the purposes of this Article, a swimming pool is defined as follows:

Swimming Pool. A man-made rigid or semi-rigid receptacle for water having a depth at any point greater than eighteen (18) inches, used or intended to be used for swimming, wading or bathing, and constructed, installed or maintained in or above the ground outside any building. This definition does not include collapsible plastic pools.

Private swimming pool. A pool which is used exclusively by the occupants of the property on which it is located, his/her family, and guests.

(Added by Ord. 2017-^^)

Sec. 9-233 – Fences – required

Every person in possession of land within the corporate limits either as owner, purchaser under contract, lease, tenant, or licensee upon which is situated a swimming pool, shall at all times maintain on the lot of premises upon which is located and completely surrounding such pool, a fence or other structure to prevent small children from inadvertently wandering into the pool.

(Added by Ord. 2017-^^)

Sec. 9-234 – Fences – restrictions

Such fence or other structure shall be not less than five (5) feet in height with no gaps or apertures (other than doors or gates) more than four (4) inches square, such fence shall be erected along in such a manner and areas as to afford maximum protection.

(Added by Ord. 2017-^^)

Section 9-235 – Latches and locks

All gates and doors opening through such enclosure shall be equipped with a self-closing and self-latching device designed to keep and capable of keeping such door or gate securely closed and locked at all times when not in actual use to prevent small children from opening said door or gate; provided, however, that the door of any dwelling and forming any part of the enclosure hereinabove required need not be so equipped.

(Added by Ord. 2017-^^)

Sections 9-236 through 9-250 – Reserved.**Division 2 – Rules and regulations****Sec. 9-251 – Water supply**

- (a) No source of water, other than that secured from the Town Water Works distribution system or a plumbing inspector shall be used in private swimming pools.
- (b) The connection shall be as required by the Plumbing Code, by means of a permanent, rigid system of piping having an air-gap delivery connection located not less than six (6) inches vertically above the flood rim of the pool.

(Added by Ord. 2017-^^)

Sec. 9-252 – Filtering system

No swimming pool, wading pool, or bathing pool in excess of two thousand five hundred (2500) gallons capacity shall be installed or operated without a recirculating and filtering system.

(Added by Ord. 2017-^^)

Sec. 9-253 – Outlets

- (a) In swimming pools of thirty (30) feet in width or less, water circulation systems outlets shall be located as to provide at least one (1) outlet at the deepest point of the pool.
- (b) If the pool width is more than thirty (30) feet, multiple outlets shall be provided and spaced not more than thirty (30) feet apart, nor closer than four (4) feet to any wall.
- (c) All pool drain outlets shall be equipped with grating having an area which covers the outlet pipe.
- (d) The gratings shall be of such design so they cannot be readily removable by bathers and will not injure fingers.
- (e) One (1) outlet shall be provided for each eight hundred (800) square feet of surface area.

(Added by Ord. 2017-^^)

Sec. 9-254 – Discharge maximum

- (a) Pools shall be equipped with facilities for completely emptying the pool and the discharge of the pool water to the sewer shall be at a rate not exceeding two hundred fifty (250) gallons per minute.
- (b) No direct connection shall be made to the sewer.

(Added by Ord. 2017-^^)

Sec. 9-255 – Sewer system drainage restrictions

Water drained from the pool shall not be discharged to the sewer system during periods of rain or storms.

(Added by Ord. 2017-^^)

Sec. 9-256 – Structural designs

- (a) Residential swimming pools shall be designed to withstand water pressure from within and to resist pressure of the earth when the pool is empty, to a pressure of two thousand two hundred (2200) pounds per square foot.

- (b) Materials used shall be subject to the approval of the Building Commissioner.
- (c) Grade height of the pools constructed hereafter not to exceed established grade.

(Added by Ord. 2017-^^)

Sec. 9-257 – Walk areas

- (a) Unobstructed walk areas not less than thirty-six (36) inches wide shall be provided to extend entirely around the pool.
- (b) The walk areas shall be constructed of impervious material, and the surface shall be of such to be smooth and easily cleaned and of non-slip construction.
- (c) The slope of the walks shall have a pitch of at least one-fourth (1/4) inch to the foot, designed as to prevent back drainage from entering the pool.

(d) (Added by Ord. 2017-^^)

Sec. 9-258 – Steps or ladders

- (a) Two (2) or more means of egress in the form of steps or ladders shall be provided for all private residential swimming pools.
- (b) At least one (1) such means of egress shall be located on a side of the pool at both the deep end and the shallow end of the pool.
- (c) Threads of the steps and ladders shall be constructed of non-slip material and at least three (3) inches wide for their full length.
- (d) Steps and ladders shall have a handrail on both sides.

(Added by Ord. 2017-^^)

Sec. 9-259 – Electrical requirements

- (a) All electrical installations provided, installed and used in conjunction with private residential swimming pools, shall be in conformance with the provisions of the Electrical Code of the Town.
- (b) No current carrying electrical conductors shall cross private swimming pools, either overhead or underground, or within fifteen (15) feet of such pools.

Sec. 9-260 – Effective grounding required

All metal fences, enclosures, and/or railings near or adjacent to private residential swimming pools which might become electrically alive as a result of contact with broken overhead conductors or from any other cause shall be effectively grounded.

(Added by Ord. 2017-^^)

Sec. 9-261 – Safety precautions

A skilled swimmer shall be present at all times that swimming pools are in use.

(Added by Ord. 2017-^^)

Sec. 9-262 - Operations and maintenance

A suitable substantial protective cover shall be provided and installed over all swimming pools during the non-swimming season or when residents are absent for a period of more than three (3) days.

(Added by Ord. 2017-^^)

Sec. 9-263 – Cleanliness and sanitation

Swimming pools shall be kept clean, free of algae, detritus, leaves, and other contaminants, and be properly chemically balanced.

(Added by Ord. 2017-^^)

Sections 264 through 290 – Reserved.**Division 3 – Permits and fees****Sec. 9-291 – Permit required – plans and specifications**

- (a) No person shall hereafter construct, cause to be constructed, operate, or maintain a swimming, wading, or bathing pool which was not built or constructed with the applicable swimming pool ordinances in effect at the date of construction.
- (b) Written application for such permit shall be filled with the Building Commissioner and shall be accompanied by two (2) sets of plans and specifications sufficiently detailed too enable determination of whether the proposed pool complies with the requirements of this chapter.
- (c) No such permit for an existing pool shall be granted by the Building Commissioner until full compliance with this Article has been demonstrated.

(Added by Ord. 2017-^^)

Sec. 9-292 – Minimum distance requirements

- (a) After the effective date of this chapter, swimming pools shall be so constructed that there will be at least ten (10) feet between the main buildings and the swimming pool, and there shall be at least five (5) feet between a side or rear lot line excluding easement and corner lots shall comply with building lines, and there shall be at least five (5) feet between any auxiliary building and the swimming pool.
- (b) No swimming pool shall be built within any front yard.
- (c) Pumps, filters, and pool water disinfecting equipment installation shall be located at a distance not less than eight (8) feet from any side property line.

(Added by Ord. 2017-^^)

Sec. 9-293 – Fee schedule

The fee for a permit for the erection or construction of a swimming pool shall be established in the Fee Schedules of the Town of New Chicago. At least two copies of this fee schedule shall be available for public copying and review at the New Chicago Town Hall.

(Added by Ord. 2017-^^)

Sec. 9-294 - Enforcing officers

The Building Commissioner and the Code Enforcement Officer are charged with the duty of enforcing this chapter. The plumbing inspector and electrical inspector also have the authority to enforce provisions within their respective specialties. For this purpose, they are hereby authorized to enter upon any premises in the Town to investigate the existence of a swimming pool and to determine whether or not such pool complies with the requirements of this chapter.

(Added by Ord. 2017-^^)

Sec. 9-295 – Diving boards and apparatus – clearance restrictions

Where a swimming pool has a diving board or diving apparatus for the purpose of diving into the pool, there shall be a clear area of not less than an eight (8) foot depth and a radius ahead of the furthestmost projection of the diving board of thirteen (13) feet.

(Added by Ord. 2017-^^)

Sec. 9-296 - Existing pools – compliance date set

- (a) This chapter shall be deemed a continuance of the previously enacted Ordinance 96-22.

- (b) Swimming pools in existence on the effective date of Ordinance 96-22 shall be brought into compliance with the requirements of this chapter on or before January 1, 1997.

(Added by Ord. 2017-^^)

Sections 9-297 through 9-310 – Reserved.

Division 4 – Penalty

Sec. 9-311 – Penalty for violation

- (a) Any person convicted of a violation of any provision of this article shall be subject to a fine of one hundred dollars (\$100.00) for each offense unless otherwise specified, and each day on which such violation continues shall constitute a separate offense.
- (b) Any pool in violation of this article is hereby declared a nuisance.

(Added by Ord. 2017-^^)

Chapter 10 - Contractors

Article 1 - Generally

Sec. 10-1 - Definitions

- (a) *Contractor* as used in this article shall mean and include any person who for a fixed sum, price, fee, percentage, or other compensation shall build, construct, alter, lay, repair, install, add to, erect, or demolish any building, structure, telecommunication tower, or other facility, above or below ground with the Town or who shall undertake to perform any of such acts.
- (b) *Approved* shall mean approved by the authorities designated to enforce this article. The term shall not include:
 - (1) Any person doing the above work upon his/her private residence, or upon a multifamily residence provided said person owns and resides in said multifamily building.
 - (2) Plumbers, electricians, mechanical and other specialized trades for which licenses are required.
 - (3) Persons performing any of the work described in the above definitions when the total value of labor and material utilized for such work does not exceed two hundred dollars (\$200.00).

(Added by Ord. 2017-^^)

Sec. 10-2 - Insurance

- (a) All contractors licensed pursuant to this article shall obtain and file with the Town a certificate issued by a duly authorized officer of a responsible insurance company or companies authorized to do business in the state showing that the licensee has in full force and effect:
 - (1) Public liability insurance of at least five hundred thousand dollars (\$500,000.00) for personal injuries to any one person and one million dollars (\$1,000,000.00) for personal injuries arising from any one occurrence.
 - (2) Insurance for property damage of at least fifty thousand dollars (\$50,000.00).
 - (3) Workmen's compensation insurance in the amounts required by the State of Indiana.
- (b) All insurance shall be kept in full force and effect during the period that a license is in effect. The license shall be automatically suspended by any lapse of required insurance coverage.

(Added by Ord. 2017-^^)

Sections 10-3 through 10-10 – Reserved.

Article 2 - License

Sec. 10-11 – License required

- (a) It shall be unlawful for any person to engage in the business or activity of a contractor in the Town of New Chicago without having a license as provided in this article.
- (b) No firm, association or corporation shall engage in contracting in the Town of New Chicago unless at least one officer, agent or member of the firm, association or corporation has been licensed according

to the provision of this division and unless a license has been issued in the name of the firm, association or corporation as provided in this division.

- (c) Nothing contained in this section shall prohibit the owner of a private home from doing contracting in his/her own private home or property upon full compliance with all requirements, tests, affidavit and regulations provided by law, provided he builds no more than one home or building in the same calendar year.
- (d) All work must be done in a safe workmanlike manner and the owner must comply with all building codes, laws and ordinances.
- (e) The owner shall assume all responsibility for work done.

(Added by Ord. 2017-^^)

Sec. 10-12 - Classification

(a) Contractor's license shall be classified as follows and shall permit the activities below:

- (1) *Type "A" license.* A "Type A" general contractor license shall permit all classes of construction except as governed by other licensing ordinances of the Town. Any subcontractor employed by a "Type A" licensed contractor must also hold a license from the Town before any construction work can be performed in the Town.
- (2) *Type "B" license.* A "Type B" license shall include any one or more of the following building trade construction specialties:
 - i. *Carpentry:* All wood construction pertaining to building, also various types of siding and interior dry wall and lathing.
 - ii. *Concrete:* All work pertaining to and for the erection of a formed material made by mixing of sand, cement, gravel and water.
 - iii. *Elevators and escalators:* All work pertaining to the installation of escalators and elevators.
 - iv. *Excavating:* Excavating for the purpose of erecting a building, installing sewers and pipeline other than that which is covered under other licensing ordinances of the Town.
 - v. *Fencing:* All work pertaining to the erection of fencing constructed of approved materials.
 - vi. *Garages:* All work pertaining to a private garage.
 - vii. *Glaziers:* All work pertaining to installation of all glass, etc.
 - viii. *House movers:* All work pertaining to the moving of houses and other structures.
 - ix. *Insulators:* All work pertaining to the installation of insulation to pipe, tanks, ducts, walls, ceilings and various heat producing equipment.
 - x. *Irrigation and sprinklers systems:* Installation of any irrigation or lawn sprinkling system, and or including fire sprinkling systems.
 - xi. *Landscapers:* All work pertaining to the installation of landscaping.
 - xii. *Low voltage installation:* All work pertaining to low voltage wiring, intercom, computer data network wiring, etc.
 - xiii. *Machinery:* All work pertaining to the installation of industrial manufacturing equipment.

- xiv. *Masonry*: All work pertaining to installation of construction of materials such as brick, stone, tile or the like excluding concrete work.
- xv. *Painters*: All work pertaining to the covering of surfaces, interior and exterior, such as wood, plaster, steel, pipe, etc. with a preservative or decorative coat of paint.
- xvi. *Pavers*: All work pertaining to the covering of surfaces with asphalt, gravel, concrete, etc., as a road, driveway, parking lots, etc.
- xvii. *Pipelines*: All work pertaining to the installation of all pipelines above or below ground.
- xviii. *Plastering*: All work pertaining to the application of plaster, including drywall construction and lathing.
- xix. *Pool installation*: All work pertaining to installing swimming pools above ground or in-ground.
- xx. *Roofing and siding*: All work pertaining to installation of any and all type of roof covering and siding, waterproofing and insulation.
- xxi. *Sewers*: All work pertaining to the installation of storm and/or sanitary sewers.
- xxii. *Sewer cleaners*: All work pertaining to the cleaning of sewers and septic systems, including rodding, thawing, pumping, washing and disposal.
- xxiii. *Sheet metal*: Installation of all sheet metal curtain walls, metal store fronts, metal window units, gutters and downspouts.
- xxiv. *Sign erectors*: All work pertaining to the erection of signs, excluding electrical work.
- xxv. *Steel erection*: All work pertaining to formed structural steel, iron parts and steel windows.
- xxvi. *Tree trimmers*: All work pertaining to trimming removal and disposing of trees.

(Added by Ord. 2017-^^)

Sec. 10-13 - Application

Each contractor desiring to be licensed under the provisions of this chapter shall make application for the license on a form to be furnished by the Clerk Treasurer or the inspector responsible for the type of work involved. The application shall be deemed filed by delivering the same to the Clerk-Treasurer, along with any required fees.

(Added by Ord. 2017-^^)

Sec. 10-14 - Transfer

No license issued pursuant to the provision of this division shall be assignable or transferable.

(Added by Ord. 2017-^^)

Sec. 10-15 - Fees

- (a) A fee of one hundred dollars (\$100.00) shall be paid to obtain a new contractor license in the Town.
- (b) Provided a contractor is otherwise in compliance with this chapter and held a license in the Town during the previous calendar year, a license can be renewed at any point during the next year for fifty dollars (\$50.00).

(Added by Ord. 2017-^^)

Sec. 10-16 - Bond

No license shall be issued pursuant to the provision of this article until the applicant produces evidence that he has filed with the county recorder the bond required by IC § 22-11-3.1.1.

(Added by Ord. 2017-^^)

Sec. 10-17 - Expiration

Any license issued under the provisions of this chapter shall expire at the end of the calendar year for which it was issued.

(Added by Ord. 2017-^^)

Sec. 10-18 - Disposition of fees

All fees paid and collected under the provision of this division shall be deposited and become a part of the general fund of the Town of New Chicago.

(Added by Ord. 2017-^^)

Sec. 10-19 - Suspension or revocation

- (a) The building inspector/commissioner, plumbing inspector, electrical inspector, or any other duly appointed inspector may recommend to the Town Council the suspension or revocation of any license issued under this chapter when the contractor shall have been guilty of fraud, misrepresentation, negligence or for violations of any building or zoning ordinances of the Town.
- (b) The Town Council may suspend or revoke the license for any such reasons.

(Added by Ord. 2017-^^)

Sec. 10-20 - Penalty

All contractors requiring a license under this chapter that fail to obtain a license prior to the start of work shall be fined in the amount which is the greater of three hundred dollars (\$300.00) or three times the applicable license fee. However, no fine for a first offense shall exceed two thousand five hundred dollars (\$2,500.00). No fine for subsequent offenses shall exceed seven thousand five hundred dollars (\$7,500.00). Each day on which a violation occurs shall be deemed a separate offense.

(Added by Ord. 2017-^^)

Chapter 11 – Property Maintenance Code

Sec. 11-1 - Property Maintenance Code -

- (a) *Adoption by reference.* The 2000 Edition of the International Property Maintenance Code, promulgated by the International Code Council (ICC), is hereby adopted by reference as fully as if set forth herein to govern existing buildings and structures in the Town, except for the additions or deletions which are specified in this section. At least two (2) copies of the 2000 Edition of the International Property Maintenance Code shall be kept in the Town Hall for public inspection.
- (b) *Additions, modifications and deletions.* The provisions of the 2000 Edition of the International Property Maintenance Code, adopted by subsection (a) shall be added to or deleted so that the following articles, sections or subsections shall read as follows:
- (1) Section 102.3 shall be modified to read in its entirety as follows: Application of other Codes. Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the International Building Code, International Plumbing Code, International Mechanical Code, International Fuel Gas Code and the ICC Electrical Code.
 - (2) Sections 102.6, 103, 106, 107, 109, 110, and 111 shall be deleted in their entirety.
 - (3) The definition for "workman-like" in chapter 2 shall be modified to read as follows: Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged, and without marring adjacent work. To be workman-like, maintenance or repair work must be performed in a manner consistent with work done by a skilled craftsman. In general, floors should be level, walls plumb and square, and windows installed so that they operate easily and fit within the rough opening to exclude the elements.
 - (4) Section 301.2 shall be modified to read in its entirety as follows: Responsibility. The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this Code. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this chapter.
 - (5) Sections 302.1, 302.4, 302.8, 303.3, 303.4 and 303.8 shall be deleted in their entirety.
 - (6) Section 303.14 shall be, and hereby is, amended to read as follows: Every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25mm) and every swinging door shall have a self-closing device in good working condition.
 - (7) Section 304.1 shall be modified to read in its entirety as follows: General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Every owner of a structure containing a rooming house, a hotel, a dormitory, two (2) or more dwelling units or two (2) or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.
 - (8) Sections 305, 306.3, 306.4 and 306.5 shall be deleted in their entirety.
 - i. Section 404.1 shall be modified to read in its entirety as follows: Privacy. Dwelling units, hotel units, rooming units and dormitory units shall be arranged to provide privacy and be separate from public areas or commons areas or any other adjoining spaces.

- ii. Section 404.4.1. Shall be modified to read in its entirety as follows: Prohibited occupancy. Kitchens, living rooms, dining rooms, other public or common areas and nonhabitable spaces shall not be used for sleeping purposes.
- (9) Section 602.3 shall be modified to read in its entirety as follows: Heat Supply: Every owner and operator of any building who rents, leases or lets one or more dwelling unit, rooming unit, dormitory or guestroom on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat to maintain a temperature of not less than 68° F (20° C) in all habitable rooms, bathrooms, and toilet rooms.
 - i. Exception: When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code.
- (10) Section 602.4 shall be modified to read in its entirety as follows: Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat to maintain a temperature of not less than 68°F (20°C) during the period the spaces are occupied.
 - i. Exceptions:
 - A. Processing, storage and operation areas that require cooling or special temperature conditions.
 - B. Areas in which persons are primarily engaged in vigorous physical activities.

(Added by Ord. 2017-^^)

Sec. 11-2- Adoption of unsafe building law

- (a) Pursuant to the authority granted by the Indiana General Assembly through the Acts of 1981, Public Law 309, § 28, the Town of New Chicago, Indiana, hereby adopts the Unsafe Building Law, being IC § 36-7-9-1 through IC § 36-7-9-28, as it may be amended from time to time; and incorporates herein the definition of "substantial property interest" contained in IC § 36-7-9-2, as it may be amended from time to time.
- (b) The Building Department is hereby designated as the executive department which shall administer the provisions of the Unsafe Building Law. The Building Commissioner shall be the person responsible for the administration of the Unsafe Building Law.
- (c) The New Chicago Planning Commission is appointed as the hearings authority which shall have all of the powers established in the Unsafe Building Law.
- (d) An ordinance citation may be issued with respect to any existing building or structure which is in violation of the provisions of the 2000 Edition of the International Property Maintenance Code, as adopted by reference in Subsection (a) and modified by Subsection (b), or which is in violation of the Unsafe Building Law, IC § 36-7-9-1 through IC § 36-7-9-28, as it may be amended from time to time, adopted by reference in Subsection (c), or which is in violation of the Minimum Maintenance Standards or the Preservation Standards for Historic Landmarks.
- (e) Such a citation shall be issued to any person with a substantial interest in the property affected. A citation issued pursuant to this section shall impose a fine not less than fifty dollars (\$50.00) for the

first day of violation, a fine of not less than one hundred dollars (\$100.00) for the second day of violation and a fine of not less than two hundred dollars (\$200.00) for every day of violation thereafter with each day of violation constituting a separate violation for which a citation may be issued. No fine, however, shall exceed two thousand five hundred dollars (\$2,500.00).

(f) Each day on which the violation continues shall be a separate offense.

(Added by Ord. 2017-^^)

Sec. 11-3 – Public nuisance

A building or property existing in violation of the standards required by this chapter constitutes a public nuisance.

(Added by Ord. 2017-^^)

Sec. 11-4 - Vacant building maintenance and registration

(a) The Town Council makes the following legislative findings:

- (1) In New Chicago, Indiana, a significant number of unoccupied buildings are not maintained and constitute a hazard to public health, safety and welfare.
- (2) Vacant buildings often become dilapidated because they are not maintained and repaired by their owners.
- (3) Vacant buildings attract children, harbor vermin, shelter vagrants and criminals, and are likely to be damaged by vandals or arsonists.
- (4) Unkempt grounds surrounding vacant and abandoned buildings invite dumping of garbage, trash and other debris.
- (5) Many vacant and abandoned buildings are on narrow lots and close to neighboring buildings, increasing the risk of fire and spread of insect and rodent infestation.
- (6) Vacant and abandoned buildings contribute to blight, cause a decrease in property values, and discourage neighbors from making improvements to buildings.
- (7) Buildings that remain boarded up for an extended period of time also exert a blighting influence and contribute to the decline of the neighborhood by decreasing property values, discouraging persons from moving into the neighborhood, and encouraging persons to move out of the neighborhood.
- (8) Vacant and abandoned buildings often continue to deteriorate to the point that demolition of the structure is required, decreasing available housing in the community and contributing to the neighborhood decline.
- (9) The blighting influence of vacant and abandoned buildings adversely affects the tax revenues of local government.
- (10) Vacant and abandoned buildings create a serious and substantial problem and are public nuisances.

- (11) The Town of New Chicago spends extraordinary resources and staff time to secure, demolish or otherwise respond to problems associated with vacant and abandoned buildings.
- (12) Owners of vacant and abandoned buildings should be held accountable for the physical condition of their buildings. At a minimum they should prevent such buildings from exerting a negative influence on the well-being of the neighborhoods where they are located.
- (b) Accordingly, in addition to the property maintenance requirements set forth in this Code, the Town Council establishes the following standards for maintenance of any real property within the Town of New Chicago which is vacant and abandoned as defined by this section.
- (c) This chapter:
 - (1) Establishes a program for ongoing identification and registration of buildings which have been vacant for a certain length of time.
 - (2) Establishes responsibilities of owners of these vacant buildings; and
 - (3) Provides for administration and enforcement of standards related to vacant buildings.
 - i. This section should be construed liberally to effect its purposes and intent.
- (d) *Definitions.* For purposes of this chapter, unless the context otherwise requires, the following words and phrases have the meanings set forth below:
 - (1) For purposes of this chapter, *vacant building* means a structure on a parcel of real property which lacks the habitual presence of human beings who have a legal right to be on the premises, or at which substantially all lawful business operations or residential occupancy has ceased.
 - (2) For purposes of this chapter, *abandoned building* means a structure on a parcel of real property which is: vacant for more than ninety (90) days; the subject of an order issued pursuant to the Indiana Unsafe Building Law; and at which the condition which generated the order has existed for at least thirty (30) days and has not been remedied.
 - (3) For purposes of this chapter an *owner* is a person or entity with a fee interest in a parcel of real property on which a vacant and abandoned building is located, and whose identity and address may be determined from an instrument recorded in the Lake County Recorder's Office.
- (e) Continuing maintenance; mandatory and voluntary registration.
 - (1) Upon finding a building vacant and abandoned, the Department of Code Enforcement may issue to the building owner an order for continuing maintenance pursuant to the Unsafe Building Act, IC § 36-7-9, as it may be amended from time to time, or pursuant to similar authority granted by State statute, this Code or other statutes, ordinances and regulations.
 - (2) The owner of a building that is abandoned as defined by this section shall register with the Department of Code Enforcement pursuant to Subsection (f) of this section.
 - (3) The owner of a building that is vacant but not abandoned, within the meaning of this section may opt to register the building with the Department of Code Enforcement, so as to notify Town officials of the Property Manager and exchange other information pertinent to the condition of the building.
- (f) Property Manager.
 - (1) The owner of a building required to be registered pursuant to this section must appoint a Property Manager residing within fifty (50) miles of the property. The failure to appoint a Property Manager is a separate violation of this section. The Property Manager may be the owner or an agent of the owner.
 - (2) An agent acting as the Property Manager must be at least eighteen (18) years of age.

- (3) The Property Manager must be available to government officials by telephone twenty-four (24) hours a day. The owner's failure to make certain that such a Property Manager is available and maintain the property are separate violations of this section.

(g) *Information required with registration.* The owner of a building that is vacant and abandoned shall register the property with the Department of Code Enforcement upon receipt of an order for registration. Registration shall be on a form provided by the Department of Code Enforcement, shall be verified under the penalties for perjury, and shall include the following information:

- (1) The street address of the property;
- (2) The names, addresses and telephone numbers of all persons or entities which hold an ownership, land contract, mortgage or other lien interest in the property, and all beneficiaries of any land trust which owns the property;
- (3) A copy of the most recently executed deed used to transfer title to the property and the most recently prepared sales disclosure form, if available to the owner;
- (4) The names and residential and business addresses and telephone numbers of the Property Manager;
- (5) The names and addresses of all persons or entities which hold a lien interest or a substantial property interest in the property;
- (6) The names, addresses and telephone numbers of the insurance agent and the carrier providing insurance coverage for the property as required by this section; and
- (7) The owner's plan for maintenance and repair of the property, including the time within which the owner anticipates completion of all repairs necessary to bring the property into compliance with all Property Maintenance Codes. However, the owner's statement of a plan does not relieve the owner of any orders issued pursuant to the Unsafe Building Law or of any obligations imposed by statute, ordinance or regulation governing the maintenance of property. The Department's receipt of a plan does not constitute approval of the owner's plan or of any violation of property maintenance standards.
- (8) The owner is responsible for providing an updated registration form to the Department of Code Enforcement within five (5) business days of any change of ownership or any information provided by the registration. The failure of the owner to provide such updated information within five (5) business days of any change is a violation of this section.

(h) *Standards for maintenance.*

- (1) At least once each week, the owner of a property required to be registered under this section must ensure that the property is inspected and secured against unlawful entry, and that it is cleaned, vegetation is mowed, and cleared of snow and ice in the walkways. Records of such inspections shall be provided to the Department of Code Enforcement upon request.
- (2) The window and door openings of all buildings on the property shall be secured against unlawful entry by the use of locks designed for such use.
- (3) In order to protect a building against unlawful entry or vandalism while it is vacant, an owner may secure the windows and doors of the building by the use of boarding. If boarding is used to secure the building, the following standards must be met: Windows shall be framed by two-inch by four-inch (2"×4") boards secured with plywood to the frame by using six (6) seven-inch (7") lag bolts into King studs in all corners and in the center of the vertical boards. The plywood must be four-ply CDX sheathing or approved equivalent material, no less than one-half (½) inch in thickness and attached by tamper proof screws no less than three (3) inches in length. The

screws must be type W for wood and type S for steel, and must be applied to a maximum of eight (8) inches on center.

- (4) Boarding of a vacant structure is to be considered a temporary and not a long-term method of securing the building. Any boards applied to secure doors and windows for more than thirty (30) days must be surface coated with exterior grade paint so as to reduce the blighting effect on the immediate neighborhood. If the paint begins to chip, fade, or is otherwise damaged or worn out, it must be replaced within fourteen (14) days or a violation will have occurred.
- (5) Nothing in this subsection shall eliminate any other duties under this Property Maintenance Code and/or unsafe building law.

(i) Registration Fees.

- (1) The owner of any building required to be register under this section shall pay an annual registration fee to the Department of Code Enforcement upon registration. However, the owner of a building that is vacant but not abandoned within the meaning of this section, who voluntarily registers the building pursuant to subsection (d)(3), is not required to pay a registration fee.
- (2) If the building is used for or zoned for residential purposes and contains not more than three (3) residential units the registration fee shall be two hundred dollars (\$200.00) per year.
- (3) If the building is used or zoned for residential purposes and contains more than three (3) residential units, or if it is used or zoned for any non-residential purposes, the fee shall be four hundred dollars (\$400.00) for the first year or any part thereof, five hundred dollars (\$500.00) for the second year or any part thereof, and seventy hundred fifty dollars (\$750.00) for the third year and each subsequent year or any part thereof that the property is required to be registered pursuant to this section.
- (4) The purpose of the registration fee is to reimburse the Department of Code Enforcement for the costs of continual monitoring the property by trained staff, and the additional costs of responding to emergencies and property maintenance requirements for a vacant and abandoned building, which includes but is not limited to personnel costs associated therewith to see that there is compliance with regard to repairs, demolition, blight elimination, deconstruction, and legal expenses incurred by the Town. Costs are anticipated to increase as the building is unused and continues to deteriorate.
- (5) The Town Council or the Department of Code Enforcement shall have the limited authority to waive accrued fees and/or fines on a case by case basis when those costs are determined to impede positive action on an individual property to rehabilitate it for public benefit.
- (6) The Department of Code Enforcement shall produce and maintain records showing when a property has been repaired; when a property has become occupied, secured and has its utilities turned on; when a property has been demolished, and when a property has been placed under contract for demolition prior to December 31st of each calendar year; and each of those properties which can be verified as meeting one of these criteria shall not be required to register and pay the applicable fee.
- (7) The Department of Code Enforcement shall file with the Office of the Town Clerk an Annual Report by the first Monday of May which details the number of buildings which paid a registration fee for each category addressed in subsection (3) herein; the number of cases where the accrued fees and/or fines were waived; and other pertinent data related to the collection of fees.

(j) Liability insurance.

- (1) The owner of any property required to be registered by this section must maintain a policy of liability insurance for the building, and must provide to the Department of Code Enforcement the name, address and telephone number of the insurance agent and carrier, along with a copy of the certificate or other proof of insurance coverage. The coverage required shall be not less than one hundred thousand dollars (\$100,000.00) per occurrence and one hundred thousand dollars (\$100,000.00) in the aggregate.
- (2) The policy of insurance must require the agent or carrier to provide fifteen (15) days' advance notice of cancellation to the Department of Code Enforcement.

(k) *Exemptions.*

- (1) The Director of the Department of Code Enforcement may exempt a property from the registration requirements of this section if the property is the subject of an open probate estate or has suffered extensive fire or catastrophic damage within the past ninety (90) days.
- (2) Any exemption granted shall be for a specific period of time, not to exceed ninety (90) days.
- (3) Exemption from the registration requirements shall not constitute approval of any violation of property maintenance standards established by statute or this Code.

(l) *Penalties.*

- (1) An ordinance violation citation shall be issued for violating any provision of the requirements of this section, or for knowingly providing false information or withholding information required to be provided by the registration requirements of this section.
- (2) Such a citation shall be issued to the owner and shall impose a fine of at least two hundred fifty dollars (\$250.00) for the first day of violation and at least ten dollars (\$10.00) for each subsequent day. These amounts are minimum and not maximum penalties. Each day the offense continues shall constitute a separate violation.
- (3) The citations and fines imposed by this section are in addition to other legal and equitable remedies and enforcement action available to the Town.

(Added by Ord. 2017-^^)

Sec. 11-5 - Joint and several liability for costs

- (a) When the Town abates a nuisance pursuant to an order and is performed by the enforcement authority or by a third party acting under this chapter, or for payment of citations issued under this chapter, each person who held a fee interest, life estate interest, or equitable interest of a contract purchaser in the violating property is jointly and severally responsible for said costs. In the work which is remediate by a contractor hired by the Town or by Town employees, responsibility shall begin from the time when the order requiring the work performed was recorded to the time that the work was completed, and include the following costs:
- (1) The actual costs of the work performed by the enforcement authority or the bid price of work accomplished by the contractor.
 - (2) An amount that represents a reasonable forecast of the average processing expense that will be incurred by the enforcement authority in taking the technical, administrative, and legal actions

concerning typical nuisance premises that are necessary under this section so that the action required by an order may be performed by a contractor.

(Added by Ord. 2017-^^)

Sec. 11-6 - Hearings authority—Unsafe building violations and public nuisances

(a) Creation of hearings authority.

- (1) The Town Council for the Town of New Chicago elects to establish a hearings authority for the enforcement of serious unsafe building violations and public nuisances.
- (2) Such hearings authority will consist of the Planning Commission.
- (3) This hearings authority will be commonly referred to as the hearings officer.

(b) Administrative procedures.

- (1) The Town Council for the Town of New Chicago, Indiana hereby designates authority to the enforcement authority to the Building Department, which shall be the department responsible for the administration of the Unsafe Building Law, in accordance with IC § 36-7-9-1 through IC § 36-7-9-23.
- (2) The Town Council for the Town of New Chicago, Indiana hereby designates the hearings authority (commonly known as the hearings officer), in conjunction with relevant staff members and Town department heads to establish administrative procedures for the administration of the Unsafe Building Law, in accordance with IC § 36-7-9-1 through IC § 36-7-9-23, including but not limited to the following items:
 - i. Time and frequency of hearings.
 - ii. Type and severity of cases which are heard by the hearings officer.
 - iii. Documentation procedures needed for each case presented to the hearings officer.
 - iv. Other administrative elements needed for the day-to-day operation of the hearings authority.
- (3) The hearings authority will abide by the rules, laws, and regulations required under IC § 36-7-9-1 through IC § 36-7-9-29, as appropriate and applicable, including, but not limited to:
 - i. Type of orders issued.
 - ii. Requirements for all orders.
 - iii. Shelf life of orders.
 - iv. Enforcement of orders.
 - v. Mandatory advertising requirements for hearings.

(c) Unsafe building fund.

- (1) As provided by IC § 36-7-9-14 of the Unsafe Building Law, a fund designated as the "unsafe building fund" shall be established. Any balance remaining at the end of the fiscal year shall be carried over in the fund for the following year and shall not revert to the general fund. Monies for such fund may be received from any source including appropriations by local, state or federal governments, and donations.

(d) Penalties.

- (1) An ordinance citation may be issued with respect to any existing building or structure which is in violation of the provisions of this chapter, or which is in violation of the Unsafe Building Law, IC § 36-7-9-1 through 36-7-9-28, as it may be amended from time to time.
- (2) Such a citation shall be issued to any person with a substantial interest in the property affected.
- (3) A citation issued pursuant to this article shall be fined not less than two hundred fifty dollars (\$250.00) for a first offense, not less than five hundred dollars (\$500.00) for a second offense and not less than one thousand dollars (\$1,000.00) for all subsequent offenses, but no fine for any individual offense shall exceed five thousand dollars (\$5,000.00).
- (4) The amount of fine shall be determined by the hearings authority (commonly referred to as the hearings officer) or a court of competent jurisdiction.
- (5) Each day after the expiration date of the time limited ordered for abatement of a nuisance condition under this chapter shall constitute a distinct and separate offense and be punishable by an additional fine.

(Added by Ord. 2017-^^)

Sec. 11-7 - Time to remedy nuisance and responsibility for costs

- (a) The owner, occupant, or agent of any owner or occupant of real property within the Town who violates this ordinances shall be responsible for the removal or cleanup of said nuisance and upon notification by the Town of New Chicago regarding aforesaid nuisance shall correct same within three (3) days of the notification. The Town may elect to provide an extension of time if the owner, occupant, or agent is taking steps to correct the nuisance.
- (b) If the responsible party fails to correct the situation within three (3) days or notification (or any applicable extension of time), the Town shall have the authority to correct or remove the nuisance and the owner shall be responsible for any and all fees associated with the same.
- (c) If the Town has to file suit in order to collect the costs of removal of the nuisance from the responsible party, the owner shall be responsible to reimburse the Town for any costs reasonably incurred.

(Added by Ord. 2017-^^)

Sec. 11-8 – Inspection of vacant or abandoned residential dwellings

- (a) Any residential property which has been vacant or abandoned for more than ninety (90) days with a change of ownership or tenancy shall not be inhabited until it passes an inspection by the Building Inspector to determine that it is safe for human habitation.
- (b) The fee for this inspection and any necessary reinspections shall be one hundred dollars (\$100.00).
- (c) In the event that an inspection is required under both this article and ordinance 18-10, both inspections shall occur contemporaneously and the applicant shall only be charged one inspection fee of one hundred dollars (\$100.00).
- (d) A violation of this ordinance is punishable by a fine of one hundred dollars (\$100.00). Each day during which the condition persists shall constitute a separate offense. Both the owner can be written separate violations under this section.

(Added by Ord. 2017-^^)

Chapter 12 – Mobile homes and mobile home parks

Article 1 – In general

Sec. 12-1 - Short title

This chapter may be cited as "Mobile Home Ordinance of New Chicago, Indiana."

(Added by Ord. 2017-^^)

Sec. 12-2 - Purpose

The purposes of this chapter are:

- (a) To promote the public health, safety, morals, convenience and general welfare;
- (b) To set forth regulations and standard procedures for the control and regulation of mobile home parks;
- (c) To govern the design, arrangement, location, grading and construction of mobile home parks;
- (d) To provide for the construction and installation of curbing, streets, sanitary and storm sewers, water facilities, sidewalks, and other appurtenances or to provide for the guarantee of such installation;
- (e) To provide for the health, safety, and fair treatment of residents of mobile home parks.
- (f) To complement and supplement all state laws applicable to mobile home parks;
- (g) To provide for penalties for the violation of this chapter.

(Added by Ord. 2017-^^)

Sec. 12-3 - Definitions, etc.

In the interpretation of this chapter the rules and definitions contained below shall be observed and applied, except when the context clearly indicates otherwise:

- (a) The word "lot" shall include the words "plot," "piece" and "parcel."
- (b) The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for" and "occupied for."
- (c) Definitions
 - (1) *Density*. The number of dwelling units per gross acre computed by dividing the acreage of the park site into the total number of dwelling units.
 - (2) *License*. A written license issued by the state health department to a person or corporation to operate and maintain a mobile home park under the provisions of Chapter 321 of the Indiana Acts of 1955 [IC § 16-9-2B-1 et seq.] and the regulations of the state board of health.
 - (3) *Mobile home*. A portable structure eight (8) feet or more wide, thirty (30) feet or more long, designed primarily for year-around single family residency and generally transported on its own frame and running gear. The term includes double-units and expandables.
 - (4) *Mobile home park*. Any lot, plot, or tract of land containing two (2) or more mobile homes within the Town.

- (5) *Mobile home site.* That area of land in a park designed and approved for the construction of one mobile home stand.
- (6) *Mobile home stand.* A foundation in conformance with this chapter for the support of one mobile home.
- (7) *Mobile home—Front.* The longest side intended by design to be the front of the mobile home.
- (8) *Mobile home—Back.* The longest side intended by design to be the back of the mobile home.
- (9) *Mobile home—End.* The two (2) sides of a mobile home having the narrowest dimension.
- (10) *Park.* A mobile home park.
- (11) *Town inspection officials.* The Town engineer, the county health officer, and the Town plat officer, or their assigned agents.

(Added by Ord. 2017-^^)

Sec. 12-4 - Scope

This chapter shall apply to all mobile homes and mobile home parks within the Town.

(Added by Ord. 2017-^^)

Sec. 12-5 - Compliance

The erection, construction, enlargement, conversion, or alteration of any building, mobile home, or structure and use of any land, building, or mobile home, which is continued, operated or maintained, contrary to any of the provisions of this chapter, is hereby declared to be unlawful. A violation of this chapter shall be the joint responsibility of the park owner or his/her agent and the violator. It is the responsibility of the park owner or his/her agent to maintain compliance with this chapter within his/her park.

(Added by Ord. 2017-^^)

Sec. 12-6 - Interpretation

- (a) In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion and effectuation of the purposes of this chapter. Nothing herein shall repeal, abrogate, annul, or in any way interfere with, any provision of law, or any rules or regulations other than mobile home park regulations.
- (b) Where this chapter imposes greater restrictions or requirements than those imposed or required by other provisions of law, rules, regulations, covenants, or agreements, the provisions of this chapter shall control, but nothing herein shall interfere with, abrogate, or annul any easements, covenants or deed restrictions greater than those imposed by this chapter.

(Added by Ord. 2017-^^)

Sec. 12-7 - Enforcement

- (a) All departments, officials, and employees of the Town which are vested with the authority to issue permits or licenses shall comply with this chapter and shall not issue a permit or license for any use, building or purpose if the same would be in conflict with the provisions of this chapter. Any permit or license issued in conflict with the provisions of this chapter shall be null and void.
- (b) The county health officer or the planning director or their assigned agents may make an inspection of all construction at any reasonable time to determine whether the work is being done in conformance with the approved plans and specifications. The park owner shall make available any records, test data, or other information essential to the determination.

(Added by Ord. 2017-^^)

Sec. 12-8 - Where mobile homes permitted

It shall be unlawful for any person to place or use any mobile home within the Town except when located within an approved and licensed mobile home park.

(Added by Ord. 2017-^^)

Sec. 12-9 - Violations and penalties

- (a) Any person who violates any of the provisions of Article, Article 2, or Article 3 of this chapter shall be fined in an amount of one hundred dollars (\$100.00). Subsequent violations shall be punishable by a fine of no less than one hundred dollars (\$100.00) or more than seven thousand five hundred dollars (\$7,500.00). Each day a violation continues shall constitute a separate offense.
- (b) The Clerk-Treasurer or his/her assigned agent shall notify the violator immediately upon becoming aware of the violation.
- (c) If said violation is not removed within a reasonable period of time, as determined by the Clerk-Treasurer or his/her assigned agent, the violation shall be submitted to the Town Attorney for proper legal action.
- (d) The Town Attorney shall, immediately upon any such violation having been called to his/her attention, institute injunction, abatement, or any other appropriate action to prevent, enjoin, abate or remove such violation.
- (e) This remedy shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

(Added by Ord. 2017-^^)

Sections 12-10 through 12-41 - Reserved.

Article 2- Plan submission and approval

Sec. 12-41 - Generally

All mobile home park plans shall be processed in four (4) stages leading to final approval as follows:

- (a) The pre-application conference;
- (b) The preliminary plan;
- (c) Public hearing;
- (d) Zoning approval;

(Added by Ord. 2017-^^)

Sec. 12-42. - Pre-application conference

Any developer proposing a mobile home park in the Town shall submit to the Planning Commission staff, at an informal conference, a legal description of the property and a sketch plan of the proposed park. The pre-application conference is to permit the applicant the opportunity of consultation with the staff prior to submission of his/her preliminary plan.

(Added by Ord. 2017-^^)

Sec. 12-43 - Preliminary plan

- (a) Submission of the preliminary plan is to provide the petitioner, Planning Commission and the Town Council grounds on which to reach general agreement on the basic planning and engineering proposals and to provide a basis for a public hearing, prior to the preparation of more detailed final plans as required by this chapter.
- (b) An application for approval of the preliminary plan is required and shall include the following items:
 - (1) In application for special exception within a zoning district.
 - (2) Preliminary plans of the proposed project including:
 - i. Legal description and, if land is unplatted, a plat of survey, certified by a registered land surveyor or engineer, showing all dimensions of the property in question. The plat of survey shall show exact length and bearing of all exterior boundaries of the project with reference to a U.S. Land Survey corner;
 - ii. General location map at scale of not less than two hundred (200) feet to the inch, showing:
 - A. The section or government subdivision of the section in which the project lies with the location of the project located thereon;
 - B. Location and name of adjacent subdivisions including all existing or platted streets, alleys, public easements, railroad and utility easements, water courses, drainage ditches, and other pertinent data on the land to be developed and within three hundred (300) feet of the proposed project;

- C. A certified list of the names and addresses (as determined from the most current property tax rolls) of all owners of land immediately adjacent to, or across any street or alley from, the property in question. The certified list shall be certified by a title company, Township tax assessor, or county auditor.
 - iii. A physical characteristics map showing the following:
 - A. Elevation of water table, percolation data, and description of soil type to a depth of five (5) feet as obtainable from the cooperative extension agent's office, and contour information at vertical intervals of no more than two (2) feet with reference to U.S.G.S. datum;
 - B. The water elevations of adjoining lakes or streams at the date of the survey and the approximate high and low elevations of such lakes or streams. All elevations shall be referred to U.S.G.S. datum;
 - C. If the mobile home park borders a lake or stream, the distances and bearings of a meander-line established not less than twenty (20) feet back from the ordinary high-water mark of the lake or stream.
 - iii. A proposed development plan including:
 - A. Identification block containing the following:
 - I. Proposed name;
 - II. Date, scale, north arrow;
 - III. Name and address of owner, developer, planner, engineer or surveyor preparing the plan.
 - IV. Identification of gross land area of the project and the proposed density.
 - V. Proposed layout and width of all streets, sites for placement of mobile homes, buffers, utility buildings, and other required improvements and appurtenances.
 - VI. Approximate location and area of property proposed to be dedicated for public use, or to be reserved for the common use of all tenants within the proposed park, including recreational area, laundry and sanitary facilities and storage areas.
 - B. Preliminary engineering plans showing:
 - I. Proposed layout of the sanitary sewer system.
 - II. Proposed layout of water supply and distribution.
 - III. Proposed layout of storm drainage system.
 - iv. Such other information as may be required by the Planning Commission staff as deemed necessary toward proper preliminary plan review.
- (c) The Clerk-Treasurer, upon receipt of eight (8) copies of the preliminary plan, shall identify, with the Planning Commission stamp seal, all copies of the submitted plan, and shall authorize the developer or his/her agent to deliver two (2) copies of the plan to the Town engineer and two (2) copies to the county health officer. Upon official notification that all agencies have received said plans, the Clerk-Treasurer may authorize the developer to advertise for a public hearing.
- (d) It shall be the responsibility of the developer or his/her agent to ascertain all Town and county agency reports, and recommendations have been filed with the Clerk-Treasurer not less than ten (10) days prior to the Planning Commission meeting. Failure to have all reports submitted by the stipulated deadlines may delay Planning Commission consideration.

- (e) The Planning Commission shall hold a public hearing to consider the special exception. At least ten (10) days prior to the date set for hearing the commission, at petitioner's cost, shall publish in a newspaper of general circulation in the Town a notice of the time and place of the hearing
- (f) Upon completion of the public hearing, the Planning Commission shall take one of the following actions:
 - (1) Defer action if additional study is needed; or
 - (2) Recommend approval or denial of the special exception to the Town Council.
- (g) If the special exception is approved by the Town Council, the developer may proceed to submit a final development plan to the Planning Commission and the Town Council.
- (h) No permits for construction shall be granted until after final plan approval.

(Added by Ord. 2017-^^)

Sec. 12-44. - Final plat

- (a) Submission of the final plan is required and is to provide the Planning Commission, the Town Council, county health department, and Town engineer, the opportunity to review the final detailed drawings and utility plans for the proposed project, prior to approval of the final development plan.
- (b) Submission of the final plan shall be in reasonable conformance with the approved preliminary plan and in accordance with any changes requested on the preliminary plan by any of the reviewing agencies.
- (c) The final plan shall contain the following information and comply with the following:
 - (1) All final plans shall bear signature and seal of an Indiana registered land surveyor and/or engineer and shall be legibly prepared in the following manner:
 - iii. With waterproof, non-fading, black ink on tracing cloth or equal material, twenty-four (24) inches by thirty-six (36) inches in size. When more than one (1) sheet is used for any plan, each sheet shall be numbered consecutively and shall contain a notation giving the total number of sheets in the plan, and showing the relation of that sheet to the other sheet.
 - iv. It shall be drawn at a scale of not smaller than one hundred (100) feet to the inch. Where more than one sheet is necessary a small scale key drawing of the entire project, showing the portions of the project appearing on respective sheets, shall appear on the first sheet.
 - (2) The final plan shall clearly show:
 - iii. Identification name consisting of:
 - iv. Proposed block;
 - v. Date, scale, north arrow;
 - vi. Name and address of owner, developer, planner, engineer or surveyor preparing the plan.
 - vii. The following engineering data:
 - A. Streets and drives:
 - B. The exact location by length and bearing of the centerline of all proposed streets and drives.
 - I. Pavement width, estimated percent of gradient, and typical street cross-sections, and profiles of all streets and drives.

- viii. Sidewalks:
 - A. The location and width of all common sidewalks.
 - ix. Monuments:
 - A. All monuments erected, corners and other points established in the field in their proper places. The material of which monuments, corners, or other points is made shall be noted at the representation thereof, or by legend.
 - I. The exact location of the project indicated by distances and bearings with reference to a corner or corners of a section or half-section. In case any project crosses any section, quarter section or quarter section lines, or is adjacent to any of said lines, all section, quarter section or quarter section corners in or adjacent to said project shall be marked and referenced with monuments.
 - x. General location of all mobile home stands:
 - xi. The approximate location of all mobile home sites shall be identified and numbered in consecutive order.
 - xii. Detailed location and dimensions need not be shown until such times as application is made for zoning and building permits.
- (d) Submission of final plan shall also include letters of recommendation from:
- (1) Town engineer;
 - (2) County health department.
- (e) If the Town Council approves final plan, the petitioner may request a building or zoning permit from the Planning Commission staff.
- (f) No construction or grading shall be permitted prior to approval of the final plan by the Town Council. After review of the final plan, the Planning Commission shall recommend either approval or denial to the Town Council.
- (g) If a letter of approval for the park has not been obtained within twelve (12) months of the final approval of the Town Council, or has been denied by the state, the special exception and all plan approvals shall become null and void.
- (h) The Town Council's approval of a final development plan is valid regardless of change of ownership, provided that all terms and conditions are complied with by the new owner. The final plan shall be placed on file with the Planning Commission staff.
- (i) In cases where the mobile home park has not been commenced within one (1) year of the final plan, the approval shall automatically become null and void and all rights thereunder shall terminate. Upon written application filed prior to the expiration of the one (1) year period, the Planning Commission staff may authorize a single extension of the time limit for a further period of no more than one (1) year without holding another public hearing thereon.

(Added by Ord. 2017-^^)

Sec. 12-45 – Enlargement of motor home parks

- (a) No mobile home may be extended, enlarged, or otherwise added to unless approval in writing from the park owner or designated agent is presented to the Planning Commission staff and a permit has been issued by the Planning Commission staff.
- (b) A concrete pad or foundation shall be placed under any structure or addition thereto within the mobile home park.

(Added by Ord. 2017-^^)

Sec. 12-46 – Outdoor storage structures

- (a) Individual or group waterproof storage structures may be provided for the use of mobile home tenants, if approved by Planning Commission staff and located on a concrete slab.
- (b) Outdoor storage shall not be permitted unless within a completely enclosed structure approved by the mobile home park manager and the Planning Commission staff.

(Added by Ord. 2017-^^)

Secs 12-46 through 12-55 - Reserved.**Article 3- Standards****Sec. 12-58 - Generally**

In designing a mobile home park a person shall conform to:

- (a) All generally applicable ordinances of the Town. This includes, but is not limited to, the building code, property maintenance code, and rental property code;
- (b) Applicable laws, rules and regulations of the state and duly constituted agencies thereof.
- (c) All requirements contained within this chapter.

(Added by Ord. 2017-^^)

Sec. 12-59 - Water supply

- (a) All parks shall be served by a common water supply system.
- (b) For purposes of this chapter, individual water wells are not acceptable.
- (c) Water supply systems shall be submitted to, and approved by, the state board of health.

(Added by Ord. 2017-^^)

Sec. 12-60 - Sanitary sewers

- (a) All parks shall be served by central or public sewerage system connected to a sewage treatment plant approved by the state board of health.
- (b) For purposes of this chapter, individual septic tanks shall not be acceptable.

(Added by Ord. 2017-^^)

Sec. 12-61 - Electrical system

- (a) Each park shall contain an underground electrical system, which shall be installed and maintained in accordance with applicable Codes and regulations governing such system.
- (b) The electrical distribution system shall be installed underground in a manner approved by the power company and the electrical inspector.

(Added by Ord. 2017-^^)

Sec. 12-62 - Television antennas

- (a) Individual television antennas on mobile homes shall be prohibited.
- (b) If required, each mobile home park shall contain a central television antenna with underground service to each mobile home stand.

(Added by Ord. 2017-^^)

Sec. 12-63 - Fuel

Each mobile home park shall be served by an approved central fuel system. Individual fuel storage tanks shall not be permitted.

(Added by Ord. 2017-^^)

Sec. 12-64 - Storm water drainage

All parks shall be provided with storm water sewers or a surface drainage system in accordance with the requirements of the Town engineer.

(Added by Ord. 2017-^^)

Sec. 12-65 - Garbage and refuse

- (a) Garbage and rubbish shall be disposed of in a manner approved by the county health officer and in a manner designed not to create a nuisance or a menace to health.
- (b) All refuse and garbage shall be collected at least weekly. Where suitable collection service is not available from municipal or private agencies, the park operator shall provide this service.
- (c) Refuse incinerators, if permitted, shall be constructed in accordance with engineering plans and specifications which shall be reviewed and approved by the county health department.
- (d) Parks shall be maintained free of accumulations of debris which may provide rodent harborage or breeding places for flies, mosquitos, and other pests.

(Added by Ord. 2017-^^)

Sec. 12-66 - Interior streets or drives

- (a) All streets or drives, whether public or private, shall be designed in substantial relation to:
 - (1) Topographic conditions and drainage.
 - (2) Public convenience and safety.
 - (3) The proposed uses of land to be served by such street or drive. A street or drive shall be provided for convenient access to each individual mobile home site within the park.
- (b) All streets intended to be dedicated into the Town highway system shall be:
 - (1) Designed and constructed in accordance with the rules and specifications of the Town Streets department and Chapter 8 of this Code.
 - (2) Laid out in conformity to street or highway plans officially adopted by the Town. Wherever a planned street or highway runs through a proposed mobile home park, it shall be provided for in the place and with the width indicated on said plan.
- (c) All streets or drives intended to be private and for the exclusive use of tenants and guests of the park shall be constructed to meet the following minimum standards:
 - (1) All streets or drives within any mobile home park shall have an approved cross-section with a paved surface of twenty-seven (27) feet measured from back to back of the curbs.
 - (2) All cul-de-sacs shall have a minimum radius of sixty (60) feet to the outer edge of the pavement. The developer shall provide a landscaped island with a diameter not to exceed sixty-six (66) feet.
 - (3) All private streets or drives shall be constructed in the manner prescribed in the edition of *Standard Specifications* of the State Highway Department of Indiana in effect at the time of application, and any subsequent and applicable Town ordinance including, but not limited to Chapter 8 of this Code. In any instance where conflicting requirements may appear between *Standard Specifications* and an applicable Town ordinance, the more demanding standard shall prevail.
 - (4) All streets or drives shall be provided with a smooth, graded, drained, sealed, and paved durable surface commencing from the public street to and throughout the park
 - (5) All street or drive surfaces shall be maintained free of holes and other hazards.
 - (6) Concrete curb and gutter shall be provided along the outside edge of all street, drive, and parking area pavements. Concrete curb gutter and sidewalk may be one and the same.

- (d) Street names and addresses shall be assigned to all streets and mobile home stands appearing on the final plan.

(Added by Ord. 2017-^^)

Sec. 12-67 - Building setback lines

- (a) All mobile homes, occupied or vacant, shall be set back at least twenty (20) feet from any public right-of-way, or a greater distance if required by the setback requirements.
- (b) No mobile home shall be located closer than ten (10) feet to any park vehicular drive or street, as measured to the nearest part of the mobile home and/or its hitch.

(Added by Ord. 2017-^^)

Sec. 12-68 - Minimum mobile home site requirements

- (a) Any mobile home park designed with performance standards must have the approval of the Planning Commission staff prior to submission for final approval provided, however, that in no case shall any mobile home park exceed a density of seven and one-half (7½) units gross acre.
- (b) In designing a mobile home park, the following minimum performance standards shall apply:
 - (1) Each mobile home site shall be provided with a clear, unobstructed access to drive, street, or other easement to permit the placement of a home on the site. Said access shall be provided from within the park and shall not be from any exterior Town, state or county road or alley.
 - (2) The minimum open space between homes shall be as follows:
 - i. Front to front, an average of ten (10) feet.
 - ii. Front to back, an average of ten (10) feet.
- (d) All mobile home stands shall be constructed as:
 - (1) A grade-beam floating slab, as a series of double-row concrete piers, or as a solid concrete slab. Type of construction to be approved by the Planning Commission.
 - (2) The area of the mobile home stand shall be improved in accordance with the building Code to provide adequate support for the placement and tie-down of the mobile home, thereby securing the super-structure against uplift, sliding, rotation and overturning.

(Added by Ord. 2017-^^)

Sec. 12-69 - Minimum parking

- (a) Paved, off-street parking shall be provided in all mobile home parks for the use of occupants and guests. Parking spaces shall be at the ratio of at least two (2) car spaces, no less than ten (10) feet by twenty (20) feet in size, for each mobile home site.
- (b) No parking space, garage, or carport, shall be located closer than twenty-five (25) feet to the front of any mobile home, unless otherwise approved by the Planning Commission staff.

- (c) No motor vehicle shall be permitted to be parked or stored within any required open space between mobile homes except when an approved parking area is provided between two (2) mobile homes oriented back to back with each other.
- (d) Overnight parking on any drive or street within the park shall be prohibited.
- (e) The park operator shall provide a separate area either fenced, screened or otherwise enclosed, for the storage of tenant camping trailers, boats, snowmobiles, and other similar recreational equipment, and such items shall not be stored in any area of the park.

Sec. 12-70 - Projections into required yards and height regulations

- (a) Any projection from a mobile home shall not extend more than eight (8) feet into any required yard or open space.
- (b) No covered or enclosed structure shall exceed one-third the length of the mobile home.
- (c) No building or mobile home in the mobile home park shall exceed one story in height unless otherwise approved by the Planning Commission.

Sec. 12-71 – Reserved.

Sec. 12-72 - Required street illumination

- (a) All parks shall be furnished with lighting units so spaced and equipped with luminaires placed at such mounting heights as will provide the following average maintained levels of illumination for the safe movement of pedestrians and vehicles at night:
 - (1) All parts of the park street systems: 0.6 footcandle, with a minimum of 0.1 footcandle.
 - (2) Potentially hazardous locations, such as major street intersections and steps or stepped ramps: individually illuminated, with a minimum of 0.3 footcandle.
- (b) All park lights shall be so located and shielded as to prevent direct illumination of any property outside of the park.

(Added by Ord. 2017-^^)

Sec. 12-73 – Condition of newly installed mobile homes

No mobile home shall be permitted to be installed in any property in New Chicago if fails to comply with the New Chicago Building Code, New Chicago Property Maintenance Code, or any other ordinance of the Town of New Chicago.

(Added by Ord. 2017-^^)

Sec. 12-74 – Occupancy permits required

- (a) All mobile homes shall require a valid occupancy permit issued by the New Chicago Building Commissioner before being occupied.

- (b) This section shall apply to all motor homes in the Town of New Chicago including, but not limited to, new motor homes, relocated motor homes, and any mobile home which has its occupancy permit revoked.
- (c) Any mobile home which has had its occupancy permit revoked or denied within sixty (60) days shall be either repaired or removed within thirty (30) days. This period may be extended by the Building Commissioner for two (2) additional thirty (30) day periods upon proof of attempts to repair or remove and a payment of a one hundred dollar (\$100.00) fee for each extension.
- (d) If the property is not repaired or otherwise abated, the Building Commissioner shall refer the matter to the Town Attorney to pursue abatement of the property.
- (e) Before applying for an occupancy permit, a copy of the certificate of title of the vehicle shall be tendered to the New Chicago Building Commissioner.
- (f) Any individual or business who sells or leases a motor home with the knowledge that it does not have a valid occupancy permit and fails to disclose this fact shall be fined in an amount two-thousand five - hundred dollars (\$2,500.00).

(Added by Ord. 2017-^^)

Sec. 12-75 – Individual lot regulations

- (a) No mobile home shall be permitted to occupy any mobile home stand if the home is either longer or wider than would permit compliance with this chapter.
- (b) The boundaries of every mobile home site shall be clearly and permanently designated according to the dimensions and locations shown on the approved plot plan.

(Added by Ord. 2017-^^)

Sec. 12-76 – Nonresidential use

No part of any mobile home park shall be used for nonresidential purposes, except such areas that are required for the direct servicing and well-being of the park residents and for the management and maintenance of the park; provided, however, that retail sales of new or used mobile homes may be made from the park by the owners of the park, or the sole licensee or agent of the owners, but all said mobile homes held for sale shall be displayed on regular mobile home stands of the park and said mobile homes on display shall be limited to fifteen (15) percent of the total stands in the park. Nothing contained in this section shall be deemed as prohibiting the sale of a mobile home located on a mobile home stand by the individual owner or his/her agent.

(Added by Ord. 2017-^^)

Sec. 12-77 – Storage of construction materials

Construction materials storage areas for the park shall be so maintained as to prevent rodent harborage; lumber, pipe and other building material shall be stored within a structure or fenced-in storage area.

(Added by Ord. 2017-^^)

Sec. 12-78 – Vegetation and noxious weeds

The growth of brush, weeds, and grass shall be controlled by the owner or operator of the park.

Sec. 12-79 – Removable skirting around motor homes

- (a) All mobile homes shall have a removable skirting around the entire perimeter of the home.
- (b) Skirting shall be a durable material such as decorative block, concrete block, fiberglass, metal, or other material approved by Planning Commission staff. Junk doors, or other scrap material, shall be prohibited.
- (c) Skirting shall be maintained at all times by the tenant.
- (d) If there is no tenant, it shall be maintained by the owner of the mobile home property.

(Added by Ord. 2017-^^)

Sec. 12-80 - Applicability of Fair Housing ordinances

All fair housing ordinances of the Town of New Chicago are applicable to the rental of mobile home sites.

(Added by Ord. 2017-^^)

Sec. 12-81 through 12-100 – Reserved.**Article 4 – Transportation of mobile and manufactured homes****Sec. 12-101 – Purpose of this Article**

- (a) The Town of New Chicago finds that there are significant public safety and public works concerns regarding the unpermitted transfer of mobile homes upon public roadways.
- (b) Due to their large size and the potential for disrepair, mobile homes have been known to block traffic, fall apart, and otherwise cause a hazard to the roadways and safety of the citizens of New Chicago.
- (c) The Town of New Chicago additionally finds that there has been a history of mobile home park operators impermissibly removing mobile homes and/or bringing in new mobile homes while failing to comply with all necessary standards under state law and local ordinances.

- (d) The Town of New Chicago therefore finds it necessary to require permits for the transportation of mobile homes upon the roadways of New Chicago.
- (e) This article is intended to solely address the transportation of mobile homes within the roadways of New Chicago.

(Added by Ord. 2017-^^)

Sec. 12-102 – Transportation of mobile and manufactured homes – Permit and bond required

- (a) Prior to transporting any mobile home on any roadway of the Town of New Chicago, the person(s) or mobile home park operator shall obtain a permit from the Town of New Chicago.
- (b) Prior to issuing the permit, the Building Inspector may inspect any trailer proposed to be moved upon the roadways of the Town to determine if there is a risk that the proposed transport of such trailer shall block any roadway or cause debris to fall upon the roads of the Town of New Chicago.
- (c) The fee for said permit shall be twenty-five dollars (\$25.00). If a reinspection is necessary, any reinspection shall be charged a fee of twenty-five dollars (\$25.00).
- (d) Due to the risks of hazardous conditions which may be caused by the transport of mobile houses and manufactured homes in a poor condition, the Building Inspector may require a bond of up to two-thousand five hundred dollars (\$2,500.00) prior to the transportation of any mobile home upon the streets of New Chicago. Said bond shall be set at an amount no higher than the expected cleanup cost of any reasonably foreseeable hazardous condition which may be discovered during an inspection.
- (e) Said bond shall be held as security against cleanup costs and other charges to the Town and shall be returned within seven (7) days of a written certification that the trailer has been moved.
- (f) No permit shall be issued unless the building inspector determines that the vehicle can safely be moved and/or an adequate bond has been posted.
- (g) Permits shall not be unreasonably withheld nor shall bond be set at an unreasonable amount.
- (h) Decisions of the Building Inspector regarding permits or bond amounts shall be appealable to the Planning Commission.

(Added by Ord. 2017-^^)

Sec. 12-103 – Proof of ownership

- (a) Proof of ownership must be presented prior to bringing any mobile home or manufactured home upon the roadways of the Town of New Chicago.
- (b) In the event that a trailer is being moved to be removed from the Town of New Chicago, this requirement may be replaced with a verified affidavit stating the following:
 - (1) The mobile home or manufactured home is to be removed from the Town of New Chicago; and
 - (2) A diligent search has been made to determine the ownership of the unit and the owner can no longer be found or has abandoned the unit as defined in I.C.
 - (3) The individual has complied with all statutory requirements found within I.C. 9-22-1.7.
- (c) Any perjured affidavit of proof of ownership shall be considered a violation under this article.

(Added by Ord. 2017-^^)

Sec. 12-104 – Applicability of general traffic laws

The movement of any mobile home vehicle upon the roadways of New Chicago shall be subject to all generally applicable traffic laws and ordinances.

(Added by Ord. 2017-^^)

Sec. 12-105 – Responsibility for costs associated with moving mobile or manufactured home

Any party seeking to move a mobile home or manufactured home shall be responsible for any costs incurred by the Town in cleaning up hazards or related costs including, but not limited to, cleanup costs, street repair costs, and costs associated with redirecting traffic.

(Added by Ord. 2017-^^)

Sec. 12-106 – Penalty for violation

- (a) Any first violation of this article shall be punishable by a fine of no less than one thousand dollars (\$1,000.00) or more than two thousand five hundred dollars (\$2,500.00).
- (b) Any subsequent violation of this article shall be punishable by a fine of no less than two thousand five hundred dollars (\$2,500.00) or more than seven thousand five hundred dollars (\$7,500.00).
- (c) The disappearance of any trailer or unpermitted appearance of a mobile home within the Town of New Chicago or any area which could not be legally reached without travel upon the roadways of the Town of New Chicago shall be considered presumptive proof that a trailer was moved upon the roadways of the Town of New Chicago.

(Added by Ord. 2017-^^)

Chapter 13 - Zoning

Article 1

Sec. 13-1 – Purpose

An ordinance to classify, regulate, and limit the height, area, bulk and the use of buildings hereafter to be erected; to regulate and determine the area of front, rear and side yards, courts and other open spaces about such buildings, to regulate and determine the use and intensity of use of land and lot areas; to classify, regulate and restrict the locating of trades, callings, industries, commercial enterprises, and the location of buildings designed for specific uses; to divide the Town into districts for the said purposes; and prescribing penalties for the violation of its provisions.

Therefore, the Town Council of the Town of New Chicago, Indiana, deems the zoning necessary, in order to conserve the value of property in the Town and to that end that adequate light, air, convenience of access and safety from fire and other dangers may be secured, that congestion of the public streets may be lessened or avoided, and that the public health, safety, comfort, convenience, morals, and general welfare may otherwise be promoted in accordance with a well-considered and comprehensive plan for the use and development of all property throughout the Town.

(Added in 1997)

Sec. 13-2 – Continuation of previous ordinance

This chapter shall be deemed to a continuation of the previously enacted zoning ordinances of the Town of New Chicago.

The enactment dates included within this chapter shall be for convenience only. In the event that any ordinance shall have been enacted on a different date than that listed, the actual date of enactment shall prevail.

(Added by Ord. 2017-^^)

Sec. 13-3 – Requests for variances; hearing body

All requests for variances and other relief from New Chicago zoning ordinances shall be heard before the New Chicago Planning Commission.

(Added by Ord. 98-4)

Sections 13-4 through 13-10 - Reserved.

Article 2

Sec. 13-11 – Definitions

For the purpose of this chapter certain terms and words are hereby defined as follows

- (a) *Present tense* - words used include the future tense; words in the singular number include the plural number, and words in the plural number include the singular number; the word “Building” includes the word “Structure.”
- (b) *Accessory buildings* – A subordinate building or portion on the main building which is located on the lot of the main building, and the use of which is clearly incidental to the use of the main building, but such accessory building shall not be used as a separate family dwelling.
- (c) *Alley* – A public thoroughfare not more than twenty (20) feet wide.
- (d) *Apartment house* – A building arranged, intended or designed to be occupied by three (3) or more families living independently of each other, each doing its own cooking upon the premises.
- (e) *Apartment* – A suite of rooms or rooms in an apartment house which suite or room is arranged intended or designed to be occupied as a residence of a single family, individual, or group of individuals.
- (f) *Basement* – A story partly or wholly underground. It shall not be included as a story for the purposes of height measurements.
- (g) *Block* - Property abutting on one side of a street between the nearest intersecting streets or other natural barriers.
- (h) *Boarding House* - A building or premises where meals are served for compensation for five (5) or more persons, but not exceeding twelve (12) persons. An establishment where meals are served for compensation for more than twelve (12) persons shall be deemed a restaurant.
- (i) *Building* – A structure having a roof supported by uprights or walls and separated from every other building by at least a party wall.
- (j) *Building area* – The maximum horizontal projected area of a building and its accessory buildings, excluding open steps, terraces, and cornices.
- (k) Classification of use districts
 - (1) “A” residence districts
 - (2) Local business districts
 - (3) Industrial districts
 - i. The use permitted in the A Residence districts shall be deemed the highest class.
- (l) *Corner lot* – A lot situated at the junction of and abutting on two (2) or more streets and having a width not greater than sixty-six (66) feet.
- (m) *Depth of rear yard* - The mean horizontal distance from the rear line of the building and the center line of the alley, where an alley exists, otherwise the rear lot line.
- (n) *Depth of lot* – The mean horizontal distance between the front and rear lot lines.
- (o) *District* – A section of the Town of New Chicago for which the regulation governing the height, area, and use of buildings are premises are the same.
- (p) *Duplex Residence* – A two (2) family dwelling in which living quarters are arranged side by side (not one over the other)
- (q) *Family* – Any number of individuals living and cooking together on the premises as a single housekeeping unit.
- (r) *Height of buildings* – The vertical distance measured from the sidewalk level or its equivalent established grade opposite the middle of the front of the building to the highest point of the roof for

flat roofs; to the deck line for mansard roofs; and to the mean height level (between the eaves and ridge) for gable and hip-roofs. Where building is located upon a terrace or slope, the height may be measured from the average ground level at the building's walls.

- (s) *Height of court or yard* – The vertical distance from the lowest level of such court or yard to the highest point of any bounding wall.
- (t) *Hotel* – A building or premises where lodging is provided, with or without meals, for more than twelve (12) persons.
- (u) *Industrialized building* - Mobile units (commercial) and the modular units (commercial and residential) as well as HUD manufactured homes.
- (v) *Length of outer court* – The mean horizontal distance between the open and the closed end of the court.
- (w) *Lodging house* - A building or premises where lodging is provided for compensation for five (5) or more persons, but not exceeding twelve (12) persons.
- (x) *Lot* – Land occupied or to be occupied by one building and accessory buildings and uses and include the open spaces required under these regulations and having its principal frontage upon an existing public street. A lot may or may not be land so recorded on the records of Lake County, Indiana.
- (y) *Lot lines* – The lines bounding a lot as defined herein.
- (z) *Non-conforming use* – A building or premises occupied for a use that does not conform with the regulations of the district in which it is situated.
- (aa) *Outer court* - An open unoccupied space on the same lot with a building extending to and opening upon a street, alley, or yard.
- (bb) *Private garage* - A garage intended for and use by the private motor vehicle of the families resident upon the premises. Such garage shall not be used for more than one (1) commercial vehicle per family resident upon the premises.
- (cc) *Public garage* – Any garage not included within the definition of a private garage.
- (dd) *Rear yard* – An open space (unoccupied except for accessory buildings) on the same lot with a building, between the rear line of the building and the rear line of the lot, for the full width of the lot.
- (ee) *Set back* – the minimum horizontal distance between the street wall and the street property line.
- (ff) *Shall* – The requirement is mandatory.
- (gg) *Side yard* – An open unoccupied space on the same lot with a building; between the building and the family only.
- (hh) *Story* – That portion of a building included between the surface of any floor and the surface of the floor next above it, if there be no floor above it, then the space between such floor and the ceiling next above it.
- (ii) *Street wall* – The main wall or front line nearest to and facing on a street including sun parlors, and roofed porches, open or closed, but excluding open steps and/or entrance ways.

(Added by Ord. 1996-02)

Article 3 – Districts

Sec. 13-12 – Types of districts

In order to classify, regulate and limit the height, area, bulk, and use of buildings hereafter to be erected, to regulate and determine the area of the front, rear, and the side. The boundaries of each district are indicated upon the Zoning Plan or map of the Town of New Chicago, which plan is hereto included in Section 13-151 found within this chapter.

(Added in 1997)

Sec. 13-13 – Local business districts

All property touching on Michigan Avenue, Liverpool Road from Clay Street to Riverlane Drive, DeKalb St., or the north side of 37th Ave. will be designated as the Local Business District.

(Added in 1997)

Sec. 13-14 – Industrial district

The Industrial District shall include the following: All property in the Town of New Chicago south of U.S. #6 or 37th Avenue.

(Added in 1997)

Sec. 13-15 – “A” residence district

All that property remaining outside of those areas as classified Local Business and Industrial Districts shall be considered as the “A” Residence District.

(Added in 1997)

Sec. 13-16 – General district regulations

Except as hereinafter provided:

- (a) No building shall be erected or altered, nor shall any building or premises be used for any purpose other than that which is permitted by this chapter in the district in which such building or premises are located.
- (b) No building shall be erected or altered to exceed in height the limit herein established for the district for which such building is located.
- (c) No building shall be erected, nor shall any existing building be altered, enlarged, or rebuilt, nor shall any open spaces surrounding any building be encroached upon or reduced in any manner, except in

conformance with the area regulation hereby established for the district in which such building is located.

- (d) There shall be no erection, extension, or alteration of any building, structure, or premises for the following specified trades, industries, or uses beyond their present status in the Town of New Chicago, Indiana,
 - (1) Trailer courts and trailer parking areas.
 - (2) Riding stables
 - (3) Junk and/or scrap yards

(Added in 1997)

Sec. 13-17 through 13-20 – Reserved.

Article 4 – “A” residence district regulations

Sec. 13-21 – Permitted Uses

No buildings or premises shall be used and no building shall hereafter be erected or altered within any “A Residence District unless otherwise provided in this chapter except for the following uses:

- (a) Single family dwellings
- (b) Duplex residences
- (c) Municipal utilities and buildings
- (d) Community center buildings
- (e) Churches and temples of worship
- (f) Schools and colleges
- (g) Public libraries and museums
- (h) Parks, recreations buildings, and country clubs
- (i) Temporary buildings to be used for construction periods for a period not to exceed one (1) year
- (j) Accessory uses incident to the above uses including public garages, professional offices, home occupations, and signs advertising premises for sale or rent, but not including the conduct of any retail or wholesale business or manufacturer, nor any sign or billboard exceeding eight square feet in area.
- (k) Two flat buildings
- (l) Two story apartment houses.

(Added in 1997)

Sec. 13-22 - Reserved.

Sec. 13-23 - Heights

- (a) No building shall hereafter be erected or altered to exceed thirty-five (35) feet in height or two and one-half (2 ½) stories.
- (b) The ground level for new home construction shall not exceed two (2) feet above the height of the street adjacent to the front of the lot.

(Added in 1997)

Sec. 13-24 – Rear yard

There shall be a rear yard having a depth of not less than twenty percent (20%) of the depth of the lot. The rear lot will not be less than fifteen (15) feet.

(Added in 1997)

Sec. 13-25 – Side yard

- (a) There shall be a side yard on each side of the residence building having a width of not less than ten (10) feet on each side.
- (b) No overhang shall be within five (5) feet of property lines.
- (c) The side yard requirements shall apply to sheds, garages, and other accessory buildings.

(Added by Ord. 1996-02)

Sec. 13-26 – Vision clearance

- (a) There shall be a complete vision clearance for a distance of not less than ten (10) feet above the ground on all corner lots, and not less than ten (10) feet back from the property corner on each side.
- (b) Failure to comply with this ordinance shall constitute a public nuisance.
- (c) A violation of this ordinance shall result in a fine of not less than one hundred dollars (\$100.00). Each day on which the violations continues shall constitute a separate offense.

(Added in 1997. Amended by Ord 2017-^^)

Sec. 13-27 – Intensity of use of lot

- (a) No building with its accessory buildings shall occupy in excess of thirty-five (35) percent of the area of an interior lot, nor in excess of forty (40) percent of the area of a corner lot.
- (b) No dwelling or group of dwellings shall hereafter be erected or altered to provide less than six thousand (6000) square feet of lot area and sixty (60) feet of lot width for each family.

- (c) This section shall not apply to mobile homes lots built in accordance with chapter twelve (12) of this Code, but they must comply with all provisions of chapter twelve of this code.

(Added by Ord. 96-22. Amended by 2001-07 and 2003-08)

Sec. 13-28 - Building and parking area regulations

- (a) Every building hereafter erected or structurally altered which is located in the “A” Residence District shall have not less than the following
- (1) One (1) story residence – 1120 square feet
 - (2) Two (2) Story Residence – 1520 square feet (880 square feet on ground floor)
 - (3) Bi-level/tri-level residences – 1360 square feet (880 square feet on ground floor)
- (b) A parking area to be built to any public building: (church, club, recreation facility, business establishment, etc.) must have a base of at least four (4) inches of slag or stone suitable for the purpose being used along with rolled blacktop at least two (2) inches thick. The surface must be suitable for making entrances and exits to and from the lot. The parking area must be sufficient to serve the normal parking requirements of the anticipated users of the buildings. All parking lots must be approved by the Street Superintendent.

(Added by Ord. 2005-07. Amended by 2017-^^)

Sec. 13-29 – Fences

- (a) All support materials used to erect a fence shall be placed inside the property line of the property owner erecting the fence causing the supports not to be seen from outside the fenced area.
- (b) No constructed fences with a sharp point shall be permitted in the Town of New Chicago.
- (c) Any fence in the front yard of any property shall be no higher than four (4) feet.
- (d) Fences on all other sides of a property may not exceed six (6) feet in height.
- (e) All fences bordering any street shall be constructed in such a manner as to not impede the vision clearance for any traffic intersections as specified in section 13-26.
- (f) A violation of this section shall be punishable by a fine of one hundred dollars (\$100.00). Each day on which the offense continues shall be deemed a separate offense.
- (g) Fences in violation of this section shall be considered a nuisance.

(Added in 1997)

Sec. 13-30 through 13-40 – Reserved.

Article 5 – Local business district regulations

Sec. 13-41 - Permitted uses

No building or premises shall be used and none be hereafter erected or altered within any business district unless otherwise provide in this chapter, except for the uses permitted in the “A” Residence district and Local Business regulations as follows:

- (a) All types of business allowed in the local business district shall be determined by the Town Council of New Chicago.
- (b) Advertising signs and billboards must advertise the specific business on the lot on which it is set or the adjoining lots. All such signs and billboards must be set back of the building line of the lots affected and if not connected to the building and must be limited as determined by the Town Council.

(Added in 1997)

Sec. 13-42 – Gasoline service stations

Gasoline service stations shall be allowed only in the Local Business District. The stations must have at least one-hundred (100) feet of frontage on Michigan Street or 37th Avenue and also one-hundred (100) feet on any intersecting street.

(Added in 1997)

Sec. 13-43 – Incidental use restrictions

Any approved building in the Local Business District may not have more than forty (40) percent of the floor area devoted to industry or storage purpose strictly incidental to its primary use. No more than five (5) employees shall be engaged at any time on the premises in any such incidental use.

(Added in 1997)

Sec. 13-44 - Height

Any building hereafter erected or altered to exceed sixty (60) feet in height or five (5) stories shall, above that height, be set back on the front and rear building lines on the ratio of one (1) foot for each two (2) feet rise above said specified height.

(Added in 1997)

Sec. 13-45 – Rear yard

There shall be a rear yard of not less than ten percent (10%) of the depth of the lot, provided, however, such rear yard need not exceed ten (10) feet in depth.

(Added in 1997)

Sec. 13-46 – Side yard

A side yard, if provided, shall not be less than ten (10) feet wide.

(Added in 1997)

Sec. 13-47 – Outer court

An outer court shall not be less than five (5) feet wide, nor less than one-sixth (1/6) the length of such court from the closed end.

(Added in 1997)

Sec. 13-48 – Inner court

An Inner court shall not be less than six (6) feet wide, nor shall its area be less than twice the square of its required least dimension.

(Added in 1997)

Sec. 13-49 – Vision clearance

- (a) There shall be a complete vision clearance for a distance of not less than ten (10) feet above the ground on all corner lots, and not less than ten (10) feet back from the property corner on each side.
- (b) Failure to comply with this ordinance shall constitute a nuisance.
- (c) A violation of this section shall be punishable by a fine of one hundred dollars (\$100.00). Each day on which the offense continues shall be deemed a separate offense.

(Added in 1997. Amended by 2017-^^)

Sec. 13-50 – Intensity of use of lot

- (a) The intensity of use of a lot shall not occupy in excess of ninety percent (90%) of the area of the interior lot, provided that one-half (1/2) of the width of the alley, if any, may be applied as a rear yard. Buildings the width of the alley, if any, may be applied as a rear yard.

- (b) Buildings or parts of buildings used wholly for residential purpose shall conform to the intensity of use of lot restrictions provided herein for such buildings in the “A” residential Districts, except that this chapter shall impose no restrictions upon the number of families or apartments which may be accommodated in such buildings.

(Added in 1997)

Sec. 13-51 - Fences

- (a) All support materials used to erect a fence shall be placed inside the property line of the property owner erecting the fence causing the supports not to be seen from outside the fenced area.
- (b) All fences bordering any street shall be constructed in such a manner as to not impede the vision clearance for any traffic intersection as specified in section 13-48.
- (c) Any fence in the front yard of any property shall be no higher than four (4) feet.
- (d) Fences on all other sides of a property may not exceed six (6) feet in height.
- (e) A violation of this section shall be punishable by a fine of one hundred dollars (\$100.00). Each day on which the offense continues shall be deemed a separate offense.

(Added in 1997)

Sections 13-52 through 13-60 – Reserved.

Article 6 – Industrial district regulations

Sec. 13-61 – Industrial district nuisances

In any Industrial District, no building or premises shall be used, erected, or altered which causes any nuisance, obnoxious odor, offensive, smoke, dust, vapor, gas, or noise. The Town Council will determine uses in an Industrial District.

(Added in 1997)

Sec. 13-62 – Height

No building shall be erected or altered to exceed sixty (60) feet or five (5) stories in height except that the height may exceed this limit by an amount equal to the distance which any such building is set back from the nearest street line.

(Added in 1997)

Sec. 13-63 –Area – rear yard

There shall be a rear yard of not less than ten percent (10%) of the depth of the lot provided, however, such rear yard need not exceed ten (10) feet in depth.

(Added in 1997)

Sec. 13-64 - Side yard

A side yard, if provided, shall not be less than ten (10) feet wide.

(Added in 1997)

Sec. 13-65 – Outer court

An outer court shall not be less than five (5) feet wide, nor less than one-sixth (1/6) the length of such court from the closed end.

(Added in 1997)

Sec. 13-66 – Inner court

An inner court shall not be less than six (6) feet wide, nor shall its area be less than twice the square of its required least dimension.

(Added in 1997)

Sec. 13-67 – Vision clearance

- (a) There shall be a complete vision clearance for a distance of not less than ten (10) feet above the ground on all corner lots or not less than ten (10) feet back from the property corner on each side.
- (b) Failure to comply with this ordinance shall constitute a nuisance.
- (c) A violation of this ordinance shall result in a fine of one hundred dollars (\$100.00). Each day on which the offense continues shall constitute a separate offense.

(Added in 1997)

Sec. 13-68 - Intensity of use

No building with the accessory buildings to be used for commercial purpose shall occupy in excess of ninety percent (90%) of the area of an interior lot, provided that one-half (1/2) of the width of the alley, if any, may be applied as a rear yard.

(Added in 1997)

Sec. 13-69 - Fences

- (a) All support materials used to erect a fence shall be placed inside the property line of the property owner erecting the fence causing the supports not to be seen from outside the fenced area.
- (b) All fences bordering any street shall be constructed in such a manner as to not impede the vision clearance for any traffic intersection as specified in section 13-67.
- (c) Any fence in the front yard of any property shall be no higher than six (6) feet.
- (d) Fences on all other sides of a property may not exceed six (6) feet in height.
- (e) A violation of this section shall be punishable by a fine of one hundred dollars (\$100.00). Each day on which the offense continues shall be deemed a separate offense.

(Added in 1997)

Sec. 13-70 through 13-80 – Reserved.

Article 7 – Nonconforming uses

Sec. 13-81 - Governing regulations

- (a) A lawful non-conforming use existing at the time of the passage of any applicable ordinance within this chapter may be continued.
- (b) A non-conforming use shall not be extended except as authorized by the Town Council.
- (c) The extension of the use of a portion of a building which portion is arranged or designed for a non-conforming use at the time of the passage of this chapter shall not be deemed the extension of a non-conforming use.
- (d) A building arranged or designed for a non-conforming use at the time of this chapter may not be structurally altered, nor reconstructed after damage by fire or other cause, to an extent exceeding aggregate cost, during any ten (10) year period sixty percent (60%) of the assessed value of the building, unless the use of said building is changed to a conforming use.
- (e) A non-conforming use, if changed to a conforming use, may not thereafter be changed back to any non-conforming use.

(Added in 1997)

Sections 13-82 through 13-90 – Reserved.

Article 8 – Height and area exceptions

Sec. 13-91 – Height exceptions

The following requirements in the height regulations shall be subject to the following exceptions:

- (a) Public or semi-public buildings, churches, hospitals, sanitariums, or schools may be erected to a height not exceeding sixty (60) feet, provided that where not located in “A” Residence District, they must be set back from each property line at least one (1) foot for each additional building height above the limit for the district, in addition to the other yard requirements of the district.
- (b) Single family or two-family dwellings in a residence district may be increased in height by not more than ten (10) feet when two (2) side yards of not less than fifteen (15) feet each are provided. Such dwellings, however, shall not exceed three (3) stories in height.
- (c) Tower equivalent in area to not more than twenty-five percent (25%) of the area of the lot, chimneys, cooling towers, elevator bulkheads, fire towers, monuments, pent houses, water towers, stacks, stage towers, scenery lofts, tanks, ornamental towers, spires, wireless towers, or necessary mechanical appurtenances may be erected to any height in accordance with existing or hereafter adopted ordinances of the Town of New Chicago.

(Added in 1997)

Sec. 13-92 – Area exceptions

- (a) The requirements for a rear yard may be waived when such buildings comply with the percentage of lot occupancy by furnishing other open space in lieu of such required rear yard.
- (b) In computing the depth of an area yard or the width of a side yard or open court, or the required percentage of area to be left unoccupied for any building where such yard or court opens into an alley, one-half (1/2) of the alley width may be assumed to be a portion of the yard or court.
- (c) Every part of a required yard or court shall be open from its lowest point to the sky unobstructed, except for the ordinary projections of skylights above the bottom of such a yard or court, and except for the projections still, belt course, cornices and ornamental features not to exceed thirty-six (36) inches.
- (d) Open or lattice enclosed fire escapes, fireproof outside stairways, and balconies opening upon fire towers projecting into a yard not more than five (5) feet or into a court not more than three and one half (3 ½) feet, and the ordinary projections of chimneys and flues shall be permitted.

(Added in 1997)

Secs 13-93 through 13-100 – Reserved.

Article 9 – Validity

Sec. 13-101 Severability

Should any section or provision of this Chapter be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the chapter as a whole or any part thereof, other than the part so declared to be invalid.

(Added in 1997)

Sections 13-102 through 13-110 – Reserved.

Article 10 – Amendments

Sec. 13-111 – Provisions for amending

- (a) The regulations or districts established by this chapter may be amended by ordinance of the Town Council, but only after public notice and hearing.
- (b) Such notice shall be published by one (1) insertion into two (2) newspapers of general circulation in such Town no less than seven (7) days previous to the time fixed for such hearing, and which said notice shall set out the substance of the proposed amendments or changes to be made and shall state the objections thereto will be heard, and that information concerning such proposed amendments or changes is on file in the office of the Town Clerk-Treasurer for public examination.
- (c) Whenever the owners of fifty (50%) percent or more of the frontage of any street within any district shall present a petition duly signed to the Town Council prescribed for such district or part thereof, it shall be the duty of the Town Council to vote upon the proposal presented by said petition within ninety (90) days after the filing of the same with the Clerk-Treasurer of the Town.
- (d) Any proposed chapter for the amendment, supplement, change, or repeal of an ordinance adopted hereunder shall be referred to the Town Council.
- (e) In the event the report of an ordinance adopted hereunder shall be adverse thereto, or in the event a protest against a proposed amendment supplement, change, or repeal shall be presented in writing duly signed and acknowledged by the owners of twenty percent (20%) or more of the frontage of the property proposed to be altered, or by the owners of twenty percent (20%) of the frontage directly opposite the property proposed to be altered such ordinance for the amendment, supplement, change, or repeal of an ordinance adopted hereunder shall not be passed except by an affirmative vote of at least seventy-five percent (75%) of the members of the Town Council.

(Added in 1997)

Sections 13-112 through 13-120 – Reserved.

Article 11 – Enforcement, violation, and penalty

Sec. 13-121 – Enforcement, violation, and penalty

- (a) Buildings erected, raised, or converted, or premises used in violation of any provision of this ordinance or its regulations shall be and hereby are declared to be common nuisances.
- (b) Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses compliance with or who resists the enforcement of any of the provisions of this chapter shall upon conviction, be fined not less than one-hundred (\$100.00) dollars nor more than five-hundred (\$500.00) dollars for each offense unless otherwise specified by a more specific ordinance.
- (c) The Town Council is hereby designated and authorized to enforce this chapter.
- (d) The provisions of this chapter and the orders of the Town Council may be enforced by injunction or other appropriate proceedings.

(Added in 1997)

Sections 13-122 through 13-130 – Reserved.

Article 12 – Adult businesses

Sec. 13-131 – Purpose

In the development and adoption of this chapter, it is recognized that there are some adult business which due to their very nature have serious objectionable operational characteristics, particularly in close proximity to residential and educational neighborhoods, thereby having a deleterious impact upon property values and the quality of life in such surroundings areas. The special regulations deemed necessary to control the undesirable effects arising from these enterprises are set forth below. The primary purpose of these controls and regulations is to preserve the integrity, value, and character of residential neighborhoods, and to protect minors from the objectionable operational characteristics of these adult uses by restricting their close proximity to churches, parks, schools, day care centers, and residential areas.

(Added by Ord. 96-20)

Sec. 13-132 - Definitions

- (a) *Adult bookstore* shall mean an establishment having a substantial or significant portion of its stock in trade, books, magazines, films for sale or viewing on premises by use of motion picture devices or any other coin operated means, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or related to “specified sexual activities,” or specified anatomical areas” or establishment with a segment or section devoted to the sale or display of such material
- (b) *Adult business* shall mean any commercial activity, whether conducted intermittently or free time, which primarily involves the sale, display, exhibition, or viewing of books, magazines, films,

photographs, or other materials, distinguished or characterized by an emphasis on matter depicting, describing, or relating to human sex acts, or by an emphasis on male or female genitals, buttocks, or female breasts.

- (1) Such business shall include, while not being exclusive of:
 - (2) Adult book stores
 - (3) Adult mini-motion picture theaters
 - (4) Adult motels
 - (5) Adult motion picture theaters
 - (6) Gentlemen's club or similar establishments
 - (7) Massage parlor
 - (8) Adult motion picture arcade
 - (9) Model studios
 - (10) Any establishing utilizing lingerie models in their premises
- (c) *Adult mini motion picture theater* shall mean an enclosed building with a capacity of fifty (50) persons or less used for presenting materials distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas," for observation by patrons therein.
- (d) *Adult motel* shall mean a motel wherein material is presented which is distinguished or characterized by an emphasis on depicting or describing "Sexual Conduct" or "Specified Anatomical Areas."
- (e) *Massage parlor* shall mean any place where for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment or manipulation of the human body occurs as part of or in connection with "Sexual Conduct," or where any person providing such treatment, manipulation or service related thereto exposes "Specified Anatomical Areas."
- (f) *Model Studio* shall mean any place where, for any form of consideration or gratuity, figure models who display "Specified Anatomical Areas" are provided to be observed, sketched, drawn, painted, sculptures photographed, or similarly depicted by persons paying such consideration or gratuity.
- (g) *Lingerie model* shall include any male or female who displays "Specified Anatomical areas" to be observed by persons who are customers of any business establishment.
- (h) *Sexual conduct* includes the following:
- (1) The fondling or other touching of human genitals, pubic region, buttocks, or female breasts.
 - (2) Ultimate sex acts, normal or perverted, actual or stimulated, including intercourse, oral copulation, sodomy;
 - (3) Masturbation; and
 - (4) Excretory functions as part of or in connection with any of the activities set forth in (A) through (C) above.
- (i) Specified anatomical areas includes the following-
- (1) Less than completely and opaquely covered: 1) human Genitals, pubic region, 2) buttocks and 3) female breast below a point immediately above the top of the areola; and
 - (2) Human genitals in a discernibly turgid state, even if complete and opaquely covered.

(Added by Ord. 96-20)

Sec. 13-133 - Prohibitions

The establishment, enlargement, reconstruction, resumption, or structural alternation of any adult business shall be prohibited if such business is within-

- (a) One thousand (1,000) feet of any church, public or private elementary or secondary school, private or public preschool or day care center, or public park, or
- (b) Five hundred (500) feet of any residential zoning district or mobile home park.
- (c) Provided further that no adult business shall be established enlarged, reconstructed, resumed or structurally altered unless the site or proposed site is located in the industrial zoning district. Said adult business shall be specifically excluded from all other zoning districts.

(Added by Ord. 96-20)

Sec. 13-134 – Measurement of distances

The distance between an adult business and any church, school, park, day care center, residential zoning district, or mobile home park district shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior structural wall of the adult business to the nearest property line of the church, day care center, school, park, residential zoning district. If any adult business is part of or included within an integrated center, the portion of said center or leased space occupied by such adult business shall be included in determining the closest exterior structural wall of said establishment.

(Added by Ord. 96-20)

Sec. 13-135 – Exterior display

No adult business shall be conducted in any manner that permits the observation of any material denoting, describing or relating to specified sexual activities or specified anatomical areas by display, decorations, sign, show window or other opening from any public way.

(Added by Ord. 96-20)

Sec. 13-136 - Severability

If any provision or clause of the chapter or the application thereof to any person or circumstance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such decision shall not affect other chapter provisions or clauses or applications thereof which can be implemented without the unconstitutional or invalid provision are declared to be severable.

(Added by Ord. 96-20)

Sec. 13-137 – Enforcement

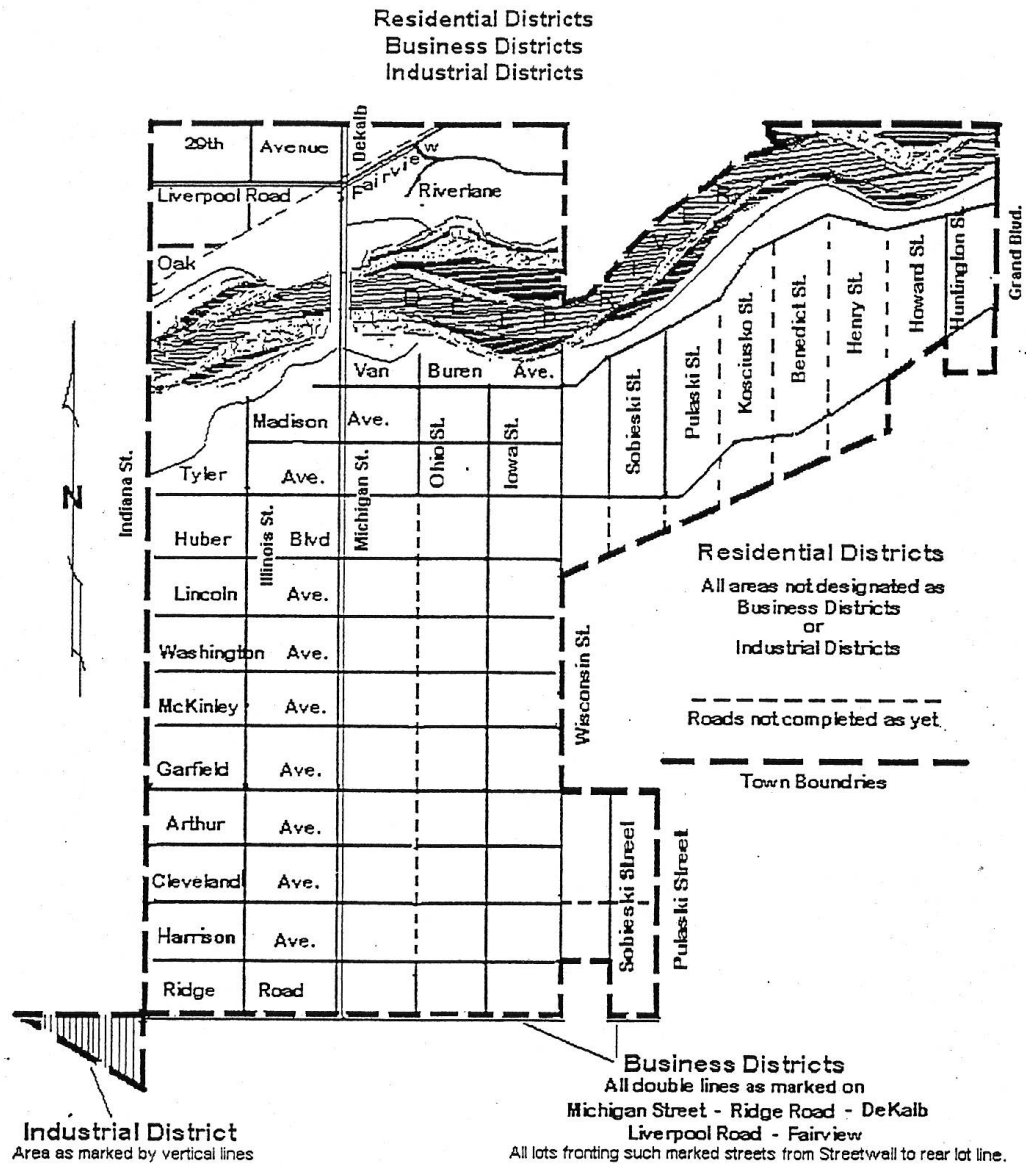
This article shall be enforced as other zoning ordinances of the Town of New Chicago.

(Added by Ord. 96-20)

Article 14 - Zoning Appendix

Sec. 13-151 Zoning map

TOWN OF NEW CHICAGO ZONING MAP



Chapter 14 – Flood hazard areas

Article 1 – Statutory authorization, findings of facts, purpose, and objectives

Sec. 14-1 - Statutory authorization

- (a) *Statutory authorization.* The Indiana Legislature has in IC § 36-7-4 and IC § 14-28-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the Town Council of the Town of New Chicago does hereby adopt the following floodplain management regulations.
- (b) Findings of fact.
- (1) The flood hazard areas of the Town of New Chicago 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.
 - (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood proofed, or otherwise unprotected from flood damage.
- (c) Statement of purpose
- (1) 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:
 - iii. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities;
 - iv. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
 - v. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
 - vi. Control filling, grading, dredging, and other development which may increase erosion or flood damage;
 - vii. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and
 - viii. Make federally subsidized flood insurance available for structures and their contents in the Town by fulfilling the requirements of the National Flood Insurance Program.

(Added by Ord. 2015-12)

Sec. 14-2 - Objectives

The objectives of this chapter are:

- (a) To protect human life and health;
- (b) To minimize expenditure of public money for costly flood control projects;

- (c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (d) To minimize prolonged business interruptions;
- (e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains;
- (f) To help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize flood blight areas; and
- (g) To ensure that potential homebuyers are notified that property is in a flood area.

(Added by Ord. 2015-12)

Sections 14-3 through 14-10 – Reserved.

Article 2 - Definitions

Sec. 14-11 - Definitions

Unless specifically defined below or within section 2-3 of this Code, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application:

A zone means portions of the SFHA (special flood hazard area) in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A zones, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings. These areas are labeled as Zone A, Zone AE, Zones A1-A30, Zone AO, Zone AH, Zone AR and Zone A99 on a FIRM or FHB. The definitions are presented below:

Zone A: Areas subject to inundation by the one-percent annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown. Mandatory flood insurance purchase requirements apply.

Zone AE and A1-A30: Areas subject to inundation by the one-percent annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. Mandatory flood insurance purchase requirements apply. (Zone AE is on new and revised maps in place of Zones A1-A30.)

Zone AO: Areas subject to inundation by one-percent annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone. Mandatory flood insurance purchase requirements apply.

Zone AH: Areas subject to inundation by one-percent annual chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Average flood depths derived from

detailed hydraulic analyses are shown within this zone. Mandatory flood insurance purchase requirements apply.

Zone AR: Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection. Mandatory flood insurance purchase requirements apply.

Zone A99: Areas subject to inundation by the one-percent annual chance flood event, but which will ultimately be protected upon completion of an under-construction federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. Zone A99 may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown. Mandatory flood insurance purchase requirements apply.

Accessory structure (appurtenant structure) means a structure that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

Addition (to an existing structure) means any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

Appeal means a request for a review of the Floodplain Administrator's interpretation of any provision of this chapter or a request for a variance.

Area of shallow flooding means a designated AO or AH zone on the community's flood insurance rate map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Base flood elevation (BFE) means the elevation of the one-percent annual chance flood.

Basement means that portion of a structure having its floor sub-grade (below ground level) on all sides.

Building: See "Structure."

Community means a political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

Community rating system (CRS) means a program developed by the federal insurance administration to provide incentives for those communities in the regular program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

Critical facility means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

D Zone means unstudied areas where flood hazards are undetermined, but flooding is possible. Flood insurance is available in participating communities but is not required in this zone.

Development means any manmade change to improved or unimproved real estate including, but not limited to:

- (1) Construction, reconstruction, or placement of a structure or any addition to a structure;
- (2) Installing a manufactured home on a site, preparing a site for a manufactured home or installing recreational vehicle on a site for more than one hundred and eighty (180) days;
- (3) Installing utilities, erection of walls and fences, construction of roads, or similar projects;
- (4) Construction of flood control structures such as levees, dikes, dams, channel improvements, etc.
- (5) Mining, dredging, filling, grading, excavation, or drilling operations;
- (6) Construction and/or reconstruction of bridges or culverts;
- (7) Storage of materials; or
- (8) Any other activity that might change the direction, height, or velocity of flood or surface waters.

“Development” does not include activities such as the maintenance of existing structures and facilities such as painting, reroofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

Elevated structure means a nonbasement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, filled stem wall foundations (also called chain walls), pilings, or columns (posts and piers).

Elevation certificate is a certified statement that verifies a structure's elevation information.

Emergency program means the first phase under which a community participates in the NFEP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

Encroachment means the advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing construction means any structure for which the "start of construction" commenced before the effective date of the community's first floodplain ordinance.

Existing manufactured home park or subdivision means 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 means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEMA means the Federal Emergency Management Agency.

Flood means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

Flood boundary and floodway map (FBFM) means an official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

Flood hazard boundary map (FHBM) means an official map of a community, issued by FEMA, where the boundaries of the areas of special flood hazard have been identified as Zone A.

Flood insurance rate map (FIRM) means an official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood insurance study (FIS) is the official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FBFM (where applicable), and the water surface elevation of the base flood.

Floodprone area means any land area acknowledged by a community as being susceptible to inundation by water from any source. (See "Flood".)

Flood protection grade (FPG) is the elevation of the regulatory flood plus two feet at any given location in the SFHA. (See "Freeboard".)

Floodplain means the channel proper and the areas adjoining any wetland, lake, or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the fringe districts.

Floodplain management means 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 means this chapter and other zoning ordinances, subdivision regulations, building code, health regulations, special purpose ordinances, and other applications of police power which control development in floodprone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage. Floodplain management regulations are also referred to as floodplain regulations, floodplain ordinance, flood damage prevention ordinance, and floodplain management requirements.

Floodproofing (dry floodproofing) is 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 is a form used to certify compliance for nonresidential structures as an alternative to elevating structures to or above the FPG. This certification must be by a registered professional engineer or architect.

Floodway is the channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

Freeboard means a factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

Fringe is those portions of the floodplain lying outside the floodway.

Functionally dependent facility means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

Hardship (as related to variances of this chapter) means the exceptional hardship that would result from a failure to grant the requested variance. The Town of New Chicago Town Council requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

Highest adjacent grade means the highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

Historic structure means any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

Increased cost of compliance (ICC) means the cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business flood insurance policies with effective dates on or after June 1, 1997, will include IC §C coverage.

Letter of Final Determination (LFD) means 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 FLPD 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) is a general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They include Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F). The definitions are presented below.

Letter of map amendment (LOMA) means an amendment to the currently effective FEMA map that establishes that a property is not located in a SFHA. A LOMA is only issued by FEMA.

Letter of map revision (LOMR) means an official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

Letter of map revision based on fill (LOMR-F) means an official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

Lowest adjacent grade means the lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

Lowest floor means the lowest of the following:

- (1) The top of the lowest level of the structure;
- (2) The top of the basement floor;
- (3) The top of the garage floor, if the garage is the lowest level of the structure;
- (4) The top of the first floor of a structure elevated on pilings or pillars;
- (5) The top of the floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of flood waters unless:
 - i. The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters by providing a minimum of two openings (in addition to doorways and windows) in minimum of two exterior walls if a structure has more than one enclosed area, each shall have openings on exterior walls;

- ii. The total net area of all openings shall be at least one (1) square inch for every one square foot of enclosed area; the bottom of all such openings shall be no higher than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and,
- iii. Such enclosed space shall be usable solely for the parking of vehicles and building access.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

Map amendment means a change to an effective NFIP map that results in the exclusion from the SFHA of an individual structure or a legally described parcel of land that has been inadvertently included in the SFHA (i.e., no alterations of topography have occurred since the date of the first NFIP map that showed the structure or parcel to be within the SFHA).

Map panel number is the four-digit number followed by a letter suffix assigned by FEMA on a flood map. The first four digits represent the map panel, and the letter suffix represents the number of times the map panel has been revised. (The letter "A" is not used by FEMA, the letter "B" is the first revision.)

Market value means the building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.

Mitigation means sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is two-fold: to protect people and structures, and to minimize the cost of disaster response and recovery.

National Flood Insurance Program (NFIP) is the federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the federal government and the private insurance industry.

National Geodetic Vertical Datum (NGVD) of 1929, as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

New construction means any structure for which the "start of construction" commenced after the effective date of the community's first floodplain ordinance.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site

grading or the pouring of concrete pads) is completed on or after the effective date of the community's first floodplain ordinance.

North American Vertical Datum of 1988 (NAVD 88) as adopted in 1993 is a vertical control datum used as a reference for establishing varying elevations within the floodplain.

Obstruction includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

One-hundred-year flood (100-year flood) is the flood that has a one-percent chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See "regulatory flood".

One-percent annual chance flood is the flood that has a one-percent chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See "regulatory flood".

Participating community is any community that voluntarily elects to participate in the NFIP by adopting and enforcing floodplain management regulations that are consistent with the standards of the NFIP.

Physical map revision (PMR) is an official republication of a community's FEMA map to effect changes to base (one-percent annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

Post-FIRM construction means construction or substantial improvement that started on or after the effective date of the initial FIRM of the community or after December 31, 1974, whichever is later.

Pre-FIRM construction means construction or substantial improvement which started on or before December 31, 1974, or before the effective date of the initial FIRM of the community, whichever is later.

Probation is a means of formally notifying participating communities of violations and deficiencies in the administration and enforcement of the local floodplain management regulations.

Public safety and nuisance, anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Recreational vehicle means a vehicle which is:

- (1) Built on a single chassis;

- (2) Four hundred (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.

Regular program means the phase of the community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.

Regulatory flood means the flood having a one-percent (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 section 14-13 of this chapter. The "regulatory flood" is also known by the term "base flood", "one-percent annual chance flood", and "100-year flood."

Repetitive loss means flood-related damages sustained by a structure on two separate occasions during a ten-year period ending on the date of the event for which the second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded twenty-five percent (25%) of the market value of the structure at the time of each such flood event.

Section 1316 is that section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that intended to discourage or otherwise restrict land development or occupancy in floodprone areas.

Special flood hazard area (SFHA) means those lands within the jurisdictions of the Town subject to inundation by the regulatory flood. The SFHAs of the Town of New Chicago are generally identified as such on the Lake County, Indiana and Incorporated areas Flood Insurance Rate Map dated January 18, 2012 as well as any future updates, amendments, or revisions prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE< A1-A30, Ah, AR, A99, or AO).

Start of construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement or permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footing, installation of piles, construction of columns, or any work beyond the stage of excavation for placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms. For substantial improvement, the actual start of construction means the first alteration of any wall, ceiling,

floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means a structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles to be installed on a site for more than one hundred and eighty (180) days.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent 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 or any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

Suspension means the removal of a participating community from the NFIP because the community has not enacted and/or enforced the proper floodplain management regulations required for participation in the NFIP.

Variance is a grant of relief from the requirements of this chapter, which permits construction in a manner otherwise prohibited by this article where specific enforcement would result in unnecessary hardship.

Violation means the failure of a structure or other development to be fully compliant with this article. A structure or other development without the elevation, other certification, or other evidence of compliance required in this article is presumed to be in violation until such time as that documentation is provided.

Watercourse means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Water surface elevation means the height, in relation to the North American Vertical Datum of 1988 (NAVD 88) or National Geodetic Vertical Datum of 1929 (NGVD) (other datum where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas.

X zone means the area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2 percent chance of being equaled or exceeded (the 500-year flood). Unshaded X zones (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2 percent.

Zone means a geographical area shown on a FHBM or FIRM that reflects the severity or type of flooding in the area.

Zone A (see definition for A zone).

Zone B, C, and X means areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Flood insurance is available in participating communities but is not required by regulation in these zones. (Zone X is used on new and revised maps in place of Zones B and C.)

(Added by Ord. 2015-12)

Article 3 – General provisions

Sec. 14-12 – Lands to which this chapter applies

This article shall apply to all SFHAs and known floodprone areas within the jurisdiction of the Town.

(Added by Ord. 2015-12)

Sec. 14-13 - Basis for establishing regulatory flood data

- (a) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of New Chicago shall be as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of Lake County and Incorporated Areas dated January 18, 2012 and the corresponding flood insurance rate map prepared by the Federal Emergency Management Agency and dated January 18, 2012.
- (b) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of New Chicago, delineated as an "A Zone" on the Lake County and Incorporated Areas Flood Insurance Rate Map prepared by the Federal Emergency Management Agency and dated January 18, 2012 as well as any future updates, amendments, or revisions prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as 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 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 data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one (1) square mile.

(Added by Ord. 2015-12)

Sec. 14-4 - 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.

(Added by Ord. 2015-12)

Sec. 14-5 - Compliance

No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this chapter and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this chapter and other applicable regulations.

(Added by Ord. 2015-12)

Sec. 14-6 - 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.

(Added by Ord. 2015-12)

Sec. 14-7 - Discrepancy between mapped floodplain and actual ground elevations

- (a) In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.
- (b) If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.
- (c) If the elevation (natural grade) of the site in question is above the base flood elevation, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner should be advised to apply for a LOMA.

(Added by Ord. 2015-12)

Sec. 14-8 - 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.

(Added by Ord. 2015-12)

Sec. 14-9 - Warning and disclaimer of liability

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this chapter does not create any liability on the part of Town of New Chicago, 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.

(Added by Ord. 2015-12)

Sec. 14-10 - Penalties for violation

- (a) 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.
- (b) All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the zoning Code for Town of New Chicago. Violations shall be punishable by a fine of one hundred dollars (each day a violation continues shall be deemed a separate violation).
- (c) A separate offense shall be deemed to occur for each day the violation continues to exist.
- (d) The Town of New Chicago 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.
- (e) 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.

(Added by Ord. 2015-12)

Sec. 14-11 - Increased cost of compliance (ICC)

In order for buildings to qualify for a claim payment under ICC coverage as a "repetitive loss structure", the National Reform Act of 1994 requires that the building be covered by a contract for flood insurance and incur flood-related damages on two occasions during a ten-year period ending on the date of the event for which the second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded twenty-five (25) percent of the market value of the building at the time of each such flood event.

(Added by Ord. 2015-12)

Sections 14-12 through 14-30 - Reserved.

Article 4 - Administration

Sec. 14-13 - Designation of Administrator

The Town Council of the Town of New Chicago hereby appoints the New Chicago MS4 as the Administrator to administer and implement the provisions of this article and is herein referred to as the Floodplain Administrator.

(Added by Ord. 2015-12)

Sec. 14-14 - Permit procedures

- (a) Application for a Floodplain Development Permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing.
- (b) Specifically, the following information is required:
 - (1) Application stage.
 - i. A description of the proposed development;
 - ii. Location of the proposed development sufficient to accurately locate property and structure in relation to existing roads and streams;
 - iii. A legal description of the property site;
 - iv. A site development plan showing existing and proposed development locations and existing and proposed land grades;
 - v. Elevation of the top of the lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD;
 - vi. Elevation (in NAVD 88 or NGVD) to which any nonresidential structure will be floodproofed;
 - vii. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development; and
 - (2) *Construction stage.* Upon placement of the lowest floor; or floodproofing, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the NAVD 88 or NGVD elevation of the lowest floor or floodproofed elevation, as built. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. When floodproofing is utilized for a particular structure said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holders' risk. (The Floodplain Administrator shall review the lowest floor and floodproofing elevation survey data submitted.) The permit holder shall correct deficiencies

detected by such review before any further work is allowed to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop work order for the project.

- (3) *Finished Construction.* Upon Completion of construction, an elevation certification (FEMA Elevation Certificate Form 81-31 or any future updates) which depicts the “as-built” lowest floor elevation is required to be submitted to the Floodplain Administrator. If the project includes a floodproofing measure, floodproofing certification (FEMA Floodproofing Certificate Form 81-85 or any future updates) is required to be submitted by the applicant to the Floodplain Administrator.

(Added by Ord. 2015-12)

Sec. 14-15 - Duties and responsibilities of the Floodplain Administrator

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.

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to:

- (a) Review all Floodplain Development Permits to assure that the permit requirements of this chapter have been satisfied;
- (b) Inspect and inventory damaged structures in SFHA and complete substantial damage determinations;
- (c) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to sections 14-35 and 14-36(1) of this chapter, and maintain a record of such authorization (either copy of actual permit or floodplain analysis/regulatory assessment);
- (d) Ensure that all necessary federal or state permits have been received prior to issuance of the local Floodplain Development Permit. Copies of such permits are to be maintained on file with the Floodplain Development Permit;
- (e) Maintain and track permit records involving additions and improvement to residences located in the floodway.
- (f) 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;
- (g) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, letters of map amendment (LOMA), letters of map revision (LOMR), copies of DNR permits and floodplain analysis and regulatory assessments (letter of recommendation), federal permit documents, and "as-built" elevation and floodproofing data for all buildings constructed subject to this chapter;
- (h) 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;
- (i) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;
- (j) Review certified plans and specifications for compliance;

- (k) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with section 14-14;
- (l) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed, in accordance with section 14-14;
- (m) Perform a minimum of three (3) inspections to ensure that all applicable ordinance and floodplain development requirements have been satisfied. The first upon the establishment of the Flood Protection Grade referee mark at the development site; the second upon the establishment of the structure's footprint/establishment of the lowest floor; and the final inspection upon completion and submission of the required finished construction elevation certificate. Authorized Administrator shall have the right to enter and inspect properties located in the SFHA.
- (n) 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, or to his/her agent, or to the person doing the work, and shall state the conditions under which work may be resumed.
- (o) Revocation of permits:
 - (1) The Floodplain Administrator may revoke a permit or approval, issued under the provisions of the 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.

(Added by Ord. 2015-12)

Sections 14-16 through 14-30 - Reserved.

Article 5 – Provisions for flood hazard reduction

Sec. 14-31 - General standards

- (a) In all SFHAs and known flood prone areas the following provisions are required:
 - (1) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
 - (2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;
 - (3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG;

- (4) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (5) Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, 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. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG;
- (6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
- (9) Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this chapter shall meet the requirements of "new construction" as contained in this chapter; and
- (10) Parking lots, driveways, and sidewalks within the SFHA shall be constructed with permeable materials.
- (11) Whenever any portion of the SFHA is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the BFE shall be compensated for and balanced by an equivalent volume of excavation taken below the BFE. The excavation volume shall be at least equal to the volume of storage lost (replacement ratio of one to one) due to the fill or structure.
- (12) The excavation shall take place in the floodplain and in the same property in which the authorized fill or structure is located;
- (b) Under certain circumstances, the excavation may be allowed to take place outside of but adjacent to the floodplain provided that the excavated volume will be below the regulatory flood elevation, will be in the same property in which the authorized fill or structure is located, will be accessible to the regulatory floodwater, will not be subject to ponding when not inundated by floodwater, and that it shall not be refilled;
- (c) The excavation shall provide for true storage of floodwater but shall not be subject to ponding when not inundated by floodwater;
- (d) The fill or structure shall not obstruct a drainageway leading to the floodplain;
- (e) The grading around the excavation shall be such that the excavated area is accessible to the regulatory floodwater;
- (f) The fill or structure shall be of a material deemed stable enough to remain firm and in place during periods of flooding and shall include provisions to protect adjacent property owners against any increased runoff or drainage resulting from its placement; and
- (g) Plans depicting the areas to be excavated and filled shall be submitted prior to the actual start of construction or any site work; once site work is complete, but before the actual start of construction, the applicant shall provide to the Floodplain Administrator a certified survey of the excavation and fill sites demonstrating the fill and excavation comply with this article.

(Added by Ord. 2015-12)

Sec. 14-32 - Specific standards

In all SFHAs, the following provisions are required:

- (a) In addition to the requirements of section 14-31, all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:
 - (1) Construction or placement of any new structure having a floor area greater than four hundred (400) square feet;
 - (2) Addition or improvement made to any existing structure where the cost of the addition or improvement equals or exceeds fifty percent (50%) of the value of the existing structure (excluding the value of the land).
 - (3) Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before-damaged condition equals or exceeds fifty (50) percent of the market value of the structure (excluding the value of the land) before damage occurred;
 - (4) Installing a travel trailer or recreational vehicle on a site for more than one hundred and eighty (180) days;
 - (5) Installing a manufactured home on a new site or a new manufactured home on an existing site. This division does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage; and
 - (6) Reconstruction or repairs made to a repetitive loss structure.
- (b) *Residential construction.* New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor, including basement, at or above the FPG (two [2] feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of subsection (d).
- (c) *Nonresidential construction.* New construction or substantial improvement of any commercial, industrial, or nonresidential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) 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 subsection (d). Structures located in all "A zones" may be floodproofed in lieu of being elevated if done in accordance with the following:
 - (1) A registered professional engineer or architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the official as set forth in section 14-15.
 - (2) Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

(d) *Elevated structures.* New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG.

(1) Elevated structures with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade 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. Designs must meet the following minimum criteria:

- iii. Provide a minimum of two (2) openings located in a minimum of two (2) exterior walls (having a total net area of not less than one [1] square inch for every [1] square foot of enclosed area).
- iv. The bottom of all openings shall be no more than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher.
- v. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- vi. Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
- vii. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
- viii. The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.
- ix. Openings are not be less than three (3) inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device. Property owners shall be required to execute a flood openings/venting affidavit acknowledging that all openings will be maintained as flood vents, and that the elimination or alteration of the openings in any way will violate the requirements of Article 5, B. Period inspections will be conducted by the Floodplain Administrator to ensure compliance. The affidavit shall be recorded in the office of the Lake County Recorder.
- x. Property owners shall be required to execute and record with the structures deed a non-conversion agreement declaring that the area below the lowest floor (where the interior height of the enclosure exceeds six [6] feet) shall not be improved, finished or otherwise converted; the community will have the right to inspect the enclosed area. The nonconversion agreement shall be recorded in the office of the Lake County Recorder.

(e) *Structures constructed on fill.* A residential or nonresidential structure may be constructed on a permanent land fill in accordance with the following:

- (1) The fill shall be placed in layers no greater than one foot deep before compacting to ninety-five percent (95%) of the maximum density obtainable with the either the standard or modified proctor test method.
- (2) The fill should extend at least ten (10) feet beyond the foundation of the structure before sloping below the FPG.
- (3) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than three (3) horizontal to one (1) vertical.

- (4) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
- (5) The top of the lowest floor including basements shall be at or above the FPG.
- (f) *Standards for manufactured homes and recreational vehicles.* Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than one hundred and eighty (180) days must meet one of the following requirements:
 - (1) These requirements shall apply to manufactured homes placed on a site outside an existing manufactured home park or subdivision.
 - iii. These requirements apply to all manufactured homes to be placed on a site outside a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood.
 - iv. The manufactured home shall be elevated on a permanent foundation such that the lowest flood shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation collapse, and lateral movement.
 - v. Fully enclosed areas formed by foundation and other exterior walls below the FPS shall be designed to preclude finished living space and designed to allow for entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures.
 - vi. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.
 - (g) These requirements apply to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood:
 - (1) The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than thirty-six (36) inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - (2) Fully enclosed areas formed by foundation and other exterior walls below the FMPS 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.
 - (3) Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required have openings
 - (4) Recreational vehicles placed on a site shall either:
 - i. Be on site for less than one hundred and eighty (180) days;
 - ii. Be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
 - iii. Meet the requirements for "manufactured homes" as stated earlier in this section.
 - (h) *Accessory Structures.* Relief to the elevation or dry flood proof standards may be granted for accessory structures. Such structure must meet the following standards.
 - (1) Shall not be used for human habitation.
 - (2) Shall be constructed of flood resistant materials.

- (3) Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.
 - (4) Shall be firmly anchored to prevent flotation
 - (5) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG.
 - (6) Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic food forces on exterior walls as required for elevated structures in section 14-32(d).
- (b) *Above Ground Gas or Liquid Storage Tanks.* All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement.

(Added by Ord. 2015-12)

Sec. 14-33 - Standards for subdivision and mobile home park proposals

- (a) All subdivision and mobile home park proposals shall be consistent with the need to minimize flood damage;
- (b) All subdivision and mobile home park proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (c) All subdivision proposals and mobile home park shall have adequate drainage provided to reduce exposure to flood hazards;
- (d) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of 50 lots or five acres;
- (e) All subdivision proposals and mobile home park shall minimize development in the SFHA and/or limit density of development permitted in the SFHA; and
- (f) All subdivision proposals and mobile home park shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).

(Added by Ord. 2015-12)

Sec. 14-34 - 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.

(Added by Ord. 2015-12)

Sec. 14-35 - Standards for identified floodways

- (a) Located within SFHAs are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC § 14-28-1 a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving, etc., undertaken before the actual start of construction of the structure. However, it does exclude nonsubstantial additions/improvements to existing (lawful) residences in a nonboundary river floodway. (IC § 14-28-1-26 allows construction of nonsubstantial additions/improvements to residences in a nonboundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval (construction in a floodway permit) for the fill is required from the Indiana Department of Natural Resources.
- (b) No action shall be taken by the Floodplain Administrator until a permit (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the floodway. Once a permit for construction in a floodway has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in this division of this chapter have been met. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.
- (c) No development shall be allowed which acting alone or in combination with existing or future development, that will 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 (0.15) of a foot as determined by comparing regulatory flood elevation under the project condition to that under the natural or pro-floodway condition as proven with hydraulic analyses.
- (d) For all projects involving channel modifications or fill (including levees) the Town of New Chicago 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 65.23.

(Added by Ord. 2015-12)

Sec. 14-36 - Standards for identified fringe

If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in this chapter have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

(Added by Ord. 2015-12)

Sec. 14-37 - Standards for SFHAs without established base flood elevation and/or floodways/fringes

- (a) *Drainage area upstream of the site is greater than one square mile:* 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.
- (1) No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway or a floodplain analysis/regulatory assessment citing the 100-year flood elevation and the recommended flood protection grade has been received from the Indiana Department of Natural Resources.
 - (2) Once the Floodplain Administrator has received the proper permit for construction in a floodway or floodplain analysis/regulatory assessment approving the proposed development, a Floodplain Development Permit may be issued provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in article 3 of this article have been met.
- (b) *Drainage area upstream of the site is less than one square mile:* 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 100-year flood elevation for the site.

Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in article 3 of this chapter have been met.

- (c) The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood more than 0.14 of one foot and will not increase flood damages or potential flood damages.

(Added by Ord. 2015-12)

Sec. 14-38 - Standards for floodprone areas

All development in known floodprone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet general standards as required per Article 5.

(Added by Ord. 2015-12)

Sections 14-39 through 14-50- Reserved.

Article 6 – Variance procedures

Sec. 14-51 - Designation of variance and appeals board

The Town of New Chicago Planning Commission shall hear and decide appeals and requests for variances from requirements of this chapter.

(Added by Ord. 2015-12)

Sec. 14-52 - Duties of variance and appeals board

The Town Council 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 Lake County Circuit or Superior Court.

(Added by Ord. 2015-12)

Sec. 14-53 - Variance procedures

In passing upon such applications, the Town Council shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter; and

- (a) The danger of life and property due to flooding or erosion damage;
- (b) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (c) The importance of the services provided by the proposed facility to the community;
- (d) The necessity to the facility of a waterfront location, where applicable;
- (e) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (f) The compatibility of the proposed use with existing and anticipated development;
- (g) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (h) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (i) The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site; and
- (j) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(Added by Ord. 2015-12)

Sec. 14-54 - Conditions for variances

- (a) Variances shall only be issued when there is:
 - (1) A showing of good and sufficient cause.
 - (2) A determination that failure to grant the variance would result in exceptional hardship.
 - (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 may be granted.
- (c) Any variance granted in a floodway subject to section 14-35 or subsection 14-36 of this chapter will require a permit from the Indiana Department of Natural Resources.
- (d) Variances to the provisions for flood hazard reduction of section 14-32, may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
- (e) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (f) Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.
- (g) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (h) The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request.

(Added by Ord. 2015-12)

Sec. 14-55 - Variance notification

- (a) Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:
 - (1) The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage; and
 - (2) Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the office of the county recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.
- (b) The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in the community's biennial report submission to the Federal Emergency Management Agency.

(Added by Ord. 2015-12)

Sec. 14-56 - 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 an "historic structure" and the variance is the minimum to preserve the historic character and design of the structure.

(Added by Ord. 2015-12)

Sec. 14-57 - Special conditions

Upon the consideration of the factors listed in article 6, and the purposes of this Chapter, the Town of New Chicago Planning Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.

(Added by Ord. 2015-12)

Sec. 14.58 - Severability

If any section clause, sentence, or phrase of this Chapter is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Chapter.

(Added by Ord. 2015-12)

Chapter 15 - Stormwater management

Article 1 - Generally

Sec. 15-1 - Authority and Title

- (a) This Chapter is adopted in accordance with statutory authority granted under IC § 8-1.5-5, and further is required by Phase II of the National Pollution Discharge Elimination System program (FR Doc. 99-291891) authorized by the 1972 amendments to the Clean Water Act, the Indiana Department of Environmental Management's Rule 13 (327 IAC 15-13), and the Indiana Department of Environment's Rule 5 (327 IAC 15-5). Based on this authority and these requirements, this ordinance regulates:
- (1) Discharges of prohibited non-stormwater flows into the storm drain system.
 - (2) Stormwater drainage improvements related to development of lands located within the Town of New Chicago.
 - (3) Drainage control systems installed during new construction and grading of lots and other parcels of Land.
 - (4) Erosion and sediment control systems installed during new construction and grading of lots and other parcels of land.
 - (5) The design, construction, and maintenance of stormwater drainage facilities and systems.
- (b) Under these state and federal regulations, the Town of New Chicago is required to establish a regulatory mechanism for regulating stormwater quality management. This Chapter shall be known and may be cited as the New Chicago MS4 Stormwater Management Ordinance.

(Added by Ord. 2005-05)

Sec. 15-2 - Applicability and exemptions

- (a) This ordinance shall regulate all development and redevelopment occurring with the Town of New Chicago.
- (b) No building permit shall be issued for any construction in a development, as defined in section 15-7, until the plans required by this Ordinance for such construction have been approved in writing by the New Chicago MS4.
- (c) New buildings (or building additions) with less than five hundred (500) square feet area, and land-disturbing activities affecting less than ten thousand (10,000) square feet of area shall be exempt from the requirements of this Chapter.
- (d) Also exempt from this chapter shall be agricultural land-disturbing activities.
- (e) New Chicago MS4 Projects shall be exempt from obtaining permit, but are expected to meet all the technical requirements of this Ordinance and the New Chicago MS4 Stormwater Technical Standards Manual.
- (f) Any construction project which has had its final drainage plan approved by New Chicago MS4 within a two (2) year period prior to the effective date of this Ordinance shall be exempt from all requirements of this Ordinance that are in excess of the requirements of Ordinances in effect at the time of approval.
- (g) Such an exception is not applicable to the requirements detailed in Article 2 of this chapter.

(Added by Ord. 2005-05)

Sec. 15-3 - Background

The Town of New Chicago of Lake County, State of Indiana, on the 13th of April 2005, adopted Ordinance number 2005-05 which established the “Stormwater Management Ordinance of New Chicago,” commonly known as the “New Chicago MS4 Drainage Code” in order to govern the control of runoff of stormwater to protect, conserve, and promote the development of the land in the Town of New Chicago and its water resources. This Code was primarily targeted at stormwater discharge quantity, erosion, and sediment control.

On December 8th, 1999, Phase II of the National Pollutant Discharge Elimination System (NPDES) permit program was published in the Federal Register. The NPDES program, as authorized by the 1972 amendments to the Clean Water Act, controls water pollution by regulating point sources that discharge pollutants into waters of the United States. Phase Two of NPDES requires permit coverage for stormwater discharges from regulated small municipal separate stormwater sewer systems (MS4s) and for small construction activity that results in disturbance of equal to or greater than one acre. This federal regulation went into effect on the 10th of March 2003. In response to Phase II of NPDES the Individual Department of Environmental management enacted Rule 13 (327 IAC 15-13 and revised Rule 5 (327 IAC 15-5).

Under these new State and Federal regulations, New Chicago MS4 is required to establish a regulatory mechanism for resulting stormwater quality management. Therefore, New Chicago MS4 Drainage Code was replaced with this Chapter to include storm water quality in addition to quality.

(Added by Ord. 2005-05)

Sec. 15-4 - Findings

The New Chicago MS4 finds that:

- (a) Water bodies, roadways, structures, and other property within, and downstream of the Town of New Chicago are at times subjected to flooding;
- (b) Flooding is a danger to the lives and property of the public and is also a danger to the natural resources of the region;
- (c) Land development alters the hydrological response of watersheds, resulting in increased stormwater runoff rates and volumes, increased flooding, increased stream channel erosion, and increased sediment transport and deposition;
- (d) Soil erosion resulting from land-disturbing activities causes a significant amount of sediment and other pollutants to be transported off-site and deposited in ditches, streams, wetlands, lakes and reservoirs;
- (e) Increased stormwater runoff rates and volumes, and the sediments and pollutants associated with stormwater runoff from future development projects within the Town of New Chicago will, absent reasonable regulation and control, adversely affect the Town of New Chicago’s water bodies and water resources;

- (f) Pollutant contributions from illicit discharges within the Town will, absent reasonable regulation, monitoring, and enforcement, adversely affect the Town of New Chicago's water bodies and resources;
- (g) Storm water runoff, soil erosion, non-point source pollution, and illicit sources of pollution can be controlled and minimized by the regulation of stormwater management;
- (h) Adapting the standards, criteria, and procedures contained and referenced in this ordinance and implementing the same will address many of the deleterious effects of storm water runoff and illicit discharges;
- (i) Adopting this chapter is necessary for the preservation of public health, safety, and welfare for the conservation of our natural resources, and for compliance with State and Federal regulations.

(Added by Ord. 2005-05)

Sec. 15-5 - Purpose

- (a) The purpose of this chapter is to provide for the health, safety, and general welfare of the citizens of New Chicago through the regulation of stormwater and non-stormwater discharges to the storm drainage system and to protect, conserve, and promote the orderly development of land and water resources within New Chicago.
- (b) This ordinance establishes methods for managing the quantity and quality of stormwater entering into the storm drain system in order to comply with state and Federal requirements. The objects of this ordinance are:
 - (1) To reduce the hazard to public health and safety caused by excessive stormwater runoff.
 - (2) To regulate the contribution of pollutants to the storm drain system from construction site runoff.
 - (3) To regulate the contribution of pollutants to the storm drains system from runoff from new development and re-development.
 - (4) To prohibit discharges of illicit discharges into the storm drain system.
 - (5) To establish legal authority to carry out all inspection, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance.

(Added by Ord. 2005-05)

Sec. 15-6 - Abbreviations

The following abbreviations shall be used throughout this Chapter

BMP – Best Management Practice

COE – United States Army Corps of Engineers

CWA – Clean Water Act

EPA – Environmental Protection Agency

GIS – Geographical Information System

IDEM – Indiana Department of Environmental Management

MS4 – Municipal Separate Storm Sewers

NRCS – USDA Natural Resources Conservation Service

NPDES – National Pollution Discharge Elimination System

POTW – Publicly Owned Treatment Works

SWCD – Soil and Water Conservation District

SWPPP – Stormwater Pollution Prevention Plan

USDA – United States Department of Agriculture

USFWS – United States Fish and Wildlife Service

(Added by Ord. 2005-05)

Sec. 15-7 - Definitions

Agricultural land distributing activity – Tillage, planting, cultivation, or harvesting operations for the production of agricultural or nursery vegetative crops. The term also includes pastures renovation and establishment, the construction of agricultural conservation practices, and the installation and maintenance of agricultural drainage tile. For purposes of this rule the term does not include land distributing activities for the construction of agricultural related facilities, such as barns, buildings to house livestock, roads associated with infrastructure, agricultural waste lagoons and facilities, lakes and ponds, wetlands, and other infrastructure.

Base Flow – Stream discharge derived from groundwater sources as differentiated from surface runoff. Sometimes considered to include flows from regulated lakes or reservoirs.

Best Management Practices – Design, construction, and maintenance practices and criteria for stormwater facilities that minimize the impact of stormwater runoff rates and volumes, surface erosion, and capture pollutants.

Buffer Strip. – An existing, variable width strip of vegetated land intended to protect water quality and habitat.

Capacity (of a Storm Drainage Facility) - The maximum flow that can be conveyed or stored by a storm drainage facility without causing damage to public or private property.

Catch Basin – A chamber usually built at the curb line of a street for the admission of surface water to a storm drain or subdrain, having at its base a sediment sump designed to retain grit and detritus below the point of overflow.

Channel - A portion of a natural or artificial watercourse which periodically or continuously contains moving water, or which forms a connecting link between two bodies of water. It has a defined bed and banks which serve to confine the water.

Comprehensive Stormwater Management – A comprehensive stormwater program for effective management of stormwater quantity and quality throughout the community.

Constructed Wetland – A man-made shallow pool that creates growing conditions suitable for wetland vegetation and is designed to maximize pollutant removal,

Construction Activity – Land disturbing activities, and land disturbing activities associated with construction of infrastructure and structures. This term does not include routine ditch or road maintenance or minor landscaping projects.

Construction Site Access - A stabilized stone surface at all points of ingress or egress to a project site, for the purpose of capturing and detaining sediment carried by tires of vehicles or other equipment entering or exiting the project site.

Contiguous – Adjoining or in actual contact with.

Contour – An imaginary line on the surface of the earth connecting points of the same elevation.

Contractor or Subcontractor - An individual or company hired by the project site or individual lot owner, their agent, or the individual lot operator to perform services on the project site.

Conveyance – Any structural method for transferring storm water between at least two points. The term includes piping, ditches, swales, curb, gutters, catch basins, channels, storm drains, and roadways.

Cross Section – A graph or plot of ground elevation across a stream valley or under a portion of it, usually long a perpendicular to a stream or direction of flow.

Culvert – A closed conduit used for the conveyance of surface drainage water under a roadway, railroad, canal, or other impediment.

Dechlorinated Swimming Pool Discharge – Chlorinated water that has either sat idle for seven (7) days following chlorination prior to discharge to the MS4 conveyance, or, by analysis, does not contain detectable concentrations (Less than five-hundredths (0.05) milligram per liter) of chlorinated residual.

Design Storm – A selected storm event, described in terms of the probability of occurring once within a given number of years, for which drainage or flood control improvements are designed and built.

Detention – Managing stormwater runoff temporary holding and controlled release.

Detention Basin – A facility constructed or modified to restrict the flow of stormwater to a prescribed maximum rate, and to detain concurrently the excess waters that accumulate behind the outlet.

Detention storage – The temporary detaining of storage of stormwater in the storage facilities, on rooftops, in streets, parking lots, school yards, parks, open spaces, or other areas under predetermined and controlled conditions, with the rate of release regulated by the appropriately installed devices.

Detention Time – The theoretical time required to displace the contents of a tank or unit at a given rate of discharge (volume divided by rate of discharge).

Detritus – Dead or decaying organic matter; generally contributed to storm water as fallen leaves and sticks or as dead aquatic organisms.

Developer – Any person financially responsible for construction activity, or an owner of property who sells or leases or offers for sale or lease, any lots in a subdivision.

Discharge – Usually the rate of water flow. A volume of fluid passing a point per unit time commonly expressed as cubic feet per second, cubic meters per second, gallons per minute, or millions of gallons per day.

Disposal – The discharge, deposit, injection, spilling, leaking, or placing any solid waste or hazardous waste into or on any land or water so that the solid waste or hazardous waste, or any consistent of the waste, may enter the environment, be emitted into the air, or be discharged into any waters, including ground waters.

Ditch – A man-made open water course in or into which excess surface water or groundwater drained from land, storm water runoff, or floodwaters flow either continuously or intermittently.

Drain – A buried slotted or perforated pipe or other conduit (subsurface drain) or a ditch (open drain) for carrying off surplus groundwater or surface water.

Drainage - The removal of excess surface water or groundwater from land by the means of ditches or subsurface drains. Also see natural drains.

Drainage Area – The area draining into a stream at a given point. It may be of different sizes for surface runoff, subsurface flow and base flow, but generally the surface runoff area is considered as the drainage area.

Dry Well- A type of infiltration practice that allows stormwater runoff to flow directly into the ground via a bored or otherwise excavated opening in the ground surface.

Duration – The time period for a rainfall event.

Environment – The sum total of all the external conditions that may act upon a living organism or community to influence its development or existence.

Erodibility Index (EI) - The soil erodibility index (EI) provides a numerical expression of the potential for a soil to erode considering the physical and chemical properties of the soil and the climatic conditions where it is located. The higher the index, the greater the investment needed to maintain the sustainability of the soil resources base if intensively cropped. It is defined to be the maximum $(R \times K \times LS)/T$ (from the Universal Soil Loss Equation) and $(C \times I)/T$ (from the Wind Erosion equation) where R is a measure of rainfall and runoff, K is a factor of the susceptibility of the soil water erosion, LS is a measure of the combined effects of the slope length and steepness, C is a climatic characterization of wind speed and surface soil moisture and I is a measure of the susceptibility of the soil to wind erosion. Erodibility Index scores equal to or greater than eight (8) are considered highly erodible land.

Erosion – The wearing away of the land surface by water, wind, ice, gravity, or other geological agents. The following terms are used to define different types of water erosion.

Accelerated Erosion – Erosion much more rapid than normal or geologic erosion primarily as a result of the activities of man.

Channel Erosion – An erosion process whereby the volume and velocity of flow wears away the bed and or banks of a well-defined channel.

Gully Erosion – An erosion process whereby runoff water accumulates in narrow channels and, over relatively short periods, removes the soil considerable depths, ranging from one-two (1-2) feet to as much as seventy-five to one hundred (75-100) feet.

Rill Erosion - An erosion process in which numerous small channels only several inches deep are formed; occurs mainly on recently disturbed and exposed soils (see Rill).

Splash Erosion - The spattering of small soil particles caused by the impact of raindrops on wet soils; the loosened and spattered particles may or may not subsequently be removed by surface runoff.

Sheet Erosion – The gradual removal of a fairly uniform layer of soil from the land surface by runoff water.

Erosion and Sediment Control – A practice, or a combination of practices, to minimize sedimentation by first reducing or eliminating erosion at the source and then as necessary, trapping sediment to prevent it from being discharged from or within a project site.

Filter Strip – Usually a long, relatively narrow (usually, 20-75 feet wide) of undisturbed or planted vegetation used near disturbed or impervious surfaces to filter stormwater pollutants for the protection of watercourses, reservoirs, or adjacent properties.

Floatable – Any solid waste that will float on the surface of the water.

Flood (Flood Waters) – A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation or the runoff of surface areas from any source.

Floodplain – The channel proper and the areas adjoining the channel which have been hereafter may be covered by the regulatory 0r 100-year flood. Any normal dry land area that is susceptible to being inundated by water from any natural source. The floodplain includes both the floodway and the floodway fringe districts.

Floodway – The channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flow of the regulatory flood of any river or stream.

Floodway Fringe – That portion of the floodplain lying outside the floodway, which in inundated by the regulatory flood.

Footing Drain – A drain pipe installed around the exterior of a basement wall foundation to relieve water pressure caused by high groundwater elevation.

Garbage – All putrescible animal solid, vegetable solid, and semisolid wastes resulting from the processing, handling, preparation, cooking, serving, or consumption of food or food materials.

Gasoline Outlet – An operating gasoline or diesel fueling facility whose primary function is the resale of fuels. The term applies to facilities that create five thousand (5,000) or more square feet of impervious surfaces, or generate an average daily traffic count of one hundred (100) vehicles per one thousand (1,0000) square feet of land area.

Geographic Information System – A computer system capable of assembling, storing, manipulating and displaying geographic referenced information. This technology can be used for resources management and development planning.

Grade – (1) The inclination or slope of a channel canal, conduit, etc., or natural ground surface usually expressed in terms of the percentage of the vertical rise (or fall) bears to the corresponding horizontal distance. (2) The finished surface of a canal bed, roadbed, top embankment, or bottom of excavation; any surface prepared to a design elevation for the support of construction, such as paving or the laying of a conduit. (3) To finish the surface of a canal bed, roadbed, to of embankment, or bottom of excavation. Or other land area to a smooth, even condition.

Grading – The cutting and filling of the land surface to a desired slope or elevation.

Grass – A member of the botanical family Graminae, characterized by blade-like leaves that originate as a sheath wrapped around a stem.

Groundwater – accumulation of underground water, natural or artificial. The term does not include manmade underground storage or conveyance structures.

Habitat – The environment in which the life needs of a plan or animal are supplied.

Highly Erodible land (HEL) – Land that has an erodibility index of eight (8) or more.

Hydrologic Unit Code – A numeric United States Geologic Survey Code that corresponds to a watershed area. Each area also has a text description associated with numeric Code.

Hydrology – The science of the behavior of water in the atmosphere, on the surface of the earth, and underground. A typical hydrologic study is undertaken to compute flow rates associated with specific flood events.

Illicit Discharge – Any discharge to a conveyance that is not composed entirely of stormwater except naturally occurring floatables, such as leaves or tree limbs.

Impaired waters – Waters that do not or are not expected to meet applicable water quality standards, as included on IDEM's CWA Section 303(D) List of Impaired Waters.

Impervious Surface – Surfaces, such as pavement and rooftops, which prevent the infiltration of stormwater into the soil.

Individual Building Lot – A single parcel of land within a multi-parcel development.

Individual Lot Operator – A contractor or subcontractor working on an individual lot.

Individual lot operator – A contractor who has financial control of construction activities for an individual lot.

Infiltration – Passage or movement of water into the soil. Infiltration practices include any structural BMP designed to facilitate the percolation of runoff through the soil to groundwater. Examples include infiltration basins or trenches, dry wells, and porous pavement.

Inlet – An opening into a storm drain system for the entrance of surface water runoff, more completely described as a storm drain inlet.

Land-disturbing activity – Any man-made change of the land surface, including removing vegetative cover that exposes the underlying soil, excavating, filling, transporting, and grading.

Land Surveyor – A person licensed under the laws of the state of Indiana to practice land surveying.

Larger Common Plan of Development or Sale – A plan, undertaken by a single project site owner or a group of project site owners acting in concert, to offer lots for sale or lease; where such land is contiguous, or is known, designed, purchased or advertised as a common unit or by a common name, such land shall be presumed as being offered for sale or lease as part of a larger common plan. The term also includes phased or other construction activity by a single entity for its own use.

Lowest Adjacent Grade – The elevation of the lowest grade adjacent to a structure, where soil meets the foundation around the outside of the structure (including structural members such as a basement, walkout, patios, decks, porches, support posts or piers, and rim of the window well).

Lowest Floor – Refers to the following

- (1) The top of the basement floor.
- (2) The top of the garage floor, if the garage floor is the lowest level of the building.
- (3) The top of the first floor of the buildings constructed on a slab or of buildings elevated on pilings or constructed on a crawl space with permanent openings.
- (4) The top of the floor level of any enclosure below an elevated buildings where the
 - i. The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for entry and exit of flood waters, by providing a minimum of two openings (in addition to doorways and windows) having a total area of one (1) square foot for every two (2) square feet of enclosed area subject to flooding. The bottom of all such openings shall be no higher than one (1) foot above grade.
 - ii. Such enclosed space shall be usable only for the parking of vehicles or building access.

Manhole – Storm drain structure through which a person may enter to gain access to an underground storm drain or an enclosed structure.

Measureable storm event – A precipitation event that results in a total measured precipitation accumulation equal to, or greater than, one-half (0.5) inch of rainfall.

Mulch – A natural or artificial layer of plant residue or other materials covering the land surface which conserves moisture, holds soil in place, aids in establishing plan cover, and minimizes temperature fluctuations.

Municipal Separate Storm Sewers – An MS4 meets all the following criteria: (1) is a conveyance or system of conveyance owned by the state, country, city, or Town, or other public entity; (2) discharges to waters of the U.S.; (3) is designed or used for collecting or conveying storm water; (4) is not a combined sewer; (5) is not part of a Publicly Owned Treatment Works (POTW).

National Pollution Discharge Elimination System - A permit developed by the U.S. EPA through the Clean Water Act. In Indiana, the permitting process has been delegated to IDEM. This permit covers aspects of municipal stormwater quality.

Natural Drainage – The flow patterns of storm water runoff over land in its pre-development state.

Nutrient(s) – (1) A substance necessary for the growth and reproduction of organisms. (2) In water, those substances (chiefly nitrates and phosphates) that promote growth of algae and bacteria

Open Drain – A natural watercourse or constructed open channel that conveys drainage water.

Open Space – Any land area devoid of any disturbed or impervious surfaces created by industrial, commercial, residential, agricultural, or other manmade activities.

Outfall – The point, location, or structure where a pipe or open drain discharges to a receiving body of water.

Outlet – The point of water disposal from a stream, river, lake, tidewater, or artificial drain.

Peak Discharge (Or Peak Flow) – The maximum instantaneous flow from a given storm condition at a specific location.

Percolation – The movement of water through soil.

Permanent Stabilization – The establishment, at a uniform density of seventy percent (70%) across the disturbed area, of vegetative cover or permanent non-erosive material that will ensure the resistance of the soil erosion, siding, or other movement.

Pervious – Allowing movement of water.

Point Source – Any discernible, confined, and discrete conveyance including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged (P.K. 92-500, Section 502[14]).

Porous cement – A type of infiltration practice to improve the quality and reduce the quantity of stormwater runoff via the use of manmade, pervious pavement which allows runoff to percolate through the pavement and into the underlying soils.

Professional Engineer – A person licensed under the laws of the State of Indiana to practice professional Engineering.

Project site – The entire area on which construction activity is to be performed.

Project site owner – The person required to comply with the terms of this ordinance, including a developer or a person who has financial and operational control of construction activities, and project plans and specifications, including the ability to make modifications to those plans and specifications.

Rain Garden – A vegetative practice used to alter impervious surface, such as roofs, into pervious surfaces for absorption and treatment of rainfall.

Receiving Stream, Receiving Channel, or Receiving Water – The Body of water into which runoff or effluent is discharged. The term does not include private drains, unnamed conveyances, retention and detention basins, or constructed wetlands used as treatment.

Recharge – Replenishment of groundwater reservoirs by infiltration and transmission from the outcrop of an aquifer or from permeable soils.

Redevelopment – Alterations to a property that change a site or building in such a way that there is disturbances of one (1) acre or more of land. The term does not include such activities as exterior remodeling.

Refueling Area – An operating gasoline or diesel fueling area whose primary function is to provide fuel to equipment or vehicles.

Regulatory Flood – The discharge or elevation associated with the 100-year flood as calculated by a method and procedure which is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The “regulatory flood” is also known as the “base flood.”

Regulatory Floodway – See floodway.

Release Rate – The amount of storm water release from a stormwater control facility per unit of time.

Reservoir – A natural or artificially created pond, lake or other space used for storage, regulation or control water. May be either permanent or temporary. The term is also used in the hydrologic modeling of storage facilities.

Retention – The storage of storm water to prevent it from leaving the development site. May be temporary or permanent.

Retention Basin – A type of storage practice that has no positive outlet, used to retain storm water runoff for an indefinite amount of time. Runoff from this type of basin is removed only by infiltration through a porous bottom or evaporation.

Return Period – The average interval of time within which a given rainfall event will be equaled or exceeded once. A flood having a return period of one hundred (100) years has a one percent probability of being equaled or exceeded in any one year.

Riparian Habitat - A land area adjacent to a waterbody that supports animal and plant life associated with that waterbody.

Riparian Zone – on, in, or pertaining to the banks a stream, river, or pond.

Runoff. That portion of precipitation that flows from a drainage area on the land surface, in open channels, or in stormwater conveyance system.

Runoff Coefficient – A decimal fraction relating the amount of rain which appears as runoff and reaches the storm drain system to the total amount of rain falling. A coefficient of 0.5 implies that fifty percent (50%) of the rain falling on a given surface appears as storm water runoff.

Sediment – Solid material (both mineral and organic) that is in suspension, is being transported, or has been moved from its site off origin by air, water, gravity, or ice and has come to rest on the earth’s surface.

Sedimentation – The process that deposits soils, debris, and other unconsolidated materials either on the ground surfaces or in the bodies of water or watercourses.

Sensitive water – A waterbody in need of priority protection or remediation based on its provided habitat for threatened or endangered species, usage as a public water supply intake, relevant community value,

usage for full body contact recreation, exceptional use classification as found in 327 IAC 2-1-11(b), outstanding state resources water classification as found in 327 IAC 2-1-2(3) and 327 IAC 2-1.5.19(b).

Site – The entire area included in the legal description of the land on which land disturbing activity is to be performed.

Slope – Degree of deviation of a surface from the horizontal, measured as numerical ratio or percent. Expressed as a ratio, the first number is commonly the horizontal distance (*run) and the second is the vertical distance (rise) – e.g. 2:1. However the preferred method for designation of slopes is to clearly define the horizontal (H) and vertical (V) components length (L) and width (W) components for horizontal angles). Also note that according to international standards (metrics) the slopes are presented as the vertical or width component shown on the numerator – e.g. 1V:2H. Slope expressions in this chapter follow the common presentation of slopes – e.g. ; 2:1 with the metric presentation shown in parenthesis – e.g. (1V:2H). Slopes can also be expressed in “percents.” Slopes given in percents are always expressed as $(100 * V/H)$ – e.g., a 2:1 (1V:2H) slope is 50% slope.

Soil – The unconsolidated mineral and organic matter on the immediate surface of the earth that serves as a natural medium for the growth of land plants.

Soil and Water Conservation District – A public organization created under state law as a special-purpose district to develop and carry out a program of soil, water and related resource conservation, use and development within its boundaries. Subdivision of state government with a local governing body, established under IC § 14-32.

Solid Waste – Any garbage, refuse, debris, or other discarded material.

Spill – The unexpected, unintended, abnormal, or unapproved dumping, leakage, drainage, seepage, discharge, or other loss of petroleum, hazardous substances, extremely hazardous substances, or objectionable substances. The term does not include releases to impervious surfaces when the substance does not migrate off the surface or penetrate the surface and enter the soil.

Storm Duration – The length of time that water may be stored in any stormwater control facility, computed from the time the water first begins to be stored.

Storm Event – An estimate of the expected amount of precipitation with a given period of time. For example, a ten (10) year frequency, twenty-four (24) hour. Duration storm event is a storm that has a ten percent (10%) probability of occurring in any one (1) year. Precipitation is measured over a twenty-four (24) hour duration.

Storm Sewer – A closed conduit for conveying collected storm water, while excluding sewage and industrial wastes. Also called a storm drain.

Storm water – Water resulting from rain, melting or melted snow, hail, or sleet.

Storm Water Pollution Prevention Plan. A plan developed to minimize the impact of stormwater pollutants resulting from construction activities.

Stormwater Runoff – The water derived from rains falling within a tributary basin, flowing over the surface of the ground or collected in channels in conduits.

Storm Water Quality Management Plan – A comprehensive written document that addresses stormwater runoff quality.

Storm Water Quality Measure - A practice or combination of practices to control or minimize pollutants associated with stormwater runoff.

Storm Water Drainage System – All means, natural or man-made, used for conducting stormwater to, through, or from the drainage area to any of the following: conduits and appurtenant features, canals, channels, ditches, storage facilities, swales, streams, culverts, streets, and pumping stations.

Strip Development – A multi-lot project where buildings lots front on an existing road.

Subdivision – Any land that is divided or proposed to be divided into lots, whether contiguous or subject to zoning requirements, for the purpose of sale or lease as part of a larger common plan or development or sale.

Subsurface drain – A pervious backfill trench, usually containing stone and perforated pipe, for intercepting groundwater or seepage.

Surface Runoff – Precipitation that flows onto the surfaces of roofs, streets, the ground, etc., and is not absorbed or retained by that surface but collects and runs off.

Swale – An elongated depression in the land surface that is at least seasonably wet, is usually heavily vegetated, and is normally without flowing water. Swales conduct storm water into primary drainage channels and may provide some ground water recharge.

Temporary Stabilization – The covering of soil to ensure its resistance to erosion, sliding, or other movement. The term includes vegetative cover, anchored mulch, or other non-erosive material applied to a uniform density of seventy percent (70%) across the disturbed area.

Tile Drain – Pipe made of perforated plastic, burned clay, concrete, or similar material, laid to a designed grade and depth to collect and carry excess water from the soil.

Topographic Map - Graphical portrayal of the topographic features of a land area, showing both the horizontal distances between the features and their elevations above a given datum.

Topography – The representation of a portion of the earth's surface showing natural and man-made features of a given locality such as rivers, streams, ditches, lakes, roads, buildings, and most importantly, variations in the ground elevations for the terrain of the area.

Trained individual – An individual who is trained and experienced in the principles of storm water quality, including erosion and sediment control as maybe demonstrated by state registration, professional

certification, experience, or completion of coursework that enables the individual to make judgments regarding storm water control or treatment and monitoring.

Urban Drain – A drain defined as “Urban Drain” in Indiana Drainage Code.

Urbanization – The development, change, or improvement of any parcel of land consistent of one or more lots for residential, commercial, industrial, institutional, recreational or public utility purposes.

Vegetated Swale – A type of vegetative practice used to filter stormwater runoff via a vegetated shallow-channel conveyance.

Water quality – A term used to describe the chemical, physical, and biological characteristics of water, usually in respect to its suitability for a particular purpose.

Water Resources – The supply of groundwater and surface water in a given area.

Waterbody – Any accumulation of water, surface or underground, natural or artificial, excluding water features designed and designed as water pollution control facilities.

Watercourse – Any river, stream, creek, or brook, branch, natural or man-made drainageway in or into which storm water runoff or floodwaters or flow either continuously or intermittently.

Watershed – The region drained by or contributing water to a specific point that could be along a stream, lake, or other stormwater facilities. Watersheds are often broken down into sub areas for the purpose of hydrologic modeling.

Watershed Area – All land and water within the confines of a drainage divide. See also watershed.

Wetlands – Areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support. And that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

(Added by Ord. 2005-05)

Sec. 15-8 - Responsibility for Administration

New Chicago MS4 shall administer, implement, and enforce the provisions of this Chapter. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the New Chicago MS4 to qualified persons or entities acting in beneficial interest of and in the employ of the New Chicago MS4.

(Added by Ord. 2005-05)

Sec. 15-9 - Interpretation

- (a) Words and phrases in this Chapter shall be construed according to their common and accepted meaning except that words defined in this Chapter shall be construed according to the respective definitions given in that section.
- (b) Technical words and technical phrases that are not defined in this Chapter but which have acquired particular meanings in law or technical usage shall be construed in accordance to such meanings.

(Added by Ord. 2005-05)

Sec. 15-10 - Severability

The provisions of this Chapter are her hereby declared as severable, and if any court of competent jurisdiction should declare any part or provision of this Chapter invalid or unenforceable, such invalidity or unenforceability shall not affect any other part or provision of this Chapter.

(Added by Ord. 2005-05)

Sec. 15-11 - Disclaimer of liability

The degree of protection required by this chapter is considered reasonable for regulatory purposes and is based on historical records, engineering, and scientific methods of study. Larger storms may occur or stormwater runoff amounts may be increased by man-made or natural causes. This chapter does not imply that land uses permitted will be free from stormwater damage. This chapter shall not create liability on the part of the Town or any officer, representative, or employee thereof, for any damage, which may result from reliance on this chapter or any administrative decision lawfully made thereunder.

(Added by Ord. 2005-05)

Sections 15-12 through 15-20 – Reserved.

Article II - Prohibited discharges and connections

Sec. 15-21 -Applicability and exemptions

- (a) This chapter shall apply to all discharges, including illegal dumping, entering the storm drain system under the control of New Chicago MS4, regardless of whether the discharge originates from developed or undeveloped lands, and regardless of whether the discharge is generated from an active construction site or a stabilized site. These discharges include flows from direct connections to the storm drain system, illegal dumping, and contaminated runoff.
- (b) Stormwater runoff from agricultural, timber harvesting, and mining activities is exempted from the requirements of this chapter unless determined to contain pollutants not associated with such activities or in excess of standard practices. Farm residence are not included in this exemption.

- (c) Any non-stormwater discharge permitted under an NPDES permit, waiver, or water discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations and provided that written approval has been granted for the subject discharge to the storm drain system, is also exempted from this chapter.

(Added by Ord. 2005-05)

Sec. 15-21 - Prohibited discharges and connections

- (a) No person shall discharge to a MS4 conveyance, watercourse, or water body, directly or indirectly, any substance other than stormwater or an exempted discharge. Any person discharging stormwater shall effectively prevent pollutants from also being discharged with the stormwater through the use of best management practices (BMPs).
- (b) The New Chicago MS4 is authorized to require dischargers to implement pollution prevention measures, utilizing BMPs, necessary to prevent or reduce the discharge of pollutants into the stormwater drainage system.

(Added by Ord. 2005-05)

Sec. 15-22 - Exempted discharges and connections.

Notwithstanding other requirements in this Chapter, the following categories of non-stormwater discharges or flows are exempted from the requirements of this chapter.

- (a) Water line flushing
- (b) Landscape irrigation;
- (c) Diverted stream flows;
- (d) Rising ground waters;
- (e) Uncontaminated groundwater infiltration;
- (f) Uncontaminated pumped ground water;
- (g) Discharges from potable water sources;
- (h) Foundation drains;
- (i) Air conditioning condensation;
- (j) Irrigation water;
- (k) Springs;
- (l) Water from crawl space pumps;
- (m) Footing drains;
- (n) Lawn watering;
- (o) Individual residential car washing;
- (p) Flows from riparian habitats and wetlands;
- (q) Dechlorinated swimming pool discharges;
- (r) Street wash water;

- (s) Discharges from firefighting activities;
- (t) Naturally introduced detritus. (e.g. leaves and twigs).

(Added by Ord. 2005-05)

Sec. 15-33 - Storage of hazardous or toxic material

Storage or stockpiling of hazardous or toxic material within any watercourse, or in its associated floodway or floodplain, is strictly prohibited. Storage or stockpiling of hazardous or toxic material, including sewage treatment plant stockpiles, on active construction sites must include adequate protection and/or containment so as to prevent any such materials from entering any temporary or permanent stormwater conveyance or watercourse.

(Added by Ord. 2005-05)

Sec. 15-34 - Private property maintenance duties

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse located within their property boundaries, free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(Added by Ord. 2005-05)

Sec. 15-35 – Spill reporting

- (a) Any discharger who accidentally discharges into a waterbody any substance other than stormwater or an exempted discharge shall immediately inform the Lake County Department of Health and IDEM concerning the discharge. A written report concerning the discharge shall be filed with New Chicago MS4, by the dischargers, within five (5) days. The written report shall specify:
 - (1) The composition of the discharge and the cause thereof;
 - (2) The date, time, and estimated volume of the discharge;
 - (3) All measures taken to clean up the accidental discharge, and all measure proposed to be taken to prevent any recurrence;
 - (4) The name and telephone number of the person making the report, and the name and telephone number of a person who may be contacted for additional information on the matter.
- (b) A properly reported accidental discharge shall be an affirmative defense in a civil infraction proceeding brought under this Chapter against a discharger for such discharge. It shall not, however, be a defense to a legal action brought to obtain an injunction, to obtain recovery of costs or obtain other relief because of or arising out of the discharge. A discharge shall be considered properly

reported only if the discharger complies with all the requirements of this section. This requirement does not relieve the discharger from notifying other entities as required by State or Federal regulations.

(Added by Ord. 2005-05)

Sec. 15 -36 - Inspections and monitoring

(a) Storm Drainage System

The New Chicago MS4 has the authority to periodically inspect the portion of the storm drainage system under the New Chicago MS4s control, in effort to detect and eliminate illicit connections and discharges into the system. This inspection will include a screening of discharges from outfalls connected to the system in order to determine if prohibited flows are being conveyed into the storm drainage system. It could also include spot testing of waters contained in the storm drainage system itself to detect the introduction of pollutants into the system by means other than a defined outfall, such as dumping or contaminated sheet runoff

(b) Potential Polluters

If, as a result of the storm drainage system inspection, a discharger is suspected of an illicit discharge, the New Chicago MS4 may inspect and/or obtain stormwater samples from stormwater runoff facilities of the subject discharger, to determine compliance with the requirements of this Chapter. Upon request, the discharger, shall allow the New Chicago MS4's properly identified representative to enter upon the premises of the discharger at all ours necessary for the purposes of such inspection or sampling. The New Chicago MS4's or its properly identified representative may place on the discharger's property the equipment or devices used for such sampling or inspection Identified illicit connections or discharges shall be subject to enforcement action as described in Article 7 of this Chapter.

(c) New Development and Re-Development

Following the final completion of construction and the receipt of as-built drawings by the New Chicago MS4, new development and redevelopment sites shall be inspected. This inspection will be to verify that all on-site storm water conveyance connections to the storm drainage system are in compliance with this chapter.

(Added by Ord. 2005-05)

Sections 15-37 through 15-50 – Reserved.

Article 3 – Stormwater quantity management

Sec. 15-51 - Applicability and exemptions

- (a) The storage and controlled release of excess stormwater runoff shall be required for all new business, commercial and industrial developments, residential subdivisions, planned development, rural estate

subdivisions, and any redevelopment or other new construction located within the Town of new Chicago.

- (b) Possible exceptions to the requirement are minor subdivisions and parcelization as described in the MS4 subdivision control chapter. The New Chicago MS4, after thorough investigation and evaluation, may waive the requirements of controlled runoff for minor subdivisions and parcelization.
- (c) Additional exemptions regarding the detention requirement are provided in this article.

(Added by Ord. 2005-05)

Sec. 15-52 - Policy on stormwater quantity management

(a) Detention Policy

- (1) It is recognized that most streams and drainage channels serving the Town of New Chicago do not have sufficient capacity to receive and convey stormwater runoff resulting from continued urbanization. Accordingly, except for situations explicitly provided, the storage and controlled release of excess stormwater runoff shall be required for all developments and redevelopments located within the Town of New Chicago.

(b) General Release Rates

- (1) In general, the post development release rates for developments up to and including the 100-year return period storms shall not exceed 0.25 Cfs per acre of development.
- (2) For sites where pre-developed area has more than one (1) outlet, the release rate should be computed based on pre-developed discharge to each outlet point.

(c) Site-Specific Release Rates for Sites with Depressional Storage

- (1) For sites where depressional storage exists, the general release rates provided above may have to be further reduced. If depressional storage exists at the site, site-specific release rates must be calculated according to methodology described in the New Chicago MS4 Stormwater Technical Standards Manual, accounting for the Depressional storage by modeling it as a pond whose outlet is a where at an elevation that stormwater can currently overflow the Depressional storage area. Post developed release rate for sites with depressional storage shall be the 2-year pre-developed peak runoff rate for the post-developed 100-year storm. In no case shall the calculated site-specific release rates be larger than general release rates provided above.
- (2) Also note that for determining the post-developed peak runoff rate, the depressional storage must be assumed to be filled unless the New Chicago MS4 can be assured, through dedicated easement, that the noted storage will be preserved in perpetuity.

(d) Management of Off-Site Runoff

- (1) Runoff from all upstream tributary areas (off-site land areas) may be bypassed around the detention/retention facility without attenuation. Such runoff may also be bypassed through the detention/retention facility without attenuation, provided that a separate outlet system or channel is incorporated for the safe passage of such flows, i.e., not through the primary outlet of a detention facility. Unless the pond is being designed as a regional detention facility, the primary outlet structure shall be sized and the invert elevation of the emergency overflow weir determined according to the on-site runoff only.

- (2) Once the size and location of primary outlet structure as well as the invert elevation of the emergency overflow weir is determined by considering on-site runoff, the 100-year pond elevation is determined by routing the entire inflow, on-site and off-site, through the pond.
- (3) Note that the efficiency of the detention/retention facility in controlling the on-site runoff may be severely affected if the off-site area is considerably larger than the on-site area. As a general guidance, on-line detention may not be effective in controlling on-site runoff where the ratio of off-site area to on-site area is larger than 5:1. Additional detention (above and beyond the required for on-site area) may be required by the New Chicago MS4 when the ratio of off-site area to on-site area is larger than 5:1.

(e) Downstream Restrictions

- (1) In the event the downstream receiving channel or storm sewer system is inadequate to accommodate the post-developed release rate provided above, then the allowable release rate shall be reduced to that rate permitted by the capacity of the receiving downstream channel or storm sewer system.
- (2) Additional detention, as determined by the New Chicago MS4, shall be required to store that portion of the runoff exceeding the capacity of the receiving sewers or watercourses.
- (3) If the proposed development makes up only a portion of the undeveloped watershed upstream of the limiting restriction, the allowable release rate for the development shall be in direct proportion to the ratio of its drainage area to the drainage area of the entire watershed upstream of the restriction.

(f) Direct Release Provisions

- (1) It is policy of the New Chicago MS4 to allow the direct release (no detention) of runoff from a proposed development to an adjacent stream with more than one hundred (100) square miles of contributing drainage area at the direct release point. Therefore, direct release may be allowed for parcels adjacent to the following stream reaches in the Town of New Chicago, Lake County, Indiana;
 - i. Deep River downstream of Lake George in Hobart.
 - ii. Burns Ditch (entire length).
 - iii. Singleton Ditch downstream of Cedar Creek Ditch confluence.
- (2) Due to unknowns regarding the future development patterns and the associated proposed stormwater management systems within a watershed, it is the policy of the New Chicago MS4 to discourage direct release to a stream with less than 100 square miles of contributing drainage area at the direct release point. However, in rare circumstances, where comprehensive watershed-wide hydrologic study or watershed plan of a major stream adopted by the New Chicago MS4 substantiated the benefits (or allows for) direct release for a proposed development located adjacent to a major stream, the detention requirements set in section (a) (above) may be waived.
 - i. In substantiating the potential benefits of direct release, the watershed-wide hydrologic study provided by the applicant must demonstrate the peak discharge associated with 2-year, 10-year, and 100-year precipitation events would not increase along the receiving stream. At a minimum, the stream reach to be examined needs to extend from the direct release point to a point downstream with a drainage area at least ten (10) times the drainage area of the proposed development and its off-site contributing drainage area. The required analyses must be done both for the existing land use and future potential land use (developed conditions) in the watersheds involved.

- ii. To be applicable to the development site, the sub-basin sizes for the watershed-side hydrologic analyses of the major stream (including the sub-basin area containing the proposed development and its off-site contributing areas) must be generally uniform (between 0.5 and 2.0 times the average sub-basin size). Furthermore, the maximum size of the sub-basin area containing the proposed development and its off-site contributing areas should not exceed 5.0 times the area of the proposed development.

(g) Adjoining Property Impact Policy

- (1) Design and construction of the stormwater facilities shall provide for the discharge of the storm water runoff from off-site land areas as well as the stormwater from the area being developed (on-site land areas) an acceptable outlet (as determined by the New Chicago MS4) having capacity to receive upstream (off-site) and on-site drainage. The flow path from the development outfall(s) to a regulated drain or natural watercourse (as determined by the New Chicago MS4) shall be provided on an exhibit that includes topographic information. Any existing field tile encountered during the construction shall be incorporated into the proposed stormwater drainage system or tied to an acceptable outlet.
- (2) Where the outfall from the storm water drainage system of any developer flows through real estate owned by others prior to reaching a regulated drain or natural watercourse, no approval shall be granted such drainage system until all owners of real estate and/or tenants crossed by the outfall either consent in writing to the use of their real estate or are notified of a hearing relevant to the proposed use. Notification of the time and place of the hearing shall be made in person or by certified mail at least five (5) to ten (10) days prior to the hearing. Proof of notice to each landowner shall be filed by affidavit with the New Chicago MS4 prior to the hearing. In addition, no activities conducted as a part of the development shall be allowed to obstruct the free flow of flood waters from an upstream property.
- (3) If an adequate outlet is not located on site, the off-site drainage improvements may be required. Those improvements may include, but are not limited to, extending storm sewers, clearing, dredging, and/or removal of obstructions to open drains or natural water courses, and the removal or replacement of undersized culvert pipes as required by the New Chicago MS4.

(h) No net loss floodplain storage policy

- (1) Floodplains exist adjacent to all natural and man-made streams, regardless of contributing drainage area or whether they have been previously identified or mapped. Due to potential impacts of floodplain loss on peak flows in streams and on the environment, disturbance to floodplains should be avoided.

(Added by Ord. 2005-05)

Sections 15-53 through 15-60 Reserved.

Article 4 - Storm water pollution prevention for construction sites

Sec. 15-61 - Applicability and exemptions

- (a) The New Chicago MS4 will require a Stormwater Pollution Prevention Plan (SWPPP), which includes erosion and sediment control measures and materials handling procedures to be submitted as part of the construction plans and specifications. Any project located within the Town's jurisdiction that includes clearing, grading, excavation, and other land disturbing activities, resulting in the disturbance of one (1) acre or more of total land area, is subject to the requirements of this chapter. This includes both new development and re-development. This chapter also applies to disturbances of less than one (1) acre of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one (1) or more acres of land within the MS4 area. Projects meeting with the coverage requirements of 327 IAC 15-5 (Rule 5) shall also be in compliance with 327 IAC 15-5.
- (b) The requirements under this chapter do not apply to the following activities:
 - (1) Agricultural land disturbing activities; or
 - (2) Forest Harvesting Activities.
- (c) The requirements under this chapter do not apply to the following activities, provided other applicable state permits contain provisions requiring immediate implementation of soil erosion control measures:
 - (1) Landfills that have been issued a certification of closure under 329 IAC 10.
 - (2) Coal mining activities permitted under IC § 14-34.
 - (3) Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the Indiana Department of Environmental Management under 329 IAC 20 that contains equivalent Stormwater requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary.
- (d) For an individual lot where land disturbance is expected to be one (1) acre or more, the individual lot owner must complete their own notice of intent letter, apply for a stormwater permit from the New Chicago MS4, and ensure that a sufficient construction and stormwater pollution prevention plan is completed and submitted in accordance with Article 6 of this Chapter; regardless of whether the individual lot is part of a larger permitted project site.
- (e) An individual lot with land disturbance less than one (1) acre, located within a larger permitted project site, is considered part of the larger permitted project site, and the individual lot operator must comply with the terms and conditions of the storm water permit approved for the larger project site. The storm water permit application for the larger project site must include detailed erosion and sediment control measure of individual lots. These individual lots are not required to submit their own stormwater permit application, but must obtain a stormwater review approval prior to receiving building permit. Details of the permitting process are contained in Article 6.
- (f) It will be the responsibility of the project site owner to complete a stormwater permit application and ensure that a sufficient construction plan is completed and submitted to New Chicago MS4 in accordance with Chapter 6 of this Chapter. It will be the responsibility of the project site owner to ensure compliance with this Chapter during the construction activity and implementation of these construction plan, and to notify the new Chicago MS4 with sufficient notice of termination letter upon completion of the project and stabilization of the site. However, all persons engaging in construction and land disturbing activities on a permitted project site meeting the applicability requirements must comply with the requirements of this Article and this Chapter.

(Added by Ord. 2005-05)

Sec. 15-62 - Policy on stormwater pollution prevention

- (a) Effective stormwater pollution prevention on construction sites is dependent on a combination of prevention movement of soil from its original position (erosion control, intercepting displaced soil prior to entering a waterbody (sediment control) and proper on-site materials handling.
- (b) The developer must submit to the New Chicago MS4, a SWPPP with detailed erosion and sediment control plans as well as a narrative describing materials handling and storage, and construction sequencing.
- (c) The following principles apply to all land-disturbing activities and should be considered in the preparation of a Storm Water Pollution Prevention Plan with the Town of New Chicago:
 - (1) Minimize the potential for soil erosion by designing a development that fits the topography and soils of the site. Deep cuts and fills in the areas with steep slopes should be avoided wherever possible, and natural contours should be followed as closely as possible.
 - (2) Existing natural vegetation should be retained and protected wherever possible. Areas immediately adjacent (within thirty-five [35] feet of top of bank) to watercourses and lakes also should be left undisturbed wherever possible. Unvegetated or vegetated areas with less than seventy percent (70%) cover that are scheduled or likely to be left in active for fifteen (15) days or more must be temporarily or permanently stabilized with measures appropriate for the season to reduce erosion potential. Alternative measures to site stabilization may be acceptable if the project site owner or their representative can demonstrate that they have implemented and maintained erosion and sediment control measures adequate to prevent sediment discharge from the inactive area.
 - (3) All activities on a site should be conducted in a logical sequence so that the smallest practical area of land will be exposed for the shortest practical period of time during development.
 - (4) The length and steepness of designed slopes should be minimized to reduce erosion potential. Drainage channels and swales must be designed and adequately protected so that their final gradients and resultant velocities will not cause erosion in the receiving channel or at the outlet. Method for determining acceptable velocities are included in the Storm Water Technical Standards Manual.
 - (5) Sediment-laden water which otherwise would flow from the project site shall be treated by erosion and sediment control measures appropriate to minimize sedimentation. A stable construction site access shall be provided at all points of construction traffic ingress and egress to the project site.
 - (6) Appropriate measures shall be implemented to prevent wastes or unused building materials, including garbage, debris, packaging materials, fuels and petroleum products, hazardous materials or wastes, cleaning wastes, wastewater, concrete truck washout, and other substances from being carried from a project site by runoff or wind.
 - i. Identification of areas where concrete truck washout is permissible must be clearly posited at appropriate areas of the site.
 - ii. Wastes and unused building materials clearly posted at appropriate areas of the site.
 - iii. Wastes and used building materials shall be managed and disposed of in accordance with all applicable State statutes and regulations.

- iv. Proper storage and handling of materials such as fuels or hazardous wastes, and spill prevention and cleanup measures shall be implemented to minimize the potential for pollutants to contaminate surface or groundwater or degrade soil quality.
- (7) Public or private roadways shall be kept cleared of accumulated sediment that is a result of runoff or tracking. Bulk clearing of accumulated sediment shall not include flushing the area with water. Cleared sediment shall be redistributed or disposed of in a manner that is in accordance with all applicable statutes and regulations.
- (8) Collected runoff leaving a project site must be either discharged directly into a well-defined, stable receiving channel, or diffused and released to adjacent property without causing an erosion or pollutant problem to the adjacent property owner.
- (9) Natural features, including wetlands, shall be protected from pollutants associated with stormwater runoff.

(Added by Ord. 2005-05)

Sec. 15-63 - Inspection, maintenance, records keeping, and reporting

- (a) Following approval of the stormwater management permit by the New Chicago MS4 and commencement of construction activities, the New Chicago MS4 has the authority to conduct inspections of the site to insure full compliance with the provisions of this chapter, the Indiana Storm Water Quality Manual, and the terms and conditions of the approved permit.
- (b) A self-monitoring program must be implemented by the project site owner to insure this stormwater pollution prevention plan is working effectively. An inspector, approved by the New Chicago MS4, shall perform a written evaluation of the project site by the end of the next business day following each measurable storm event. If there are no measureable storm events with a given week, the site should be monitored at least once that week. Weekly inspections shall continue until the entire site has been stabilized and a Notice of Termination has been issued. The inspector should look at the maintenance of existing stormwater pollution prevention measures, including erosion and sediment control measures, drainage structures, and construction materials storage/containment facilities, to ensure that they are functioning properly. The inspector should also identify additional measures, beyond those originally identified in the stormwater pollution prevention plan necessary to remain in compliance with all applicable statutes and regulations.
- (c) The resulting elevation reports must include the name of the individual performing the evaluation, the date of the evaluation, problems identified at the project site, ad details of maintenance, additional measures, and corrective actions recommended and completed.
- (d) The stormwater pollution prevention plan shall serve as a guideline to stormwater qualify, but should not be interpreted to be the only basis for implementation of stormwater quality measures for a project site. The project site owner is responsible for implementing, in accordance with this Chapter, all measures necessary to adequately prevent polluted stormwater runoff. Recommendations by the inspector for modified stormwater quality measures should be implemented.
- (e) Although self-monitoring reports do not need to be submitted to New Chicago MS4, the New Chicago MS4 has the right to request complete records of maintenance and monitoring activities involving

stormwater pollution prevention measures. All evaluation reports for the project site must be made available to the New Chicago MS4, in an organized fashion, within forty-eight (48) hours of request.

(Added by Ord. 2005-05)

Sections 15-64 through 15-70 – Reserved.

Article 5 - Stormwater quality management for post-construction

Sec. 15-71 - Applicability and exemptions

- (a) In addition to the requirements of Article 4, the stormwater pollution prevention plan, which is submitted to the New Chicago MS4 as part of the stormwater management permit application, must also include post-construction stormwater quality measures. These measures are incorporated as a permanent feature into the site plan and are left in place following completion of construction activities to continuously treat stormwater runoff from the stabilized site. Any project located within the Town of New Chicago that includes clearing, grading, excavation, and other land disturbing activities, resulting in the disturbance of one (1) acre or more of total land area, is subject to the requirements of this chapter. This includes both new development and redevelopment, and disturbance of less than one (1) acre of land that are part of a larger common plan development or sale if the larger common plan will ultimately disturb one or more acres of land, within the MS4 area.
- (b) These measures are incorporated as a permanent feature into the site plan and are left in place following completion of construction activities to continuously treat stormwater runoff from the stabilized site. Any project located within New Chicago that includes clearing, grading, excavation and other land disturbing activities, resulting in the disturbance of one (1) acre or more of total land area. This includes both new development and re-development.
- (c) The requirements under this article do not apply to the following activities:
 - (1) Agricultural land disturbing activities; or
 - (2) Forest harvesting activities; or
 - (3) Construction activities associated with single family residential dwelling disturbing less than five (5) acres, when the dwelling is not part of a larger common plan of development or sale; or
 - (4) Single family residential developments consistent of four or less lots; or
 - (5) A single-family residential strip development where the developer offers for sale or lease without land improvements and the project is not part of a larger common plan of development of sale; or
 - (6) Individual building lots within a larger permitted project.
- (d) The requirements under this chapter do not apply to the following activities, provided other applicable state permits contain provisions requiring immediate implementation of soil erosion control measures
 - (1) Landfills that have been issued certification of closure under 329 IAC 10.
 - (2) Coal mining activities under IC § 14-34.
 - (3) Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the Indiana Department of Environmental Management under 329 IAC 10 that contains equivalent

stormwater requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary.

- (e) It will be the responsibility of the project site owner to complete a stormwater permit application and ensure that a sufficient construction plan is completed and submitted to the New Chicago MS4 in accordance with Article 6 of this Chapter. It will be the responsibility of the project site owner to ensure proper construction and installation of all stormwater BMPS in compliance with this Chapter and with the approved stormwater management permit, and notify the New Chicago MS4 with sufficient notice of termination letter upon completion of the project and stabilization of the site. However, all eventual property owners of stormwater quality facilities meeting the applicability requirements must comply with the requirements of this chapter and this Chapter.

(Added by Ord. 2005-05)

Sec. 15-72 - Policy on stormwater quality management

- (a) It is recognized that developed areas, as compared to undeveloped areas, generally have increased imperviousness, decreased infiltration rates, increased runoff rates, and increased concentrations of pollutants such as fertilizers, herbicides, greases, oil, salts, and other pollutants. As new development and redevelopment continues in the Town of New Chicago, measures must be taken to intercept and filter pollutants from stormwater runoff prior to reaching regional creeks, streams, and rivers in order to preserve fishable and swimmable conditions. Thorough the use of Best Management Practices (BMP), storm water runoff will be filtered and harmful amounts of sediment, nutrients, and contaminants will be removed. New Chicago MS4 has adopted a policy that the control of Storm Water quality will be based on the management of Total Suspended Solids (TSS).
- (b) The project site owner must submit to the New Chicago MS4, a Storm Water Pollution Prevention Plan, (SWPPP), that would show placement of appropriate BMPS(s) from a pre-approved list of BMPs specified in the New Chicago MS4 Storm Water Technical Standards Manual. The noted BMPs must be designed, constructed, and maintained according to the guidelines provided or referenced in the New Chicago MS4 Storm Water Technical Standards Manual. Practices other than those specified in the pre-approved list may be utilized. However, the burden of proof, as to whether the performance (minimum 80% TSS removal) and ease of maintenance of such practices will be according to the guidelines provided in the New Chicago MS4 Storm Water Technical Manual would be placed with the applicant. Details regarding the procedures and criteria for consideration of approval of such BMPs are provided in the New Chicago MS4 Storm Water Technical Manual.
- (c) Gasoline outlines and refueling areas must institute appropriate practices to reduce lead, copper, zinc, and polyaromatic hydrocarbons in stormwater runoff. These requirements will apply to all new facilities and existing facilities that replace their tanks.

(Added by Ord. 2005-05)

Sec. 15-83 - Easement requirements

- (a) All stormwater quality management systems, including detention and retention basins, filter strips, pocket wetlands, in-line filters, infiltration systems, conveyance systems, structures and appurtenances located outside of the right-of-way shall be incorporated into permanent easements.
- (b) For development occurring with County's unincorporated areas and/or at the discretion of the New Chicago MS4, the developer shall petition to establish the noted system as a portion of the regulated drain pursuant to the provisions of IC § 36-9-27-54 and the drainage plan shall not be approved until such petition is submitted in a form approved by the New Chicago MS4.
- (c) For the purpose of monitoring, inspection, and general maintenance activities, the petition should include a 30-foot wide perimeter beyond the actual footprint of the stormwater quality management facility.

(Added by Ord. 2005-05)

Sec. 15-84 - Inspection, maintenance, record keeping, and reporting

- (a) After the approval of stormwater management permit by the New Chicago MS4 and the commencement of construction activities, the New Chicago MS4 has the authority to conduct inspections of the work being done to ensure full compliance with the provisions of this chapter, the drainage Storm Water Technical Manual, and the terms and conditions of the approved permit.
- (b) Stormwater quality facilities shall be maintained in good condition, in accordance with the Operation Maintenance procedures and schedules listed in the Indiana Storm Water Quality Manual or the New Chicago MS4 Comprehensive Storm Water Management Storm Water technical Standards Manual, and the terms and conditions of the approved storm water permit, and shall not be subsequently altered, revised, or replaced except in accordance with the approved storm water permit, or in accordance with approved amendments or revisions in the permit.
- (c) Following construction completion, inspection and maintenance of stormwater quality facilities shall be long-term responsibility of the property owner.
- (d) Assignment of responsibility for maintaining stormwater quality facilities servicing more than one lot or holding shall be documented by appropriate covenants to property deeds, unless responsibility is formally accepted by a public body, and determined before the final storm water permit is approved.
- (e) Storm water detention/retention basins may be donated to the New Chicago MS4 or other unit of government designated by the New Chicago MS4, for ownership and permanent maintenance providing the New Chicago MS4 or other governmental unit is willing to accept responsibility. The New Chicago MS4 or other governmental unit is under no obligation to accept any donation.
- (f) All public and privately owned stormwater utility facilities will be inspected by the representatives of the project site owner no less than once a year until the project is complete. At that point and after appropriate inspection fees are prepaid by the project site owner for the first five (5) years after completion, the New Chicago MS4 assumes responsibility for having annual inspections of the stormwater quality facilities completed. The inspections will follow the Operation and Maintenance procedures included in the Storm Water Technical Standards Manual and/or permit application for each specific BMP. The inspection will cover physical conditions, available yard water quality storage capacity, and the operational condition of key facility elements. Noted deficiencies and recommended

corrective action will be included in an inspection report. A copy of each inspection report will be provided to the New Chicago MS4. If deficiencies are found during the inspection, the owner of the stormwater quality facility will be notified by the New Chicago MS4 and will be required to take all necessary measures to correct such deficiencies. If the owner fails to correct the deficiencies within the allowed time period, as specific in the notification letter, the New Chicago MS4 will undertake the work and collect from the owner using lien rights if necessary.

(Added by Ord. 2005-05)

Sections 15-85 through 15-90 – Reserved.

Article 6 – Permit requirements and procedures

Sec. 15-91 - Stormwater pollution plan for construction sites

A stormwater pollution prevention plan associated with construction activities must be designed to, at least, meet the requirements of this Chapter and must include the following:

- (a) Location, dimensions, detailed specifications, and construction details of all temporary and permanent stormwater quality measures.
- (b) Temporary stabilization plans and sequence of implementation.
- (c) Permanent stabilization plans and sequence of implementation.
- (d) Temporary and permanent stabilization plans shall include the following:
 - (1) Specification and application rates for soil amendments and seed mixtures.
 - (2) The type and application rate for anchored mulch.
- (e) Construction sequence describing the relationship between implementation of stormwater quality measures and stages of construction activities.
- (f) A typical erosion and sediment control plan for individual lot development.
- (g) Self-monitoring program including plan and procedures.
- (h) A description of potential pollutant sources associated with the construction activities, which may reasonably be expected to add a significant amount of pollutants to stormwater discharges.
- (i) Material handling and storage associated with construction activity shall meet the spill prevention and spill response requirements in 327 IAC 2-6.1.

(Added by Ord. 2005-05)

Sec. 15-92 – Post-construction stormwater pollution prevention plan

The post-construction stormwater pollution prevention plan must include the following information.

- (a) A description of potential pollutant sources from proposed land use, which may reasonably be expected to add a significant amount of pollutants to stormwater discharges.

- (b) Location, dimension, detailed specifications, and construction details of all post-construction stormwater quality measures.
- (c) A description of measures that will be installed to control pollutants in stormwater discharges that will occur after construction activities have been completed. Such practices include infiltration runoff, flow reduction by use of open vegetated swales and natural depressions, buffer strip and riparian zone prevention, filter strip creation, minimization of land disturbance and surface imperviousness, maximization of open space, and storm water retention and detention ponds.
- (d) A sequence describing when each post-construction quality measure will be installed.
- (e) Stormwater quality measures that will remove or minimize pollutants from stormwater runoff.
- (f) Stormwater quality measures that will be implemented to prevent or minimize adverse impacts to stream and riparian habitat.
- (g) A narrative description of the maintenance guidelines for all post-construction stormwater quality measure to facilitate their proper long term function. This narrative description shall be made available to future parties who will assume responsibility for the operation and maintenance of the post-construction stormwater quality measures.

(Added by Ord. 2005-05)

Sec. 15-93 - Review of individual lots within a permitted project

- (a) Although no permit is required for individual lots disturbing less than one (1) acre, developed within a larger permitted project, a formal storm water review will be required before a building permit can be issued. All stormwater management measures necessary to comply with this Chapter must be implemented in accordance with permitted plan for the larger project.
 - (1) The following information must be submitted to the New Chicago MS4, for review and approval, by the individual lot operator, whether owning the property or acting as the agent of the property owner, prior to the issuance of a building permit.
 - (2) A site layout for the subject lot and all adjacent lots showing building pad location, dimensions, and elevations, and the drainage patterns and swales.
 - (3) Erosion and sediment control plan that, at a minimum, includes the following measures:
 - i. Installation and maintenance of a stable construction site access.
 - ii. Installation and maintenance of appropriate perimeter erosion and sediment control measures prior to land disturbance.
 - iii. Minimization of sediment discharge and tracking from the lot.
 - iv. Clean-up of sediment that is either tracked or washed onto roads. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment must be redistributed or disposed of in a manner that in compliance with all applicable statutes and rules.
 - v. Adjacent lots disturbed by an individual lot operator must be repaired and stabilized with temporary or permanent surface stabilization.
 - vi. Self-monitoring program including plan and procedures.
 - (4) Certification of compliance stating that the individual lot plan is consistent with the stormwater management permit, as approved by the new Chicago MS4, for the larger project.

- (b) The individual lot operator is responsible for installation and maintenance of all erosion and sediment control measures until the site is stabilized.

(Added by Ord. 2005-05)

Sec. 15-94 - Changes to plans

Any significant change or deviation in the detailed plans and specifications after approval of the stormwater management permit shall be filed in duplicate with, and approved by, the New Chicago MS4 prior to the land development involving the change. Copies of the changes, if approved, shall be attached to the original plans and specifications.

Sec. 15-91 - Fee structure

(a) Fee Amount

- (1) As a condition of the submittal and the review of development plans by the Town of New Chicago, the applicant shall agree to pay the New Chicago MS4 the costs incurred by the New Chicago MS4 with the respect to the review of all drainage submittals, preliminary plans, final plans, constructions plans, and accompanying information and data, as well as pre-paid inspection fees.

(b) Time of Payment

- (1) After the meeting at which the New Chicago MS4 is scheduled to consider approval of the applicant's final stormwater management plan, the New Chicago MS4 will furnish a written statement to the applicant specifying the total costs of review fees incurred by the New Chicago MS4 in connection with the review of the applicant's submittals, plans, and accompanying information and data including the total hours expended for review, and the amount required to be paid by applicant for review and prepaid inspection fees.

(c) Method of Payment

- (1) Fees shall be paid by one of the following methods:
- i. Certified check
 - ii. Cashier's check
 - iii. Money order
 - iv. All checks and money orders shall be made payable to:
New Chicago MS4
122 Huber Blvd
Hobart, IN 46342

(d) Refund of payment

- (1) Fees are refundable only if the New Chicago MS4 determines the compliance by the development to this Chapter is not necessary.

(Added by Ord. 2005-05)

Sec. 15-91 - Terms and conditions of permits

- (a) In granting a stormwater management permit, the New Chicago MS4 may impose such terms and conditions as are reasonably necessary to meet the purpose of this Chapter. The project site owner shall insure compliance with such terms and conditions. Non-compliance with the terms and conditions of permits will be subject to enforcement as described in Article 7.
- (b) The project site owner shall inform all general contractors, construction management firms, grading or excavation contractors, utility contractors, and the contractors that have primary oversight on individual building lots of the terms and conditions of the terms and conditions of the stormwater management permit and the schedule proposed implementation.
- (c) In the event that a project site is determined to impact or discharge to a Sensitive Area or is located in an Impact Drainage Area, the New Chicago MS4 may require more stringent stormwater quantity and quality measures than detailed in the Chapter or in the Indiana Storm Water Quality Manual.
- (d) Sensitive Areas include highly erodible soils, wetlands, threatened or endangered species habitat, outstanding waters, impaired waters, recreational waters, and surface drinking water sources. A listing of highly erodible soils, outstanding water, impaired water, recreation water, and surface drinking water sources can be found in the Storm Water Technical Standards Manual. If wetlands are suspected on a site, a wetland delineation should be completed in accordance with the methodology or endangered species habitat will be determined by the New Chicago MS4 during the permit review process. Special terms and conditions for development determined to impact or discharge to any Sensitive Area shall be included in the stormwater management permit.
- (e) Determination of Impact Drainage Areas
 - (1) The New Chicago MS4 is authorized, but is not required, to classify certain geographical areas as Impact Drainage Areas. In determining Impact Drainage Areas, the New Chicago MS4 shall consider such factors as topography, soil type, capacity of existing drains, and distance from adequate drainage facility. The following areas shall be designed as Impact drainage Areas, unless good reason for not including them is presented to the New Chicago MS4.
 - i. A floodway or floodplain as designed by the most updated New Chicago MS4 Code dealing with floodplain regulation
 - ii. Land within seventy-five (75) feet of each bank of any ditch within the New Chicago MS4's system.
 - iii. Land within seventy-five (75) feet of the center line of any drain tile or enclosed conduit within the New Chicago MS4's system.
 - iv. Land that does not have an adequate outlet, taking into consideration the capacity and depth of the outlet, may be designated as an Impact Drainage Area by the New Chicago MS4. Special terms and conditions for development within any Impact Drainage Area shall be included in the stormwater management permit.

(Added by Ord. 2005-05)

Sec. 15-92 - Certification of as-built plans

- (a) After completion of construction of the project and before final approval of the stormwater management plan, professionally prepared and certified 'as-built' plans shall be submitted to the New Chicago MS4 for review.
- (b) Additionally, a digital copy of the 'as-built' plans is required in a format approved by the New Chicago MS4.
- (c) These plans shall include all pertinent data relevant to the completed storm drainage system and stormwater management facilities and shall include:
 - (1) Pipe size and material;
 - (2) Invert elevations;
 - (3) Top rim elevations;
 - (4) Pipe structure lengths;
 - (5) BMP types, dimensions, and boundaries/easements;
 - (6) "As-planted" plans for BMPs, as applicable;
 - (7) Data and calculations showing detention basin storage volume;
 - (8) Data and calculations showing BMP treatment capacity;
 - (9) Certified statement on plans stating the completed storm drainage system and stormwater management facilities substantially comply with construction plans and the stormwater management permits as approved by the New Chicago MS4. (See certificate in Storm Water Technical Manual).
- (d) The property owner, developer, or contractor shall be required to file a five (5) year maintenance bond or other acceptable guarantee with the New Chicago MS4, prior to acceptance, in an amount not to exceed ten percent (10%) of the cost of the stormwater drainage system located outside the public right-of-ways, and in a form satisfactory to the New Chicago MS4's attorney in order to assure that such storm water system installation was done according to standards of good workmanship, that the materials used in the construction and installation were of good quality and construction, and that such project was done in accordance with approved plans, and this Chapter. The bond or other acceptable guarantee shall be in effect for a period of three (3) years after the date of final project approval by the New Chicago MS4.
- (e) To verify that all regulated drain tiles are functioning properly, visual recordings (via closed circuit television) of such tile drains shall be required, once following the completion of installation (including the installation of all utility mains) and the second time before release of maintenance bonds. These visual recordings will be scheduled by the New Chicago MS4 and paid for by the developer. Notices shall be provided to the New Chicago MS4 within twelve (12) hours following the completion of installation and again at least sixty (60) days prior to the expiration date of the maintenance bond so that the noted records may be scheduled. Reports summarizing the results of the noted visual recordings shall be reviewed and approved by the New Chicago MS4 before the plan is recommended for recording and again before maintenance bond would be recommended to be released.

(Added by Ord. 2005-05)

Sections 15-93 through 15-100 – Reserved.

Article 7 – Enforcement

Sec. 15-101 - Compliance with this chapter

- (a) In addition to the requirements of this Chapter, compliance with the requirements set forth in the local zoning ordinances is also necessary.
- (b) Compliance with all applicable ordinances of the New Chicago MS4, as well as other State of Indiana statutes and regulations, IC § statutes, the Watershed Management Plan for Lake County, U.S. Environmental Protection Agency EPA 833/B-86-100, EPA 300/R-92-009, EPA 833-b-98-002, shall be required.
- (c) Unless otherwise stated, all other specifications referred to in this Chapter shall be the most recent edition available.
- (d) Violations of the requirements of this Chapter are subject to the penalties listed in this Article.

(Added by Ord. 2005-05)

Sec. 15-102 - Penalties for violations

- (a) Any person found in violation of any provision of this chapter shall be responsible for a civil infraction and subject to a maximum fine of five thousand dollars (\$5,000.00) for a first offense, and a maximum of \$10,000 for a subsequent offense plus costs, damages, and expense.
- (b) Each day such violation occurs or continues shall be deemed a separate offense and shall make the violator liable for the imposition of a fine for each day.
- (c) The rights and remedies provided for in this section are cumulative and in addition to any other remedies provided by law. An admission or determination of responsibilities shall not exempt of offender from compliance with the requirements of this Chapter.
- (d) Any person who aids or abets a person in violation of this Chapter shall be subject to the penalties provided in the section.
- (e) For the purposes of this section, “subsequent offense” means a violation of the provisions of this Ordinance committed by the same person with twelve (12) months of a previous violation of the same provision of this Chapter for which said person admitted responsibility or was adjudicated to be responsible.

(Added by Ord. 2005-05)

Sec. 15-103 - Stop work order

- (a) In addition to the penalties listed above, if construction activities are conducted contrary to the provisions of this Chapter or approved final stormwater management plans, the New Chicago MS4 may order the work stopped by notice in writing served on any person engaged in the doing or causing

of such work to be done, and any such persons shall forthwith stop such work until authorized by the New Chicago MS4 to proceed with the work.

- (b) The New Chicago MS4 may also undertake or cause to be undertaken, any necessary or advisable protective measures to prevent violations of his/her Ordinance or to void or reduce the effects of non-compliance herewith.
- (c) The costs of any such protective measures shall be the responsibility of the owner of the property upon which the work is being done and the responsibility of any person carrying out or participating in the work.
- (d) Any person who neglects or fails to comply with a stop work order shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not less than one thousand dollars (\$1,000), or imprisonment in the Lake County Jail for not more than three (3) months, or both such fine and imprisonment, and such person shall also pay such costs as may be imposed in the discretion of the court.

(Added by Ord. 2005-05)

Sec. 15-104 - Failure to comply or complete

In addition to any other remedies, should any owner fail to comply with the provisions of this Chapter, the New Chicago MS4 may, after giving notice and opportunity for compliance, have the necessary work done, and the owner shall be required to promptly reimburse the New Chicago MS4 for all costs of such work.

(Added by Ord. 2005-05)

Sec. 15-105 - Suspension of access to the storm drain system

(a) Suspension Due to Emergency Situations

- (1) The New Chicago MS4 may, without prior notice, suspend storm drain system discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health and welfare of persons, or to the storm drain system, or Waters of the United States.
- (2) If the violator fails to comply with a suspension order issued in an emergency, the New Chicago MS4 may take such steps as deemed necessary to prevent or minimize damage to the storm drain system or Waters of the United States, or to minimize danger to persons.

(b) Suspension Due to the Detection of Illicit Discharge

- (1) Any person discharging to the storm drain system in violation of this Chapter may have their storm drain access terminated if such termination would abate or reduce an illicit discharge.
- (2) The New Chicago MS4 will notify a violator of the proposed termination of its MS4 access.
- (3) The violator may petition the New Chicago MS4 for a reconsideration and a hearing.

(Added by Ord. 2005-05)

Sec. 15-106 - Corrective action

Nothing herein contained shall prevent the New Chicago MS4 from taking such other lawful action as may be necessary to prevent or remedy any violation. All costs connected therewith shall accrue to the person or persons responsible. Costs include, but are not limited to, repairs to the storm drain system made necessary by the violation, as well as those penalties levied by the EPA or IDEM for violation of the New Chicago MS4's NPDES permit, attorney fees, and other costs and expenses.

(Added by Ord. 2005-05)

Sec. 15-107 - Appeals

- (a) Any person to whom any provision of this Chapter has been applied may appeal in writing, not later than thirty (30) days after the action or division being appealed from, to the New Chicago MS4 the action or decision whereby any such provision as applied. Such appeal shall identify the matter being appealed, and the basis for the appeal. The New Chicago MS4 may consider the recommendations and the comments of other person having knowledge of the matter.
- (b) In considering any such appeal, the New Chicago MS4 may grant a variance from the terms of this Chapter to provide relief, in whole or in part, from the action being appeal, but only upon finding that the following requirements are satisfied.
 - (1) The application of the Chapter provisions being appealed will present or cause practical difficulties for a development or development site; provided, however, that the practical difficulties shall not include the need for the developer to incur additional reasonable expenses in order to comply with the Chapter; and
 - (2) The granting or the relief requested will not substantially prevent the goals and purposes of this Chapter, nor result in less effective management of stormwater runoff.

(Added by Ord. 2005-05)

Chapter 16 – Garbage and trash

Article I - Generally

Sec. 16-1 - Definitions

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Commercial unit is a building, or a part thereof, or an establishment for the conduct of a single business. Apartment houses, motels, hotels, civil and athletic centers and all other establishments that produce refuse, but which are not dwelling units, shall be considered as commercial units.

Contract is the negotiated agreement between the Town Council of the Town of New Chicago and the single waste hauler selected through a bidding process. The single waste hauler contract and the provision contained in that contract are part and parcel to this chapter.

Contractor is the person, entity, corporation, or partnerships that has bid and negotiated a contract with the Town of New Chicago for solid waste services throughout the Town of New Chicago. The contractor shall be responsible for billing and collection of fees from each owner of a dwelling unit(s) as serviced by the contracted service.

Dwelling(s) includes single and multifamily structures of not more than four (4) dwelling units per building.

Dwelling unit is a structure, or portion of a structure, used by one (1) family for cooking, living and sleeping purposes.

Garbage is putrescible animal and vegetable wastes resulting from the handling preparation, cooking and consumption of food.

Garbage container is a container made of plastic or metal equipped with suitable handles and tight-fitting cover, and/or plastic garbage bags or similar receptacles. Containers shall be watertight and of a type approved by the Town with a capacity of not less than twenty (20) gallons and not more than ninety-six (96) gallons. Containers shall be kept clean, neat, and sanitary at all times.

Garbage container cart is a container made of plastic with handles and tight-fitting cover, equipped with wheels, capable of being emptied by the use of hydraulic operators affixed to the refuse collection equipment. Containers shall be watertight and of a type approved by the Town's contracted garbage or as otherwise provided by the town's garbage vendor. Containers shall be clean, neat, and sanitary at all times.

Mandatory service shall mean that the contract as provided by through the Town Council of the Town of New Chicago shall be a mandatory service for all dwelling(s) as provided by these definitions and this chapter.

Recyclables include, but are not limited to, newspaper and all inserts, magazines, glass bottles and jars (clear, brown, green), tin/steel/aluminum cans, plastic containers (1-2-3 liter plastic pop containers, milk

and water jugs, any liquid laundry detergent bottles). Additional recyclables may be added as markets develop upon the mutual agreement between both parties without modification of the contract.

Recycling container is a plastic container used for the placement of discarded recyclables. Recycling containers can be of various sizes which are approved by the town's recycling vendor.

Refuse is all putrescible and non-putrescible wastes (except human body wastes), including garbage, rubbish, recyclables, and yard waste.

Rubbish is limited to putrescible and non-putrescible solid waste, both combustible and noncombustible, including paper, cardboard, bottles, tin/steel/aluminum cans, grass clippings, small amounts of branches (not to exceed two [2] cubic yards) cut in four-foot lengths and securely bundled, glass, bedding, rags, crockery, wood, small amounts of construction and demolition debris (not to exceed two [2] cubic yards) cut in four-foot lengths and securely bundled.

Town shall mean the Town of New Chicago, Lake County, Indiana.

Yard waste is compostable organic waste resulting from the maintenance of lawns, gardens, landscaping and trees. Pursuant to IC § 13-20-9 et seq., the deposit of vegetative matter in solid waste landfill is prohibited except for (A) grass, (B) woody vegetative matter that is (i) less than three (3) feet in length; and (ii) bagged, bundled, or otherwise contained; or (C) de minimis amounts of vegetative matter that are: (i) less than three (3) feet in length; (ii) bagged, bundled, or otherwise contained; and (iii) not set out separately for collection and disposal;

(Added by Ord. 2017-^^)

Sec. 16-2 - Littering generally

- (a) No person shall litter any streets, or any public or private property with handbills, paper, or debris. No person shall so distribute any advertising matter or handbills that they may be blown about or result in the littering of streets, or any public or private property. No person shall place any advertising matter or handbills on or in any vehicle except in a manner which will prevent it from being blown about or scattered by the elements.
- (b) No person shall throw, place, leave or suffer to be thrown, placed or left, any garbage, ashes, household rubbish, appliances or parts thereof, miscellaneous rubbish, manure or any refuse in or upon any premises, public or private, including streets, alleys, parkways, or other public places or upon any vacant or unimproved lots or parcels of land in the Town.
- (c) It shall be unlawful for any person to dump or deposit or cause to be dumped or deposited any grass, leaves, branches, or other items or snow in a roadway or gutter of any public street in the Town.
- (d) No person shall throw, discharge or deposit or cause to be thrown, or deposited or discharged by any other person, any garbage, offal or refuse, or ashes, in the waters of any river, stream or creek of any tributary of the Deep River Watershed or along the banks of any of them.

(Added by Ord. 2017-^^)

Sec. 16-3 - Premises to be kept clean

The owner, occupant or lessee of any premises in the Town shall remove from such premises or otherwise dispose of all ashes, metal cans, metalware, broken glass, garbage, crockery, stoneware, manure and all refuse and rubbish, and shall keep such premises free and clear of any accumulation of rubbish.

(Added by Ord. 2017-^^)

Sec. 16-4 - Disposal by occupants generally

Any owner or occupant or lessee of any premises in the Town may dispose of any garbage, ashes or household rubbish which may be produced on his/her own premises when such disposal is accomplished in a manner which does not create a nuisance or cause annoyance or discomfort to the inhabitants of the Town.

(Added by Ord. 2017-^^)

Sec. 16-5 - Containers generally

- (a) The owner, occupant or lessee of any premises in the Town, upon which shall accumulate any garbage, ashes or household rubbish, shall provide and maintain in a clean condition and in good repair, adequate receptacles as provided or approved by the Town's garbage collecting vendor.
- (b) All containers shall be kept adjacent to residence and out of view from the street as much as is possible.
- (c) Every owner or his/her agent, or the occupant of any house, building or apartment in the Town wherein persons reside, board or lodge shall provide for each such house, building or apartment and at all times maintain containers for papers, rubbish and other waste, in a number sufficient to store and handle for disposal the accumulations for each such house, building or apartment according to the specifications of this chapter.
- (d) Apartments which choose to provide dumpsters shall be provided for apartments according to the following schedule:
 - (1) Apartment buildings from a minimum of four (4) units to a maximum of sixteen (16) units shall provide one, one and one-half (1½) cubic yard container per each six (6) units or portions thereof.
 - (2) Apartment buildings over sixteen (16) units shall provide one four (4) cubic yard container per each sixteen (16) units or portions thereof.
- (e) Each place of business shall have the option to provide containers of a size not to exceed eight (8) cubic yards.
- (f) Each industrial use shall have the option to provide containers of a size necessary to adequately handle their refuse.

(Added by Ord. 2017-^^)

Sec. 16-6 - Duty to clean up scattered garbage or rubbish

The scavenger or garbage collector shall be responsible for cleaning up only that garbage and rubbish which is scattered in the process of conveying the material to his/her truck. It is the sole responsibility of the customer of such scavenger or collector to clean up any garbage which is thrown about by wind, the ravages of animals or by similar means.

(Added by Ord. 2017-^^)

Sec. 16-7 - Duty to prevent scattering of material by wind

Individuals shall have a duty to prevent garbage and other refuse from being scattered by the wind. Any wind-blown material shall be promptly picked up and confined to a closed container. Any failure to do so shall be an offense.

(Added by Ord. 2017-^^)

Sec. 16-8 - Covering of containers

- (a) The use of open containers for food, cans, cartons or any other material which will draw flies or other insets is unlawful.
- (b) Such containers must be tightly covered in metal, durable plastic, or other material having the same general properties.

(Added by Ord. 2017-^^)

Sec. 16-9 – Actions to collect delinquent waste service fees

- (a) The town's contracted garbage service may take whatever action it deems necessary, as allowed by law, to collect the fees as established in the contract. Such action may include, but is not limited to, commencing an action in a court of competent jurisdiction against the dwelling unit(s) owner, in the contractor's own name as an agent for the Town. It shall not be necessary to join or name the Town as a party in any such action and the Town hereby assigns to the contractor all its rights to any collected delinquency charges resulting from actions to collect fees.
- (b) The Town may assess charges for waste disposal and recycling disposal alongside water and other utility bills.
- (c) The contractor shall provide to any delinquent dwelling unit(s) owner a written notice prior to taking actions provided in subsection (a) above. With prior written notice to the Town, the contractor may discontinue service to a dwelling unit upon failure to pay for services as provided in the contract.

Discontinuation of service does not obligate the contractor to discontinue billings to the dwelling unit(s) owner. The name and location of service interruptions due to discontinued service shall be provided to the Town for further enforcement if necessary.

(Added by Ord. 2017-^^)

Sec. 16-10 - Use by residents of Town-maintained dumpster; conditions; fee

- (a) The Town of New Chicago Public Works Department may from time to time provide residents within the Town a dumpster or dumpsters for temporary cleanup programs. These services are to help and enhance the existing municipal solid waste services as provided by contract with a single waste hauler. Proof of residency is required in order to use the facilities and no commercial or contractual dumping is allowed.
- (b) Dumpster services will be provided at the discretion and approval of the Town Council of the Town of New Chicago and shall be for temporary cleanup programs only.
- (c) All garbage and recycling disposal containers shall be moved off of the public right of way within forty-eight (48) hours after pick-up has taken place.
- (d) The use of town-maintained dumpster by nonresident shall be an ordinance violation.

(Added by Ord. 2017-^^)

Section 16-11 – Duty to keep waste containers in clean and working condition

- (a) All containers must be kept in a clean and sanitary condition. They shall be washed and disinfected with sufficient frequency to prevent an odor or public health nuisance, except that containers used solely for the storage of drained, unwrapped garbage shall be washed and disinfected after each emptying.
- (b) All containers must close securely and be watertight.
- (c) If any container provided by the town's contracted vendor becomes unusable due to damage or an unsanitary condition, it shall be the duty of the customer to request a new container. The customer shall pay any fees for the replacement of said container.

(Added by Ord. 2017-^^)

Sec. 16-12 – Bulk items at curb – restriction

- (a) Furniture and other bulk items may only be placed at the curb or in the front yard of someone's property for a scheduled bulk item pickup by the town's contracted garbage vendor.
- (b) Such items must be placed at the curb no earlier than 4 p.m. on the day before the bulk item's scheduled pickup.
- (c) In the event that the item is not picked up by the garbage vendor, it must be removed from the curb or front yard no later than 10 p.m. the day after the anticipated pickup.

(d) A violation of this section shall be considered a nuisance.

(Added by Ord. 2017-^^)

Sec. 16-13 – Dumps and dumping prohibited

- (a) No person shall maintain, cause, or permit to be maintained any dump, landfill, or landfill transfer station, either public or private, within the corporate limits of the Town.
- (b) A first violation of this ordinance shall be punishable by a fine of two thousand five hundred dollars (\$2,500.00). Any subsequent violations shall be punishable by a fine of up to seven thousand five hundred dollars (\$7,500.00).

(Added by Ord. 2017-^^)

Sec. 16-14 – Dumping – Sanitary Landfill only

No person shall dump, cause to be dumped, or permit to be dumped any refuse of any land within the corporate limits of the Town of New Chicago. Only a licensed, sanitary landfill or landfill transfer station may be used for such a purpose.

(Added by Ord. 2017-^^)

Sec. 16-15 – Times and places when containers can be placed at curb

All recipients of trash service in the Town shall not place containers at curb side for pickup earlier than 4:00 p.m. of the night before the scheduled pick-up and shall not leave emptied containers to remain at curb side later than 10:00 p.m. of the day following the pick-up.

Additionally, all containers shall be kept adjacent to residence and out of view from the street as much as is possible.

(Added by Ord. 2017-^^)

Sec. 16-16 – Violations; Penalty

- (a) Any individual found in violation of Article 1 of this chapter shall be fined in an amount of one hundred dollars (\$100.00). Each day on which the offense continues shall be a separate offense.
- (b) Any person served with a citation for violating the provisions of this article may appear before the violations clerk pursuant to chapter 6 of the New Chicago Town Code, admit the violation and pay the civil penalty. If a person does not appear within seven (7) days of issuance of the citation, it will be filed with a court of competent jurisdiction and processed accordingly.

- (c) It shall be the duty of the Police Department to furnish copies of the citation to the Clerk-Treasurer's office within seventy-two (72) hours after issuance of the citation.

(Added by Ord. 2017-^^)

Sections 16-17 through 16-25 - Reserved.

Article 2 – Waste haulers, scavengers, and scrappers

Sec. 16-26 - Definitions

The term "waste hauler" as used in this article means any person, partnership, company or corporation engaging in "waste hauling," which includes the work or business, whether regularly, intermittently or occasionally, of cleaning or removing garbage, ashes, rubbish, waste, refuse, debris, junk or abandoned or discarded substances or materials from the streets, alleys, or any premises within the Town of New Chicago solely for the purpose of disposing of them as waste or recyclables. The term shall not include a person regularly engaged in the collection for resale of industrial scrap or salvageable materials.

The word "scavenger" or "scrapper" as used in this article means any person, partnership, company or corporation engaging in "scavenging" or "scrapping," which include the collection for private use or resale of industrial scrap, salvageable materials, junk or abandoned or discarded substances or materials from the streets, alleys, or any premise within the Town of New Chicago.

(Added by Ord. 2017-^^)

Sec. 16-27 - Single waste hauling contract for Town

- (a) It shall be unlawful for any person, partnership, company or corporation to engage in the business of waste hauling over the streets and alleys of the Town except as provided in the single waste hauler contract of the Town for all single-family units up to and including four-unit dwellings.
- (b) Any private waste hauler licensed by the Town may collect and dispose of garbage, ashes, rubbish, waste, refuse and debris in accordance with such rules and regulations for all multiple family units of five or more dwellings and all commercial, retail, medical and industrial premises within the Town.
- (c) All households residing within the property of the Town of New Chicago shall be required to utilize the town's contracted garbage and recycling vendor.

(Added by Ord. 2017-^^)

Sec. 16-28 - Licensing of waste haulers, scavengers and scrappers required

- (a) It shall be unlawful for any person, partnership, company or corporation to conduct the business of waste hauling, scavenging, or scrapping over the streets of the Town without a license as provided by this article.
- (b) The Town Council may revoke any license issued upon this article upon:
 - (1) Proof of violation of this article; or
 - (2) A certification by the New Chicago Police Department or a New Chicago Code Enforcement Officer that the licensee is in violation of any provisions of this article or any of its rules or regulations.

(Added by Ord. 2017-^^)

Sec. 16-29 - Collection of offal

- (a) The term "offal" is defined to be butcher offal, hotel and restaurant bones, grease, glue, garbage, animal and vegetable refuse and wastes, butcher shop wastes and bones, meat market scraps and other kindred refuse and wastes.
- (b) All vehicles used for the collection or transportation of offal shall be provided with watertight bodies or boxes and the sides thereof shall be sufficiently high above the load of contents so that no part of the contents may leak, fall or spill therefrom, and every such vehicle shall have a waterproof and watertight cover which shall always be spread tightly over the top of such vehicle except during the time of loading.
- (c) In all cases where such offal is transported in packages, such packages whether it be a box, barrel or can, shall be watertight and closely covered with a watertight cover so as to prevent leaking, spilling or falling of the contents thereof.
- (d) All such vehicles and all implements and the boxes used in connection therewith must be kept in an inoffensive and sanitary condition and thoroughly washed and cleansed and disinfected daily.

(Added by Ord. 2017-^^)

Sec. 16-30 - Transport vehicles

- (a) Any vehicle used by a waste hauler, scavenger, or scrapper shall have a cargo body constructed of metal, of sufficiently tight construction to prevent the leakage or spillage of any liquid or solid therefrom.
- (b) Vehicles used by waste haulers shall be completely enclosed except for loading or unloading openings which loading and unloading openings shall be capable of being tightly closed. The openings shall be kept tightly closed when the vehicle is being used to transport collected material from the place of collection to the place of disposition.
- (c) Vehicles used by scavengers and scrappers shall have open cargo beds or compartments.
- (d) All vehicles shall be marked so that the name and telephone number of the waste hauler, scavenger, or scrapper are clearly visible on each side of the vehicle.

- (e) All vehicles shall be kept in good repair and kept in a sanitary condition at all times.

(Added by Ord. 2017-^^)

Sec. 16-31 - Waste hauler license

- (a) No person, partnership, company or corporation shall engage in waste hauling within the Town without a license issued pursuant to this section.
- (b) The application for a waste hauler license shall be verified by the applicant personally and shall state:
- (1) The name and address of the applicant and the names of all partners, owners and principals, if the applicant is a partnership, company or corporation.
 - (2) A complete description and identification of the vehicles to be used by the applicant.
 - (3) The place where such vehicles will be kept or stored when not in use.
 - (4) The disposition to be made of all material collected.
 - (5) Whether the applicant conducts waste separation, and if so, how.
 - (6) Whether the applicant sells any waste materials so separated, listing what categories of waste they separate and to whom they sell.
 - (7) The landfill or landfills utilized by the applicant.
- (c) The license fee to be paid to the Town for a waste hauler license shall be fifty dollars (\$50.00). Licenses shall expire one year from the date of issue.
- (d) Any licensee under this section who shall make any change in address, equipment, location of storage facilities for equipment or manner or place of disposition of collected material shall report such change in writing to the Town within five (5) days after such change.
- (e) Indemnity bond. Each applicant for a waste hauler license shall post with the Clerk-Treasurer, prior to the issuance of a license, a cash or surety bond in the sum of two thousand five hundred dollars (\$2,500.00) in a form approved by the Town Attorney, which will protect the Town and the public in the event of any failure of the licensee to provide service and in the event the licensee discontinues service, to allow for removal of any abandoned equipment, garbage, and any debris related thereto. The bond required shall remain in effect during the entire period the license is issued and can only be cancelled by a surety upon fifteen (15) days' notice to the Clerk-Treasurer.

(Added by Ord. 2017-^^)

Sec. 16-32 - Scavenger/scrapper license

- (a) No person, partnership, company or corporation shall engage in scavenging or scrapping within the Town with a license issued pursuant to this section.
- (b) The application for a scavenger/scrapper license shall be verified by the applicant personally, shall be accompanied by a license fee of one hundred dollars (\$100.00), and shall state:
- (1) The name and address of the applicant and the names of all partners, owners and principals, if the applicant is a partnership, company or corporation.

- (2) A complete description and identification of the vehicles to be used by the applicant, including license plate numbers.
- (3) The place where such vehicles will be kept or stored when not in use.
- (4) The types of materials to be collected and the intended disposition of collected material.
- (5) Proof of vehicle liability insurance effective on the date of application.
- (c) The Clerk-Treasurer shall forward all complete license applications to the New Chicago Police Department for a complete criminal history background check. If the applicant has a warrant outstanding for any felony or misdemeanor offense or has been convicted of a felony offense within five (5) years prior to the application, the license application shall be denied and the application fee refunded, except for the sum of forty dollars (\$40.00) which shall be retained by the Town as the fee for the criminal history background check.
- (d) Upon successful completion of the criminal history background check, the Town will issue the applicant a scavenger/scrapper license. The scavenger/scrapper license shall remain in the possession of the licensee at all times while engaging in scavenging or scrapping and shall be produced to any New Chicago police officer or Code Enforcement Officer upon request.
- (e) Licenses shall expire one year from the date of issue and shall be renewed annually according to the procedure described in this section, including submission of an application and payment of the one hundred dollar (\$100.00) license fee.
- (f) In the event any license required under this article is lost, a replacement license shall be issued for a fee of twenty dollars (\$20.00)
- (g) Any licensee under this section who shall make any change in address, equipment, location of storage facilities for equipment or manner or place of disposition of collected material shall report such change in writing to the Town within five (5) days after such change.

(Added by Ord. 2017-^^)

Sec. 16-33 - Cleanliness; days and hours of operation; trespassing prohibited

- (a) Waste haulers, scavengers, and scrappers must cleanly restore any unwanted items to their original receptacles.
- (b) Waste haulers, scavengers and scrappers may not operate outside the hours of 6:00 a.m. to 6:00 p.m. on Mondays through Saturdays.
- (c) Violations of this section shall be deemed a public nuisance, in addition to other remedies allowed under this article.
- (d) No waste hauler, scavenger or scrapper may trespass on private property to conduct their activity.

(Added by Ord. 2017-^^)

Sec. 16-34 - Prohibited scavenger or scrapper collections

It shall be unlawful for any scavenger or scrapper or any other person other than the Town's contracted waste hauler to collect, procure, or obtain any recyclable materials placed in recycling containers for collection unless duly and expressly authorized by the Town.

(Added by Ord. 2017-^^)

Sec. 16-35 – Violations; penalties

A violation of any provision of this article shall be punishable by a fine of no less than one hundred dollars (\$100.00) or more than two thousand five hundred dollars (\$2,500.00) for a first offense. Subsequent offenses shall be punishable by a fine of no less than five hundred dollars (\$500.00) or more than seven thousand five hundred dollars (\$7,500.00).

(Added by Ord. 2017-^^)

Sections 16-35 through 16-40 - Reserved.**Article 3 – Collection and disposal of refuse and recyclables****Sec. 16-41 - General requirements**

- (a) Any company operating a residential refuse collection service ("servicer") in the Town of New Chicago ("Town") shall collect and dispose of refuse, yard waste, co-mingle collection and disposal of recyclables, and bulk items produced by the households within the Town in accordance with the provisions of this article. The servicer may provide for collection of other materials if desired.
- (b) All companies operating a refuse collection service in the Town must provide for "curb side" recycling for low-density (four (4) dwelling units or less) residential collection. Servicers must provide "drop-off recycling" for multi-family (above four [4] dwelling units) collection customers.
- (c) After the effective date of this article, no company may operate a refuse service in the Town until it has obtained a permit of license from the Clerk-Treasurer of the Town and has filed a letter of intent to operate a refuse collection business within the Town together with the required insurance certificates.
- (d) The Town will appoint a project manager or other designated official to monitor and oversee the refuse collection services within the Town.
- (e) Failure of a servicer to specifically comply with the terms of this article may result in the revocation of its license and the imposing of penalties as otherwise provided in the article.

(Added by Ord. 2017-^^)

Sec. 16-42 - Definitions

The following definitions are adopted for the purpose of this article.

Bulk items are defined as items exceeding twenty (20) pounds. Items include but are not limited to couches, mattresses, book cases, carpet and white goods.

Drop-off container is a divided container used for placement of discarded recyclables, size shall depend on the number of dwelling units to be serviced and the frequency of collection.

Dwelling(s) is a dwelling or portion of a dwelling used primarily as a place of abode for one or more persons, including apartment houses, town houses, and condominiums, but not including motels and hotels.

Household or dwelling unit is a dwelling or portion of a dwelling, used primarily as a place of abode for one (1) or more persons including apartment houses, Town houses, and condominiums, but not including motels or hotels.

Recycling container is a container used for placement of discarded recyclables for collection in a curbside recycling program.

Recyclable includes newspapers, glass (clear, brown, green), tin/steel/aluminum cans, plastic containers #1 (polyethylene terephthalate or "PETE"), #2 High-density polyethylene or "HDPE") and any other required by law (statute, rule or regulation) to be recycled.

Refuse or solid waste is all putrescible and nonputrescible wastes (except human body waste), including garbage, rubbish, recyclables, and yard waste.

Refuse container is a container made of plastic or metal, equipped with suitable handles and tight fitting covers, or plastic garbage bags or similar receptacles. Containers shall be watertight and of a type approved by the Town or the Town's garbage vendor.

Yard waste is compostable organic waste resulting from the maintenance of lawns, gardens, landscaping, and trees which include grass clippings, bulk tree branches in excess of two (2) cubic yards.

(Added by Ord. 2017-^^)

Sec. 16-43 - Requirements for collection and disposal of non-recyclable refuse and recyclables by servicer

(a) Services required of the servicer.

- (1) The services to be performed by the servicer shall consist of weekly collection and disposal of all non-recyclable refuse, yard waste, co-mingled collection and disposal of recyclables, and bulk items as herein defined, produced by households within the Town. Servicer may provide for collection of other materials if desired.

- (2) Recyclables shall be collected weekly from low-density residential customers at least once bi-weekly.
 - (3) Bulk collections may take place on the same day as refuse and recyclable collection or may be handled on an appointment basis with customer contacting the servicer directly to arrange collection of bulk goods.
 - (4) Appliances containing refrigerants (refrigerators, dehumidifiers, air conditioners, etc.) shall be collected in compliance with all applicable laws and regulations according to a published rate schedule.
 - (5) The servicer shall collect non-recyclable refuse, yard waste, recyclables, and bulk items from all dwellings within the Town at least once biweekly. Bulk item collections may be arranged on an as-needed basis. Collections shall be made from 6:00 a.m. to 6:00 p.m. on the day of the collection. No collections shall be made on Sunday.
 - (6) All refuse and recyclable collections from non-residential entities, by any servicer or any other person or entity, shall be permitted on Monday through Friday and collections shall be made between the hours of 6:00 a.m. and 6:00 p.m.
- (b) Refuse disposal facility by servicer.
- (1) The servicer shall, at all times, have available for its use a site for disposal of non-recyclable refuse collected or alternate system for the disposal of non-recyclable refuse collected that is in compliance with all local, state and federal laws and regulations governing such refuse disposal areas or systems.
 - (2) Recyclables shall not be handled, landfilled, incinerated or disposed in such manner that prohibits or inhibits the ability to recycle the recyclables into a reusable commodity.
 - (3) The servicer shall keep in effect any permits or licenses for such disposal area or alternate systems.
- (c) *Collection schedule.* The collection and disposal of refuse shall be accomplished as follows:
- (1) The servicer shall collect non-recyclable refuse, yard waste, recyclables, and bulk items from all dwellings within the Town at least once each week. Bulk item collections may be arranged on an as-needed basis. Collections shall be made from 6:00 a.m. to 6:00 p.m. on the day of collection. No collections shall be made on Sundays. The servicer may make more frequent collections if it chooses to do so.
 - (2) The servicer may, for its convenience, divide the Town into areas for collection.
 - i. The schedule of dates and times of pick-up shall be made known to the public at the expense of the servicer. The collection shall be consistent with the schedule.
 - ii. A collection day which falls on a legal holiday shall be made up by the servicer on the next following day which is not a Sunday or legal holiday. Subsequent collection days during the week following a legal holiday may be collected the following day; however, the servicer shall be consistent with his/her policy on collections during a week that includes a legal holiday.
 - (3) The servicer shall make immediate collection of refuse, yard waste, recyclables and bulk items from any dwelling which was inadvertently bypassed. In the event the servicer fails to make collection within twenty-four (24) hours of notification by the householder, the Town may make the collection for the servicer and back charge the contractor for the cost of the collection on a time and material basis.
- (d) Special service.

- (1) A person who desires a special service in addition to the services provided for by ordinance may agree with the servicer for the special service and the amount to be paid therefore. If the special service request consists of anything other than the removal of refuse from a location on a person's property other than the residence addressed by this article, the special service shall be performed by the servicer at a time other than the regularly scheduled time for collection of refuse.
 - (2) Special service shall include, but is not limited to, the following: the providing for collection on more than one day a week; the collection and disposal of amounts of refuse in excess of the "basic service" level; the collection of refuse containers at the "back door" or other locations on a property. Servicer shall comply with the reporting standards specified under subsection (1) of this section when providing special service.
- (e) *Standards for service.* The parties recognize that the collection of refuse often creates problems of a personal nature affecting the residents of the Town and the servicer and its employees. The servicer shall abide by the following:
- (1) Collection companies will make every effort to avoid mingling the Town's recyclables and non-recyclable refuse with that of other communities or unincorporated areas, until disposal, unless other methods of measuring, weighing, and verification of the Town's non-recyclable refuse and recyclables has been approved by the Town's project manager or other designated official. Such approval shall be obtained prior to co-mingling the non-recyclable refuse or recyclables with that of other customers.
 - (2) The servicer shall transport all non-recyclable refuse and recyclables in enclosed trucks constructed of metal and sufficiently tight to prevent leakage of liquid or solid materials, and such trucks and equipment shall be in compliance with all laws, ordinances and regulations governing the same.
 - (3) Collections and removal of refuse shall be done as inoffensively as possible with regard to sight, smell, and noises, without the spilling or scattering of refuse in loading or transit. Refuse spilled or scattered shall be picked up immediately.
 - (4) Containers and lids shall be properly replaced to the point of collection and in an upright position after emptying by the servicer, and servicer shall do as little damage as reasonably possible to the containers and lids, other than damages caused by wind and other causes beyond control of the servicer, shall be paid by the servicer, to the respective owners of same.
 - (5) All equipment used by the servicer shall be kept clean and odor free at all times.
 - (6) Equipment used in making collection and disposal shall be marked with the name, address, and telephone number of the servicer to the reasonable satisfaction of the Town.
 - (7) The servicer shall instruct his/her employees who are in direct contact with customers to be polite and courteous.
 - (8) The servicer shall keep an active local or toll free telephone listing and address in the local telephone company directory by which he may be contacted.
 - (9) The servicer and his/her employees shall comply with all traffic and other laws, and most particularly, shall insure that all vehicles are properly equipped with safety and warning devices and all employees are wearing appropriate safety equipment.
- (f) *Servicer's workmen's compensation insurance.* The servicer shall comply with workmen's compensation laws of the State of Indiana and shall file with the Town a certificate from the Industrial

Board of Indiana showing compliance with Indiana Statutes which provide for workmen's compensation and occupational disease insurance.

- (g) *Hold harmless clause.* The Town, its agents and employees, shall not be liable for any loss, damage, injuries or other casualties of whatsoever kind or by whomsoever caused to the person or property of anyone, including the servicer, arising out of or resulting from whether due in whole or in part to negligent acts or omissions of the Town, its agents and employees, and the servicer for itself, its successors and assigns, does hereby agree to indemnify and hold the Town, its agents and employees, harmless from and against all claims, demands, liabilities, suits or actions (including all reasonable expenses and attorney's fees incurred by or imposed by the Town in connection therewith), for such loss, damage, injury or other casualty.
- (h) *Servicer's liability insurance.* The servicer shall, within ten (10) days prior to the commencement of any work, furnish evidence of insurance in the amounts contained herein. All insurance shall be maintained in the form and with a company satisfactory to the Town naming them as an additional insured. Servicer's certificate of insurance shall be filed with the Town on standard "accord" forms and shall require the Town be notified in writing thirty (30) days prior to the cancellation or modification of any insurance policy listed in the servicer's certificate. All insurance coverage shall be in accordance with this insurance requirements document. Reference insurance requirements document, subsection (l) below.
- (i) *Servicer's insurance certificate.* The servicer shall furnish the Town a certificate from its insurance carriers showing the names of the companies issuing said policies, expiration dates, policy numbers, and other pertinent information. Said certificates shall also state that the Town be notified thirty (30) days before cancellation or modification of any insurance.
- (j) *Insurance requirements.* The servicer shall maintain insurance coverages in the amounts listed as follows:

	Minimum Insurance Coverage and Limits Acceptable	Each Occurrence	General Aggregate
(1)	Commercial general liability (occurrence form)	\$1,000,000	\$2,000,000
	Products/complete operations		\$2,000,000.00
	Personal & advertising		
	Injury	\$1,000,000.00	
	(with contractual & employee exclusions deleted)		

	Broad form property damage-independent contractors.		
(2)	Automobile liability		
	Combined Single Limit	\$1,000,000.00	
	OR		
	Split limits of		
	Bodily injury	500,000.00	\$1,000,000.00
	Property damage		500,000.00
	Including hired & non-owned		
	Certificate should designate "Any Auto" or "All Owned Autos, Hired Autos, Non-Owned Autos".		
(3)	Workers compensation		
	Statutory limits	\$100,000.00/\$500,000.00/\$100,000.00	
	If sole proprietor or partnership or "other" must indicate owners/partners are included for workers compensation insurance.		
(4)	Commercial umbrella		
	Listing the above policies as underlying \$100,000.00 each occurrence		

(a) Data collection and reporting.

- (1) The Town desires to comply with any and all reporting requirements established by the Lake County Solid Waste Management District as part of the district's "recycling grants" program. The Town is especially interested in providing data to the district in a computerized format. As such, the Town requires that all servicers operating within the Town provide solid waste collection and disposal data in compliance with existing and future requirements established by the district in the format required by the district.
- (2) The servicer shall collect and maintain accurate data and records and shall report to the Town pertinent data of the refuse, recyclables and yard waste collection program, including but not limited to:
 - i. Total weight and cubic yardage of non-recyclable refuse, recyclables, and yard waste collected on a monthly basis. These figures shall be provided for servicer's residential and multi-family customers within the Town.
 - ii. Number of houses serviced per month for "basic service" or other services, as well as the number of high-density dwelling unit development customer accounts.
 - iii. Recycling information including participation rate (percentage of households recycling) and the collection volume (tons collected per material) per month.
 - iv. Summary report of receipts for processing and/or sale of recyclables identifying the weight per month. The servicer will have actual receipts available for periodic review by the Town.
 - v. Summary report of weight receipts for amount of refuse delivered to landfill or other disposal facility on a monthly basis. The servicer will have actual receipts available for periodic review by the Town.
 - vi. Any servicer responsible for collection of recyclables at public "drop-off centers" within the Town, shall report the volume of recyclables collected from those centers.
 - vii. Monthly reports shall be due no later than fifteen (15) days after the close of the month. The servicer shall also provide such additional data, information, or statistical material concerning refuse, recyclables, and yard waste as requested by the Town from time to time.

(Added by Ord. 2017-^^)

Sec. 16-44 - Refuse disposal—Single-family or low-density household requirements

- (a) All non-recyclable refuse to be collected and disposed from within the Town shall be placed in a refuse container as defined above.
- (b) Standard recyclable waste containers shall be provided by the servicer. The bin shall be free from advertisements, but may carry the servicer's name, contact information, and logo.
- (c) All refuse containers shall be placed for collection at ground level on the owner's property, on or adjacent to the street pavement and within the right-of-way of a street or alley accessible not more than six (6) feet from the side of the street or alley from which collection is to be made, unless servicer and the household have made other arrangements.
- (d) All recyclables containers shall be placed for collection at ground level on the owner's property, on or adjacent to the street pavement and within the right-of-way of a street (no alley collection) to be

accessible not more than six (6) feet from the side of the street from which collection is to be made, unless servicer and the household have made other arrangements approved by the Town's project manager.

- (e) A violation of this section shall be punishable by a fine of one hundred dollars (\$100.00).

(Added by Ord. 2017-^^)

Sec. 16-45 - Same—high-density dwelling unit requirements

- (a) All non-recyclable refuse to be collected and disposed from households within a high-density dwelling unit property within the Town shall be placed in a refuse container or dumpster. This container is to be provided by the servicer. Payment for service shall be made by the property owner or property management company.
- (b) Recyclable waste containers shall be provided by the servicer. A "drop-off container," as defined above, shall be used for placement of discarded recyclables. Container size shall depend on the number of dwelling units to be serviced and the frequency of collection.
- (c) All refuse containers shall be placed for collection at a location agreeable to the servicer and the property owner or property management company.
- (d) All drop-off recyclables containers shall be placed at a location adjacent to the refuse container at a location agreeable to the servicer and the property owner or property management company.

(Added by Ord. 2017-^^)

Sec. 16-46 - Servicer's penalties

The servicer's failure to comply with the provisions established herein will result in the Town taking the following action.

- (a) First occurrence.
 - (1) Upon the servicer's first occurrence of failure to comply with established reporting requirements or other ordinance provisions, the Town shall provide verbal notification to the servicer of non-compliance event. Servicer shall have five (5) business days to correct the non-compliance.
 - (2) If, after five (5) days the non-compliance continues, the Town shall provide written notification that a fifty dollar (\$50.00) fine per day for each offense will be imposed, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.
- (b) Second occurrence.
 - (1) Upon the second occurrence of non-compliance by a servicer, the Town will issue a written notice of non-compliance to the servicer. Servicer shall have five (5) working days to correct the non-compliance.
 - (2) If, after five (5) days the violation is not corrected, the Town shall impose a fifty dollar (\$50.00) fine per day for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(c) Third occurrence.

- (1) Upon the third separate occurrence of non-compliance by a servicer, the Town will issue a certified letter informing the servicer of the non-compliance. The Town will impose a fifty dollar (\$50.00) fine for each offense, and a separate offense shall be deemed committed on each day during which a violation occurs or continues.
- (2) If, after five (5) days, the servicer does not correct the non-compliance, the Town shall impose a one hundred dollar (\$100.00) fine per day that the violation continues. The Town shall also issue a second certified letter informing the servicer that if the violation is not corrected within ten (10) business days, the Town may take action to revoke the servicer's license to operate within the Town.
- (3) If after ten (10) business days the non-compliance continues, the servicer shall be fined in an amount of seven thousand five hundred dollars (\$7,500.00).
- (4) If after one (1) calendar month, the servicer does not take action to correct the non-compliance and re-instate the license, the servicer's license to operate within the Town shall be revoked.

(Added by Ord. 2017-^^)

Sec. 16-47 - Household penalties

- (a) Any household, property owner, or management company violating the "household service" provision of this article shall be notified in writing of any violation. Individual, property owner, or property management company shall be given thirty (30) calendar days to provide proof-of-service.
- (b) If, after thirty (30) calendar days, proof-of-service is not offered, the Town shall impose a fine of one hundred dollars (\$100.00) per day for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.
- (c) Any household, property owner, or management company violating any other applicable provision of this article shall be notified in writing of the violation.
- (d) Individual, property owner, or property management company shall be given five (5) business days to correct the situation. If, after five (5) days, the non-compliance is not corrected, the Town shall impose a fine of one hundred dollars (\$100.00) per day for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(Added by Ord. 2017-^^)

Sec. 16-48 - Storage of refuse containers

- (a) Containers referred to in this chapter shall not be stored on public property or so placed that a nuisance shall be caused to adjacent residents, except that containers may be placed on public property for collection purposes only.
- (b) Such containers shall be placed convenient to the alley or street as specified by the collection of the contents thereof.

- (c) The owner of a container on public property shall be responsible in the case of damage resulting from the placement of such container
- (d) A violation of this section shall be punishable by a fine of one hundred dollars (\$100.00). Each day on which the offense continues shall be deemed a separate offense.

(Added by Ord. 2017-^^)

Sec. 16-49 through 16-60 – Reserved.

Article 5 – Dumpsters and trailers for hauling of waste

Sec. 16-61 – No dumpsters on public right of way

No dumpster shall be placed on any public right away within the Town of New Chicago.

A violation of this article shall be punishable by a fine of two hundred fifty dollars (\$250.00). Each day on which the offense continues shall be deemed a separate offense.

(Added by Ord. 2017-^^)

Sec. 16-62 – Duty to prevent scattering by the wind or wild animals.

Any individual maintaining a dumpster or trailer for hauling of waste shall be responsible to ensure that it is closed or adequately covered to prevent the waste and other debris from being scattered by the wind or wild animals.

(Added by Ord. 2017-^^)

Sec. 16-63 – Dumpsters for Building Materials

- (a) No dumpster or trailer shall be kept on any property for the purpose of collecting building material refuse for more than ten (10) days unless a building permit is obtained. This period shall commence on the first day upon which the dumpster shall remain on an individual's property. Said use shall be strictly limited to use for projects which do not require a building permit.
- (b) This section apply to any and all dumpsters or trailers and shall not be construed to limit any one specific dumpster or trailer to the exclusion of others. Any and all dumping must be completed within this thirty (30) day or otherwise permitted period.
- (c) The removal, dumping, or replacement of a different trailer or dumpster shall not restart the ten (10) day period. There must be a ninety (90) day period between any dumpsters or trailers to restart the time limit. If, for example, a second trailer is brought to the property fifteen days after the first trailer, it shall be considered a violation.

(Added by Ord. 2017-^^)

Sec. 16-64 – Permits for dumpsters for building materials

- (a) In order to keep a dumpster for construction materials for more than ten (10) days or to use it for any projects which require a building permit, a dumpster permit must be obtained.
- (b) A holder of a valid building permit is entitled to one (1) free thirty (30) day dumpster permit. This permit may be requested from at any time while the permit is valid.
- (c) Dumpster permits may be renewed for thirty (30) day periods at a cost of ten dollars (\$10.00) for each additional renewal. Dumpster permits may only be renewed if an active building permit is in effect for the property on which the dumpster is located.
- (d) The Building Inspector shall have the discretion to waive the renewal fee upon presentation of proof that work is diligently continuing upon the project and that the extra time is reasonable and necessary to complete the project.
- (e) A dumpster permit must be posted in a conspicuous place upon the property where the dumpster is located.

(Added by Ord. 2017-^^)

Sec. 16-65 – Dumpsters for residential household waste

- (a) No residential dwelling shall be permitted to maintain a dumpster for any purpose other than other than those permitted by sections 16-62 and 16-63.
- (b) Exception. Multi-unit residential dwellings with four (4) or more units shall have the option, but not the obligation, to maintain a dumpster for the collection of waste.

(Added by Ord. 2017-^^)

Sec. 16-66 – Fencing around dumpsters required

- (a) All dumpsters, except for those duly authorized for construction debris and materials, shall be surrounded by a non-opaque fence of such a material so as to shield the dumpster from view.
- (b) A dumpster in violation of this provision shall be considered a nuisance.

(Added by Ord. 2017-^^)

Section 16- 67 - Violation; Penalty

Any violation of this article shall be punishable by a fine of one hundred dollars (\$100.00). Each day on which the violation continues shall constitute a separate offense.

(Added by Ord. 2017-^^)

Chapter 17 – Licenses, permits, and business regulations

Article I - Generally

Sections 17-1 through 17-10 - Reserved.

Article 2 – Peddling/solicitation or sale on streets or public property

Sec. 17-11 – Definitions

For the purpose of this chapter, the words “peddler” and “solicitor” shall include any person, whether a resident of the Town or not, travelling by foot, human-propelled vehicle, motorized vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street carrying, transporting, or offering to sell any goods or services.

(Added by Ord. 2017-^^)

Sec. 17-12 - Permit

- (a) It is unlawful for any person to solicit for funds, donations, or to sell any merchandise, goods, or wares or to distribute any matter upon any public street, alley or public property without a permit pursuant to this chapter.
- (b) A license granted under this chapter shall be for the full license period of one (1) year, commencing January 1st of each year. The entire annual fee must be paid in advance and no deduction shall be allowed from the fee for such licenses for any part of the year such license is not used.
- (c) Application for a license
 - (1) An applicant for a registration certificate required by this section shall execute an application form at the office of the Clerk-Treasurer at least two (2) weeks prior to engaging in any soliciting in the Town.
 - (2) Such application form shall contain the information found to be necessary by the Clerk-Treasurer in order to issue a permit, including liability insurance. Such applicant shall use the form provided by the Town Clerk and shall answer all questions truthfully.
 - (3) The applicant shall furnish a photograph taken within sixty (60) days of the application, which picture shall be two (2) inches by two (2) inches and show the head and shoulders of the applicant in a clear and distinguishing manner.
 - (4) The applicant shall be required to state the nature of the business, the contact information for the applicant, and the equipment and facilities to be used. A copy of each application shall be transmitted immediately to the Town Clerk.
 - (5) The application shall provide full details of his/her criminal record, if any.
 - (6) Such application shall be deemed a continuing application, and if, after the issuance of the registration certificate, the information set forth in such application shall become inaccurate for any reason and the holder of the registration certificate intends to or does continue thereunder, notice of such change and the correct information shall be furnished to the office of the Clerk-Treasurer within twenty-four (24) hours.
 - (7) No organization shall be permitted to solicit funds on public streets, alleys or public property more than four (4) times annually.

- (8) At the time of executing an application for a registration certificate the applicant shall also submit, in person, for the inspection of the Town Clerk-Treasurer, written proof of his/her identity, which may be in the form of a credential containing a physical description of the applicant and a specimen of the applicant's signature and fingerprints.
- (9) No street solicitor shall be under the age of eighteen (18). Street solicitation shall only be between 9:00 a.m. and 5:00 p.m.
- (d) Upon receiving the application, the police chief or his/her designee shall either approve or deny the application and/or so restrict or modify the approval or request so as to assure that the solicitation or sale will be done in a safe manner. The police chief or his/her designee is hereby given the authority to either limit the number of persons who will be engaged in the activity covered by subsection (a) including the right to specify what type of clothing shall be worn so as to make sure that the persons will be clearly visible and will not be a traffic hazard including the authority to limit the locations and to exclude locations that may be unsuitable for any activity covered by subsection (a) because of the traffic flow, unusual characteristics and intersections, etc. The Police Chief shall require a background check of any applicant for a permit.
- (e) A peddler's license is individually held by the license holder and is not transferable to any other person.
- (f) Individuals or businesses may apply for licenses for assistants who are assisting with the same course of business. Such individuals must pay a one hundred dollar (\$100.00) fee and satisfy all requirements necessary for the primary license holder.
- (g) The Town shall conduct a background check of the applicant before issuing any permit. The permit may be denied if the police determines that the applicant poses a threat public safety based upon the results of the background check.
- (h) No permit shall be issued to any applicant who is not in compliance with any law or regulation pertaining to his or her trade.

(Added by Ord. 2017-^^)

Sec. 17-13 – License fees

The annual license fee for each peddler shall be one hundred dollars (\$100.00).

(Added by Ord. 2017-^^)

Sec. 17-14 - Reserved

Sec. 17-15 - License emblems and badges

- (a) Peddler's and solicitors under this chapter must carry a copy of the licensed furnished by the Town Clerk-Treasurer showing all necessary details and information in connection with his/her said license,

including a photograph and the date of expiration and must display it upon the demand of any law enforcement officer or person to whom the peddler shall peddle any goods or services.

- (b) Peddlers and solicitors under this chapter shall carry and present upon demand a copy of a valid state or federal photo identification card.
- (c) Every motorized vehicle used by a peddler shall have the name of the owner and his/her address plainly and legibly painted in letters and figures at least two (2) inches in heights in a conspicuous place on the outside of each side of every such vehicle and said name shall be kept plain and distinct at all times which vehicle is in use for peddling in the Town.
- (d) Every motorized vehicle used by a peddler shall have a copy of the license posted visibly on the vehicle.

(Added by Ord. 2017-^^)

Sec. 17-16 – Use of streets

No licensee under this chapter shall have the exclusive right to occupy any portion of a street, alley, sidewalk, or other public grounds in the business districts of the Town shall not be permitted a stationary location; nor shall he be permitted to operate in any congested area where his/her operations may impede the public or endanger public safety. In no instance shall such licensee remain at one point longer than ten (10) minutes.

(Added by Ord. 2017-^^)

Sec. 17-17 – Loud noises and speaking devices

No peddler, nor any person on his/her behalf, shall shout, make any cry out, blow a horn, ring a bell, or use any sound device, including any loud speaking radio or sound amplifying systems upon any of the streets, sidewalks, alleys, parks, or other public places of the Town or upon any private premises in the said Town where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, sidewalks, alleys, parks, or other public places, for the purposes of attracting attention to any goods, wares, or merchandise which such licensee proposes to sell.

(Added by Ord. 2017-^^)

Sec. 17-18 - Sanitary and health requirements

- (a) No person having an infection or contagious illness which can be transmitted through touch or airborne means shall peddle or solicit until recovered from the illness.
- (b) No person having an infection or a contagious disease which may be transmitted, or who is a disease carrier of such an illness, shall be engaged in the handling of food products for human consumption or in the handling of containers in which such foods are packed. The Town Board may require each person so engaged to submit to proper examination for this purpose. This examination may be

provided through a medical certificate given by a reputable physician stating that the licensee, helper, employee, or agent is free from infection or contagious disease and is not a disease carrier.

- (c) All vehicles used by licensees under this chapter shall be constructed that the portion of the vehicle which contains the food products from human consumption shall be covered in such manner that no dust or dirt will settle on such products. Such vehicles and all other equipment and facilities used shall be kept in a clean and sanitary condition and shall be protected from dust, flies, rodents, and other contamination.
- (d) The operators of any vehicles used in connection with any licensees under this chapter shall observe all the sanitary requirements prescribed herein and said requirements shall extend to the licensee and his/her employees while engaged in and about the handling of the foods and food products on their way to and from and while in such vehicles.

(Added by Ord. 2017-^^)

Sec. 17-19 - Sale of unwholesome food products prohibited

- (a) It shall be unlawful for any licensee under this chapter to have in his/her possession with intent to sell or offer for sale any food products for human consumption which are unclean, unwholesome, trained, putrid, decayed, adulterated, poisoned, infected, or in any manner rendered unsafe or unwholesome for human consumption. Such food products shall be deemed unwholesome for human food if the same have been contaminated by flies or other insects, vermin, dust dirt unwashed hands, or other forms of contamination; if they contain any poison or deleterious or injurious ingredients in kinds and quantities to render such article potentially injurious or detrimental to health; or if they contain the whole or part of any uninspected or unpassed meat or meat products.
- (b) It shall be unlawful for any licensee hereunder to sell or offer for sale any food products for human consumption contrary to law or regulations of the United States, State of Indiana, or Lake County.

(Added by Ord. 2017-^^)

Sec. 17-20 - Violations and penalty

- (a) Any individual, regardless of whether or not the person holds a license, who violates any portion of this article, shall be fined in the amount of one hundred dollars (\$100.00).
- (b) Any individual who knowingly lies while completing an application for a license shall be fined an amount of two hundred fifty dollars (\$250.00) and the license shall be denied or revoked. Subsequent offense shall be punishable by a fine of up to seven thousand five hundred dollars. Any individual who shall have a license denied or revoked under this provision shall be ineligible to receive a license the next year.
- (c) It shall be the duty of the Police Department to furnish copies of the citation to the Town Clerk within seventy-two (72) hours after issuance of the citation.

(Added by Ord. 2017-^^)

Sec. 17-21 Severability

In the event that any section, paragraph, sentence, clause, or phrase of this chapter be declared unconstitutional or otherwise invalid for any reason, all other portions of this chapter shall remain in effect.

(Added by Ord. 2017-^^)

Sections 17-22 through 17-30 – Reserved.**Article 3 – Large gatherings****Sec. 17-31 - Definitions**

As used in this article, the following words and phrases shall have the meaning set forth below:

Assembly shall mean a collection of individuals gathered together at any location in the Town at any single time for any purpose.

Carnival shall mean any area in which there is placed or assembled, in the manner which does not constitute a permanent business enterprise, amusement activities, amusement rides, games of skill, games of chance, sideshows or exhibits, either alone or in conjunction with food dispensing facilities or booths, or with tables or other structures for the display or sale of goods or merchandise.

Council shall mean the Town Council for the Town of New Chicago, Indiana.

Person shall mean any individual, corporation, trust, partnership, joint venture, association, organization, or any other legal or commercial entity.

Private property shall consist of all property not owned by or controlled by the Town of New Chicago.

Public property shall mean any property in which the Town has ownership of or control over by operation of law.

Seating capacity shall be the allowable maximum seating capacity as determined by the local fire marshal.

Town shall mean the Town of New Chicago, Lake County, Indiana.

(Added by Ord. 2017-^^)

Sec. 17-32 - License required

- (a) A license is required for each activity as defined that does not exceed six (6) days in each location in which two hundred (200) or more people assemble or can reasonably be anticipated to assemble per day of activity.
- (b) Any facility which has more than one structure or portion of a structure where assemblies can be held shall have a license per the seating capacity of the specific structure or portion of the structure where the assembly is to be held.
- (c) The fee for each license is one hundred dollars (\$100.00) payable to the Town.

(Added by Ord. 2017-^^)

Sec. 17-33 - Gathering without license prohibited

It shall be unlawful for any person to engage in the operation of a carnival or to permit, maintain, promote, conduct, advertise, act as entrepreneur, undertake, organize, manage, sell or give tickets to an actual or reasonably anticipated assembly of two hundred (200) or more people, whether on public or private property, unless a license to hold the assembly has first been issued by the Town.

(Added by Ord. 2017-^^)

Sec. 17-34 - Limitations of license

- (a) A license permits the assembly of only the maximum number of people stated in the license.
- (b) The licensee may not sell tickets to or permit to assemble at the licensed location any more than the maximum permissible number of people under the license.

(Added by Ord. 2017-^^)

Sec. 17-35 – Safety requirements for large gatherings

Before an applicant may be issued a license, the applicant must comply with this section.

- (a) The applicant must determine the maximum number of people that will be assembled or admitted to the location of the assembly.
- (b) The maximum number of the assembly cannot exceed the maximum that can reasonably assemble at the location of the assembly.
- (c) If the assembly is to continue overnight, the maximum number of permitted shall be five hundred (500) of combined outdoor and indoor, also maximum indoors for overnight shall not exceed fire marshal capacities for the structure.
- (d) The applicant must provide proof that food concessions will be in operation on the grounds with sufficient capacity to accommodate the number of persons expected to be in attendance and that it will be available before the assembly commences.

- (e) Potable water, meeting all federal and state requirements for purity, sufficient to provide drinking water for the maximum number of people to be assembled at the rate of at least one gallon per person per day and water for bathing if necessary at the rate of at least ten (10) gallons per day, per person.
- (f) Separate enclosed toilets for males and females, meeting all state and location specifications, conveniently located throughout the grounds and sufficient to provide facilities for the maximum number of people to be assembled at the rate of at least one toilet per every one hundred fifty (150) females, or any fraction thereof, and at least one toilet for each two hundred (200) males, or any fraction thereof, together with an efficient, sanitary means of disposing waste matter deposited in compliance with all state and local laws and regulations.
- (g) A sanitary method of disposing of solid waste, in compliance with state and local laws and regulations, sufficient to dispose of the solid waste production of the maximum number of people to be assembled at the rate of at least two and one-half (2½) pounds of waste per person per day, together with a plan for holding and collection of all such waste at least once each day of the assembly including sufficient trash cans with tight-fitting lids and personnel to perform the task.
- (h) An emergency plan to the site for ambulance, police, and fire personnel shall be supplied to each governing agency. The plan shall show designated accesses to site that applicant/licensee shall maintain during activity.
- (i) If the assembly is to continue during hours of darkness, illumination sufficient to light the entire area of the assembly at the rate of at least five (5) foot candles, but not to shine unreasonably beyond the boundaries of the location of the assembly.
- (j) A parking area inside of the assembly grounds sufficient to provide parking space for the maximum number of people to be assembled at the rate of at least one parking space for every three (3) persons. Provided, however, that if parking is not to be provided inside of the assembly grounds, an adequate plan demonstrating that the parking facilities will be adequately provided for those persons attending the assembly without creating congestion or other traffic problems within the Town.
- (k) Fire protection, including alarms, extinguishing devices, and fire lanes and escapes, sufficient to meet all state and local standards for the location of the assembly and sufficient emergency personnel to operate efficiently the required equipment approved by the local fire marshal.
- (l) All reasonably necessary precautions to insure that the sound of the assembly will not carry unreasonably beyond the enclosed boundaries of the location of the assembly.
- (m) In the event alcoholic beverages are served at the assembly, the following provisions shall be mandatory in any plan submitted for approval of a license.
 - (1) Wherever alcohol is to be dispensed it must be dispensed only in a designated area, totally roped off with its access limited.
 - (2) A security officer must be posted at the entrance of the area and shall have the responsibility to make sure that no alcoholic beverages are dispensed to any minors, or to those persons who appear intoxicated.
- (n) In the event entertainment is to be included at the assembly, the plan submitted for approval must contain the description of the type of entertainment and the location on the premises where it will be provided; the council may approve the assembly with entertainment or approve the assembly excluding the entertainment.
- (o) Any location which obtains a license for an assembly with entertainment is only receiving approval for said entertainment for the temporary period of the license; such approval does not create any change of zone or special exception as required for entertainment under New Chicago Town Code.

(Added by Ord. 2017-^^)

Sec. 17-36- Application for license; contents; review procedure; issuance

- (a) Application for a license to hold an actual or anticipated assembly must be made in writing to the Clerk-Treasurer director at least sixty (60) days in advance of the assembly and must be accomplished by the bond required by section 17-34 of this article and the license fee required by section 17-32 of this article.
- (b) When made, the Clerk-Treasurer director shall forward the application with his/her recommendations to the council. The council shall examine the application and make an investigation that it considers necessary and either approve or disapprove the application within thirty (30) days of its receipt.
- (c) After making its determination, the council by its Clerk-Treasurer, shall return the application marked "approved" or "disapproved" to the Clerk-Treasurer.
- (d) The Clerk-Treasurer shall notify the applicant within five (5) days of the action taken by the council.
- (e) The application must be made upon oath that the statements contained in it are true and correct to the best knowledge of the applicant. The statement must be signed and sworn to or affirmed as follows:
 - (1) By the individual in the case of an individual.
 - (2) By all officers in the case of a corporation.
 - (3) By all partners in the case of a partnership.
 - (4) By all officers of an unincorporated association, society or group.
 - (5) By all members of an association, society or group if there are no officers.
- (f) The application must contain and disclose:
 - (1) The name, age, residence, and mailing address of all persons required to sign the application by subsection (c) and, in the case of a corporation, a certified copy of the articles of incorporation together with the name, age, residence and mailing address of each officer or employee who shall be responsible for the gathering.
 - (2) The address and legal description of all property upon which the assembly is to be held, together with the name, residence, and mailing address of the record owner or owners of the property.
 - (3) Proof of ownership of all property upon which the assembly is to be held or a statement made upon oath or affirmation by the record owner or owners of all property that the applicant has permission to use the property for an assembly.
 - (4) The nature or purpose of the assembly.
 - (5) The total number of days or hours during which the assembly is to last.
 - (6) The maximum number of persons that the applicant will permit to assemble at any time per day, not to exceed the maximum number that can reasonably assemble at the location of the assembly, in consideration of the nature of the assembly or the maximum number of persons to sleep within the boundaries of the location of the assembly if the assembly is to continue overnight.
 - (7) The maximum number of tickets to be sold, if any.
 - (8) The plans of the applicant to limit the maximum number of people permitted to assemble.
 - (9) The plans for supplying potable water including the source, amount available, and location of outlets.

- (10) The plans for providing toilet facilities, including the source, number, location, and type, and the means of disposing of waste deposited.
- (11) The plans for holding, collecting, and disposing of solid waste materials.
- (12) The plans to provide for emergency access to the site for ambulance, police, and fire personnel.
- (13) The plans, if any, to illuminate the location of assembly, including the source, amount of power, and location of lamps.
- (14) The plans for parking vehicles, including size and location of lots, points of highway access and interior roads, including routes between highway access and parking lots.
- (15) The plans for telephone service, including the source, number and location of telephones.
- (16) The plans for camping facilities, if any, including facilities and their locations.
- (17) The plans for security, including the number of guards and their employment, if available, at the time of application, and their names, addresses, credentials and hours of availability.
- (18) The plans for fire protection, including the number, type and location of all protection devices including alarms and extinguishers.
- (19) The plans for entertainment including specific description of type of entertainment and location on premises.
- (20) The plans for sound control and sound amplification, if any, including the number, location and power of amplifiers and speakers.
- (21) The plans for food concessions and concessioners who will be allowed to operate on the grounds, including the names and addresses of all concessioners and their license or permit numbers.
- (22) If animals are involved with the assembly, adequate precautions and plans must be submitted to contain any animals and orders arising from the assembly.

(Added by Ord. 2017-^^)

Sec. 17-37 - Time limit for processing of application

The application for a license must be approved or denied within thirty (30) days of its receipt to the Clerk-Treasurer and must be issued if all conditions of this article are complied with.

(Added by Ord. 2017-^^)

Sec. 17-38 - Revocation of license

- (a) A license issued under this article must be revoked by the Clerk-Treasurer at any time if any of the conditions necessary for the issuing of or contained in the license are not complied with or if any condition previously met ceases to be complied with.
- (b) The Chief of Police is further authorized to shut down any assembly or to take other appropriate action necessary under the circumstances, providing that the assembly is creating danger to citizens, to property, or attendants at the assembly.

(Added by Ord. 2017-^^)

Sec. 17-39 - Enforcement by injunction; application; assembly as public nuisance; control of traffic; violation; penalty

- (a) This article may be enforced by injunction, and the injunction has Town-wide application.
- (b) The holding of an assembly in violation of a provision or condition contained in this article constitutes a public nuisance.
- (c) When the Chief of Police determines that the public health, safety or welfare is or may be affected or where damage to or destruction of property may occur, the Chief of Police may close an access road to or from the site of an assembly or otherwise control or limit traffic to prevent potential destruction of property.
- (d) Any individual or entity in violation of this chapter shall be fined in the amount of two hundred fifty dollars (\$250.00) for a first offense. Any subsequent offenses shall be punishable in an amount of no less than two hundred fifty dollars (\$250.00) or more than seven thousand five hundred dollars (\$7,500.00).

(Added by Ord. 2017-^^)

Sec. 17-40 - Exemptions

- (a) This article does not apply to any regularly established permanent place of worship, stadium, athletic field, arena, auditorium, coliseum, banquet facility, meeting hall, private club, or other similar permanently established place of assembly for assemblies that do not exceed by more than two hundred (200) people the maximum seating capacity of the structure where the assembly is held.
- (b) This article does not apply to assemblies that are sponsored by and held on land owned or leased by the Town, school corporation, the township, county, state, or the federal government.

(Added by Ord. 2017-^^)

Sec. 17-41 - Relation to state law

Any provisions or portion of this article which may be contrary to or inconsistent with provisions of state law regulating the same subject matter shall be null and void and of no effect; it being the intent that this article and its provisions shall be supplemental to IC § 16-1-42-1 et seq. as amended from time to time.

(Added by Ord. 2017-^^)

Sections 17-42 through 17-50 – Reserved.

Article 4- Special events

Sec. 17-51 - Definitions

In the interpretation of this article the rules and definitions contained below shall be observed and applied, except when the context clearly indicates otherwise:

Benefit rummage sales shall mean the sale of personal property to the general public, conducted on residential or commercial property where sales proceeds are expressly devoted to a nonprofit organization, service club, youth club, church, or other public community service agency.

Flea markets, swap meets, farmers markets shall mean a place of commercial sales of merchandise that is located in an enclosed, semi-enclosed or outdoor stalls, stands, tables or spaces rented or leased to persons on a daily or weekly basis for the purpose of the display and sale, exchange or barter of new or used merchandise or fresh produce.

Marketing products shall mean promotional events based on themes, including but not limited to sock hops, car shows, nonprofit organizational fund raisers, manufacturers displays, etc.

Other miscellaneous events shall mean the attraction of the general public and/or patrons to commercial uses where events such as sidewalk sales, outdoor grand openings, tent sales or gatherings of under two hundred (200) people per day are planned.

Rummage Sale shall mean the sale of personal property to the general public, conducted on residential property, where sales proceeds are retained by the party selling the property.

(Added by Ord. 2017-^^)

Sec. 17-52 - Permit—General requirement; filing provisions

A location/site permit is required for all special events within the Town. The permit shall be filed twenty (20) days in advance of the event on forms available at the Town Hall.

(Added by Ord. 2017-^^)

Sec. 17-53 - Same—Informational requirements

The following information will be required to secure a permit:

- (a) Name of event;
- (b) Type of event;
- (c) Sponsoring organization;
- (d) Property owners name;
- (e) Address/phone number of sponsor;
- (f) Contact person's phone number;
- (g) Legal survey (if events are outdoors and on commercial property);

- (h) Tenants, leasers, renters of the spaces available if any;
- (i) Property owners notarized signature; and,
- (j) Site plan showing location of outdoor events on commercial sites.

(Added by Ord. 2017-^^)

Sec. 17-54 - Permit fees

- (a) Residential zoned property:
 - (1) Benefit rummage sales.....\$ 10.00
 - (2) Private garage sale – No fee
- (b) Commercial and industrial zoned property:
 - (1) Flea or farmers markets, swap meets.....\$ 250.00
 - i. Plus per space, stall, stand.....\$25.00
 - (2) Benefit rummage sale.....\$15.00
 - (3) Miscellaneous events.....\$50.00

(Added by Ord. 2017-^^)

Sec. 17-55 - Inspections

- (a) The Clerk-Treasurer, Code enforcer, Police Department, or duly appointed assistant shall inspect the premises of the permit prior to issuing special events. This inspection requirement shall not apply to garage sales.
- (b) A report shall be filed with the application for approval or denial of permit.

(Added by Ord. 2017-^^)

Sec. 17-56 – Rummage Sales

- (a) Any resident or organization holding a rummage sale must receive a permit from the Town Clerk-treasurer. There shall be no charge for this permit.
- (b) The date and time of the rummage sale shall be stated in the request for the rummage sale.
- (c) Organizations and private citizens shall be limited to three (3) consecutive days not more than three (3) times per year.

(Added by Ord. 2017-^^)

Sec. 17-57 - Commercial and industrial events

- (a) Commercial and industrial events must be in conjunction with an established primary use and/or building. The purpose being to attract the public to the premises by selling, displaying, servicing, showing and marketing products or services related to established use of premises.
- (b) Benefit rummage sales:
 - (1) Sales and hall shall be limited to one event per location per year no more than seven (7) days in duration;
 - (2) Off-street parking shall be supplied on the site of event or adjacent property.
- (c) Miscellaneous events:
 - (1) A maximum of three (3) events per location per year;
 - (2) Mini-malls shall be considered as one commercial location;
 - (3) A maximum duration of four (4) days per event;
 - (4) Tents if used shall be a maximum of twenty (20) percent of available lot area;
 - (5) Off-street parking shall be supplied on site and be shown on site plan.
 - (6) Miscellaneous gatherings of under two hundred (200) people shall meet the following:
 - i. Adequate public facilities shall be supplied for parking off-street and be shown on site plan;
 - ii. A description of all activities to be supplied;
 - iii. Other public facilities such as toilet facilities, street access, garbage containment, etc., shall be in description and shown on site plan.

(Added by Ord. 2017-^^)

Sec. 17-58 – Duty to maintain a clean and orderly event

- (a) The permittee on commercial and industrial properties shall be required to maintain a clean and orderly event. A post event inspection may be done to inspect cleanliness of premises.
- (b) All Town, county, Township, public property and school board property is exempt from these provisions.

(Added by Ord. 2017-^^)

Sec. 17-59 – Flea markets, swap meets, and farmer's markets

- (a) Flea markets, swap meets, and farmer's markets shall only be held in areas zoned for commercial use.
- (b) Anyone wishing to hold a flea market must obtain a permit pursuant to this article.
- (c) Flea market and swap meets shall be limited to two (2) events per location per year, no more than three (3) days in duration per event;
- (d) Farmers markets shall be limited to twenty-six (26) events per location per year, no more than two (2) days in duration per event. Events shall be separated by at least six (6) calendar days;
- (e) Off-street parking shall be supplied on site of the event or upon adjacent property.

- (f) Any outdoor stalls, merchandise, or vendors shall be placed at least twenty (20) feet from any roadway and at least ten (10) feet from any sidewalk.
- (g) Any individual operating a flea market or knowingly allowing a flea market, swap meet, or farmer's market to operate upon his/her property shall commit a violation of this offense.

(Added by Ord. 2017-^^)

Sec. 17-60 – Penalties for violation

- (a) Any violation of this Section 17-57, 17-58, or 17-59 shall be punishable by a fine of five hundred dollars (\$500.00) for a first offense and a fine of no less than two thousand dollars (\$2,000.00) or more than seven thousand five hundred dollars (\$7,500.00) for any subsequent offenses.
- (b) The penalties under this chapter are cumulative. Any individual who violates multiple sections under this article may be cited for each violated ordinance.
- (c) A flea market, swap meet, farmer's market, or other special event under this chapter held in violation of this chapter may be considered a nuisance.
- (d) A violation of this chapter relating to a garage or rummage sale shall be punishable by a fine of one hundred dollars (\$100.00). Each day shall constitute a separate offense.

(Added by Ord. 2017-^^)

Sec. 17-61 through 17-70 – Reserved.

Article 5 – Licensing of businesses

Sec. 17-71 - Persons subject to license; failure to register; penalty

- (a) Any person, by himself or through an agent, employee or partner, who holds himself further as being engaged in a business or occupation; or solicits patronage therefore, actively or passively; or performs or attempts to perform any part of such business or occupation in the Town shall be subject to the licensing requirements herein.
- (b) This article shall not apply to a home occupation business.
- (c) Person includes any type of legal entity.
- (d) Failure to register a business under this article is a Town ordinance violation.
- (e) Any business violating any provision of this article shall be fined not less than one hundred dollars (\$100.00). A separate offense shall be deemed committed on each day in which a violation occurs or continues.

(Added by Ord. 2017-^^)

Sec. 17-72 - Applications; contents

- (a) Applications for all licenses required by an ordinance of the Town shall be made in writing to the Town of New Chicago Clerk-Treasurer in the absence of provisions to the contrary. Each application shall state the following information:
- (1) Full name, age, permanent residence and address of the applicant; and
 - (2) The name of the firm or corporation represented, if any, together with the address of the central or district office of such firm or corporation, and a real estate contact at the central office; and
 - (3) A description of the goods and/or services to be offered; and
 - (4) Number of employees, hours of operation, zoning classification, status of occupancy (deed owner, lessee, etc.); and
 - (5) The fee to be paid as per the regulations of this article; and
 - (6) A completed and properly executed background check form; and
 - (7) Internal site diagram of the business layout and design; and
 - (8) Such additional information as may be needed for the proper guidance of Town officials in the issuance of the license applied for and for emergency matters.
- (b) Strip malls, business complexes, multiple use business facilities, and other like properties containing more than one business type on the premises can jointly file a plan to be referenced by each business in the facility, complex, association, and/or mall. Said combined solid waste plan shall be approved by the owner of the property, facility, complex, association, and/or mall prior to submittal to the Town by any one or more of the entities in the facility or on the property.
- (c) The license application fee shall be nonrefundable.

(Added by Ord. 2017-^^)

Sec. 17-73 – Business waste recycling

Each business located within the boundaries of the Town of New Chicago upon being licensed/permitted or obtaining any renewal thereof, shall provide as part of its submission a plan describing how its solid waste will be managed, including reduction, reuse and recycling steps taken to reduce its waste stream.

(Added by Ord. 2017-^^)

Sec. 17-74 - Forms

Forms for all licenses required by ordinance of the Town, and application therefor, shall be prepared and kept on file by the Town Clerk-Treasurer.

(Added by Ord. 2017-^^)

Sec. 17-75 - Investigations

- (a) Upon the receipt of an application for a license where an ordinance of the Town necessitates an inspection or investigation before the issuance of such license, the Town Clerk-Treasurer shall refer such application to the proper office for making such inspection or investigation within seventy-two (72) hours of the time of such receipt. The deadline may be extended if the deadline falls upon a weekend or legal holiday.
- (b) All new businesses in the Town of New Chicago, as part of the business license application, are required to submit to a general business inspection for the purposes of ensuring that all Town of New Chicago Codes and regulations are being followed.
- (c) A license will not be issued until such inspection has occurred. The officer charged with the duty of making an inspection or investigation shall make a report thereon, favorable or otherwise, within ten (10) working days after receiving the application or a copy thereof. All other investigations, except where otherwise provided, shall be made by the officer designated by the Town Council.
- (d) This business licensing ordinance is intended to supplement the Town's hazardous materials ordinance.
- (e) A background check must be satisfactorily completed in accordance with section 17-76.
- (f) The following restrictions and procedures govern the issuance of a business license:
 - (1) The Clerk-Treasurer may elect to hold the license for up to ten (10) additional days following the receipt of all materials required by subsections (a)-(e) of this ordinance to conduct any research or gather information related to the business license request.
 - (2) Following this hold period, the Clerk-Treasurer must rule in favor or denial of the business license application.

(Added by Ord. 2017-^^)

Sec. 17-76 – Background check required for business applicants

- (a) Any applicant for a business license in the Town of New Chicago shall submit and satisfactorily pass a background check.
- (b) No business shall be granted a license if the owner or the entity's owner shall have been convicted of a felony within the past seven years or is a Registered Sex Offender in any jurisdiction.
- (c) In the event that an individual's background check is returned unsatisfactorily, the applicant may submit an appeal to the Planning Commission. The Planning Commission may provide relief from this provision upon good cause shown.

(Added by Ord. 2017-^^)

Sec. 17-77 - Fees; when due; disposition

- (a) In the absence of any provision to the contrary, all fees and charges for licenses shall be paid in advance at the time application is made therefore to the Town Clerk-Treasurer.

- (b) Payments of required fees to the Clerk-Treasurer in no way presupposes or acts as an issuance of a business license.
- (c) If it is found that the business applicant is in violation of the Town of New Chicago regulations, laws, and or Code; and is subsequently denied a business license, the required fees paid at the time of application will be retained by the Town of New Chicago for costs associated from the inspections and application process.

(Added by Ord. 2017-^^)

Sec. 17-78 - Business license fees

- (a) Any person maintaining, operating, or conducting any business or establishment, or doing business, or engaging in any activity or occupation in the Town shall pay a license application fee of one hundred dollars (\$100.00) before commencing business. This fee shall not be pro-rated and is non-refundable.
- (b) A business license must be renewed each year on or before January 31st of the next calendar year.
- (c) There shall be a late fee of one hundred dollars (\$100.00) for each month for which a license renewal is delinquent.

(Added by Ord. 2017-^^)

Sec. 17-79 - Buildings and premises to comply with Town regulations or state law

No license shall be issued for the conduct of any business the premises and building to be used for the purpose do not fully comply with the ordinances of the Town. This includes, but is not limited to, zoning, fire code, the property maintenance code, any other ordinance of the Town of New Chicago or State law.

(Added by Ord. 2017-^^)

Sec. 17-80 - Issuance for unlawful activities prohibited

No license shall be issued for the conduct of any business or performance of any act which is in violation or which would involve a violation of any ordinance of the Town or law, rule or regulation of the state or of the United States.

(Added by Ord. 2017-^^)

Sec. 17-81 - Change of name and/or location

- (a) The name and/or location of any business for which a license has been issued may be changed, provided that there have been ten (10) days' notice given to the Town Clerk-Treasurer and the new name and/or location meets all the requirements for the issuance and transfer of the original license.

(b) Processing fee for the change of name and/or location: Thirty-five dollars (\$35.00).

(Added by Ord. 2017-^^)

Sec. 17-82 - Inspections

- (a) Whenever inspection is provided for or required by ordinance in connection with premises used for or in connection with the operation of a business or occupation for which a license is required, or is reasonably necessary thereto to secure compliance with any ordinance provision or to detect violations thereof, it shall be the duty of the licensee or the person in charge of the premises to be inspected to admit thereto for the purpose of making the inspection, any officer or employee of the Town who is authorized or directed to make such inspection at any reasonable time that admission is requested.
- (b) Whenever any analysis of any commodity or material is reasonably necessary to secure conformance with any ordinance provision or to detect violations thereof, it shall be the duty of licensee whose business is governed by the provision to give any authorized, officer or employee of the Town, requesting the same, sufficient samples of such material or commodity for such analysis upon request.
- (c) In addition to any other penalty which may be provided, the Town Council may revoke the license of any licensee in the Town who refuses to permit any such officer or employee who is authorized to make such inspection or take such sample to make the inspection or take any adequate sample of such commodity, or who interferes with such officer or employee while in the performance of his/her duty in making such inspection; provided that no license shall be revoked for such cause unless written demand is made upon the licensee or person in charge of the premises, in the name of the Town, stating that such inspection or sample is desired at the time it is sought to make the inspection or to obtain the sample.

(Added by Ord. 2017-^^)

Sec. 17-83 - Nuisances

No business, whether or not a license has been issued therefor, shall be so conducted or operated as to be a nuisance in fact.

(Added by Ord. 2017-^^)

Sec. 17-84 - Revocation, suspension—Grounds

- (a) Any license required by Town ordinances may be suspended or revoked by the Town Council for any one or more of the following reasons:
 - (1) Violation by the licensee of an ordinance of the Town;
 - (2) Violation by the licensee of any law, rule or regulation of the state or of the United States, or any department or division thereof;
 - (3) Misrepresentation or falsification of statements in the application for a license;

- (4) Just cause.
- (b) Following three (3) official negative citations/incidents to the New Chicago Police Department, the Clerk-Treasurer or Code Enforcement Officer may elect for an immediate investigation into the activities of the business. Following this investigation, the Clerk-Treasurer may revoke the business license in accordance with the established procedures.

(Added by Ord. 2017-^^)

Sec. 17-85 - Same—Procedure

- (a) *Notice to correct violations.* In the event the enforcement officer designated by the Town Council has reason to believe that a violation as described in section 17-84, the licensee can be corrected, the enforcement officer shall serve written notice upon the licensee setting forth the violations, and the licensee shall have not less than five (5) nor more than thirty (30) days, as set by the enforcement officer, to correct the violation and to submit evidence of the correction to the enforcement officer.
- (b) *Clerk-Treasurer's authority.* The Clerk-Treasurer may suspend or revoke any license for one or more of the reasons set forth in section 17-84.
- (c) *Hearings.* Before the suspension or revocation of any license, the Clerk-Treasurer or the Code Enforcement Officer shall give written notice to the licensee of the violation and set forth therein a date for hearing for the purpose of suspending or revoking such license. Such hearing for suspension or revocation shall be held not less than ten (10) days after the personal service of or the mailing of the written notice; however, in the event the Clerk-Treasurer believes that immediate and irreparable harm or damage to person or property may occur by reason of the violation, the hearing may be held after twenty-four (24) hours following the personal service of or the mailing of the written notice.
- (d) *Effect of revocation or suspension.* The suspension or revocation shall be supplementary to any other proceedings provided by this article and shall not stay any other enforcement provisions of this article.
- (e) *Reapplication restricted.* Any licensee whose license has been revoked shall have the right to reapply for a license upon application and payment of all fees.
- (f) *Authority to deny upon reapplication.* The Clerk-Treasurer may deny a license to any applicant who has had a license issued by the Town revoked.
- (g) *Right of appeal.* In the event that a business license is suspended or revoked by the Clerk-Treasurer, the business has the right to appeal to the Town Council within five (5) working days of the time of appeal.

(Added by Ord. 2017-^^)

Sec. 17-86 - Posting required

It shall be the duty of any person conducting a business or activity in the Town for which a license has been issued to keep his/her license posted in a prominent place on the premises used for such business or activity at all times.

(Added by Ord. 2017-^^)

Sec. 17-87 - Forms

- (a) Forms for all licenses and registrations required by the Town, and applications therefor, shall be kept on file in the Clerk-Treasurer's office.
- (b) No license shall be issued unless and until all information sought in the application process is provided.

(Added by Ord. 2017-^^)

Sec. 17-88 - Change of location

The location of any business or occupation for which a license has been issued may be changed, provided sixty days' prior notice thereof is given to the Clerk-Treasurer and the Building commissioner and the new location meets all of the requirements for the issuance of the original license. A failure to provide notice of change of location shall be a violation.

(Added by Ord. 2017-^^)

Sec. 17-89 – Violation; Penalty

Any person failing or refusing to obtain a license and/or register, or who otherwise violates any of the provisions of this chapter shall be subject to a fine of one hundred dollars (\$100.00). Every day any violation of the article continues shall be a separate offense.

(Added by Ord. 2017-^^)

Sec. 17-90 – Maximum number of licensed second hand automobile dealers

- (a) Whereas the Town Council has determined that having an overabundance of second hand automobile dealers within a municipality the size of New Chicago is contrary to the best interests of the citizens, property values, and other businesses currently located within the Town of New Chicago.
- (b) The Clerk-Treasurer shall issue no more than three (3) licenses to Second Hand Automobile Dealers during any calendar year.
- (c) Any applicant who is denied a license by the application of this Chapter may apply for a Special Exemption with the Town Council.

(Added by Ord. 2017-^^)

Sec. 17-91 through 17-110 – Reserved.

Article 6 – Regulation of the Sale of Secondhand and Used Goods

Sec. 17-111 – Purpose

- (a) Whereas the Town of New Chicago has determined that resale shops have the potential to provide affordable goods, reduce landfill waste, and preserve historical objects for the citizens of New Chicago.
- (b) Whereas, due to the nature of reused and secondhand goods, unregulated secondhand sales have the inherent potential to sell potentially hazardous merchandise which can cause harms to the citizens of New Chicago.
- (c) Whereas, the secondhand dealers within the region have been known to sell potentially hazardous merchandise.
- (d) Whereas, the Town of New Chicago finds this ordinance a reasonable and necessary restriction to protect the citizens of New Chicago from potentially hazardous secondhand merchandise.

(Added by Ord. 2017-^^)

Sec. 17-112 - Scope of this article

- (a) This article shall apply to any sale of secondhand or used goods holding a business license, flea market license, is a vendor at a flea market, or a solicitor/peddler's license.
- (b) This article shall not apply to sale of used motor vehicles or any other item which requires a title from the state of Indiana.
- (c) This article shall not apply to the installation of used automobile parts by a duly qualified automobile repair facilities. Notwithstanding, it shall apply to the retail sale of any secondhand automobile parts.

(Added by Ord. 2017-^^)

Sec. 17-113 - Restrictions on goods sold

- (a) No item shall be sold within the Town of New Chicago which is infected by mold, lice, bedbugs, lead paint, or infectious disease pathogens.
- (b) Any used clothing, bedding, curtains, towels, stuffed animals shall be laundered prior to sale.
- (c) No secondhand electric item shall be sold which has not been tested to ensure that it is in working order.
- (d) No furniture or tools shall be sold which appear to be structurally unsound, unduly dangerous, or painted with lead paint.
- (e) Sellers of secondhand goods take reasonable efforts to ensure that all merchandise sold is safe and is in accordance with this article. The failure to have proper precautions in place may be deemed as reckless.

(Added by Ord. 2017-^^)

Sec. 17-114 - Right of Inspection

- (a) The Town of New Chicago shall have the right to enter and inspect the premises of any secondhand or resale during normal business hours.
- (b) The Town of New Chicago shall have the right to enter and inspect the premises of any secondhand or resale shop outside of normal business hours at any reasonable time with a forty-eight hour notice.
- (c) The Town of New Chicago Building Inspector, Code Enforcement Officer, or any other duly authorized agent of the Town of New Chicago shall have this right to inspection.
- (d) Any reinspection necessitated to ensure compliance after a previous violation was found shall incur a charge of twenty-five dollars (\$25.00).

(Added by Ord. 2017-^^)

Sec. 17-115 - Restrictions upon secondhand and resale stores

- (a) Due to the potential hazards caused by potentially defective merchandise, the Town of New Chicago finds that the following restrictions are necessary and reasonable.
- (b) Any building used for the sale of secondhand merchandise shall be sprinkled in accordance with fire code.
- (c) No secondhand or resale shop within the Town of New Chicago shall be located within one hundred (100) feet of any other structure.

(Added by Ord. 2017-^^)

Sec. 17-116 – Penalties for Violation

- (a) Any business, flea market vendor, solicitor, or other businessperson who knowingly or recklessly sells or offers to sell merchandise in violation of this ordinance or denies the town's right of inspection shall be subject to a fine of no less than five hundred dollars (\$500.00) or more than two thousand five hundred dollars (\$2,500) for a first offense. Subsequent offenses may be punished by a fine of up to seven thousand five hundred (\$7,500.00).
- (b) The business, flea market, or solicitor license of any seller of secondhand or used goods may be suspended for any intentional or reckless violation of this article.
- (c) Any negligent or unintentional violation of this article shall be punishable by a fine of one hundred dollars (\$100.00) for each item sold or offered for sale.
- (d) Any business found in violation of section 17-115 shall have be cited for said violation. Upon conviction of said offense, the business license shall be suspended until such time that the property is inspected and found to be in compliance.

(Added by Ord. 2017-^^)

Sec. 17-117 through 17-140 – Reserved.

Article 7 – Miscellaneous

Sec. 17-141 – Special restrictions upon check-cashing, auto-title loan, short-term loan, and other payday loan establishments

(a) Purpose

- (1) Whereas, the Town of New Chicago has found that cash checking, payday loan, auto-title loans, and other short-term loan establishments, due to their inherent nature of business dealing with the transfer of sums of cash, tend to be attractive targets for criminal activity such as theft and armed robbery.
- (2) Whereas, the Town of New Chicago has limited law enforcement resources to respond to emergencies.
- (3) Whereas, the Town of New Chicago wishes to ensure the safety of its citizens and businesses.
- (4) Whereas, Federally insured banks and credit unions are subject to extensive federal rules and regulations.
- (5) The Town finds that the following restrictions upon check-cashing, payday loans, auto-title loans, and other vendors of short term loans are a necessary and proper way to ensure the safety of businesses and citizens of New Chicago.

(b) Scope

- (1) This section shall apply to check cashing establishments, payday loan establishments, auto-title loan establishments, pawn shops, and other vendors of short term loans.
- (2) This section shall not apply to any federally insured bank or Credit Union.

(c) All businesses regulated by this ordinance shall maintain security systems with the following provisions.

- (1) Security systems employing motion detectors near any door, window, or reasonably foreseeable point of entry.
- (2) Glass shatter detectors near any window large enough for a human to enter.
- (3) Security cameras must be in place showing, at minimum, the door and any area(s) where money may be kept in the ordinary course of business. Security cameras shall retain at least thirty (30) days of footage prior to automatic deletion.
- (4) Time delay safes which, as a minimum, are programmed to automatically deny access at any point more than one hour before or after the business is closed.

(d) All regulated business shall have a security guard on duty at all times when the business is open or the safe is not locked.

(Added by Ord. 2017-^^)

Chapter 18 – Rental housing

Article 1 – Rental housing permits and inspections

Sec. 18-1 - Purpose

The purpose of this article is to provide for the registration and inspection of residential rental housing and to facilitate the prevention and correction of violations of laws and ordinances pertaining to residential rental housing so as to protect the public health, safety and welfare of the people of the Town of New Chicago, including, but not limited to, the following:

- (a) To protect the public health and safety by ensuring that rental units comply with all building code as the term is defined in this article.
- (b) To protect the character and stability of residential neighborhoods.
- (c) To correct and prevent housing conditions that adversely affect or are likely to adversely affect the safety, general welfare and health of the persons occupying rental units.
- (d) To prevent unsafe living conditions of rental units.
- (e) To facilitate the enforcement of minimum standards for maintenance of existing residential buildings, and thereby prevent slums and blight.
- (f) To preserve the value of land and buildings throughout the Town.

(Added by Ord. 2017-^^)

Sec. 18-2 - Scope; terms; definition of terms

- (a) *Scope.* Unless otherwise expressly stated, the terms set out in section 18-3 shall, for the purpose of this article, have the meanings indicated in this article.
- (b) *Terms defined in other Codes.* Where terms are not defined in this article and are defined in the building, electrical, plumbing and/or mechanical Codes otherwise adopted by this article, they shall have the same meanings ascribed to them as in those Codes.
- (c) *Terms not defined.* Where terms are not defined under the provisions of this article or under the provisions of the building, electrical, plumbing and/or mechanical Codes, they shall have ascribed to them their ordinarily accepted meaning, or such as the context herein may imply.

(Added by Ord. 2017-^^)

Sec. 18-3 - Definitions

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

Building Codes means all State of Indiana required building codes, Town of New Chicago required building codes as adopted under chapter 9 of the New Chicago Town Code, rental housing Code (as defined in this section), and Town of New Chicago zoning ordinances.

Dwelling unit means a single unit providing complete, independent facilities for the exclusive use of the household, including permanent provisions for living, sleeping, eating, cooking and sanitation, to serve as the abode of a family.

Habitable room means any room meeting the requirements of this article for sleeping, living, or dining purposes, excluding such enclosed places as closets, pantries, bath or toilet rooms, hallways, laundries, storage places, utility rooms and similar spaces.

Multifamily dwelling means a residential building designed for, or modified to accommodate, more than one independent rental unit.

Notice of violation means the notice delivered to the owner which contains the contents described in section 18-12.

Ordinance means the instant ordinance.

Owner means any person having a legal or equitable title in a rental building or premises, or its duly authorized representative.

Person means a corporation, firm, partnership, association, organization or any group acting as a unit, as well as a natural person. References in the masculine gender include the feminine and the neuter, in the present tense include the future, and the singular include the plural.

Premises means a lot, plot or parcel of land containing a rental building or rental unit.

Registration application means the complete application for a rental permit, including all required forms and information as set forth more fully in this article.

Rental building means a building containing one or more rental units.

Rental housing Code means the most recent version of the International Code Council Property Maintenance Code as it applies to residential rental units and available to the public at <http://publicCodes.citation.com/icod/>.

Rental housing officer means the Town of New Chicago Building Inspector, or his/her or her appointed agent.

Rental permit means the permit issued by the Town of New Chicago upon registration of each rental unit.

Rental unit means a rented dwelling unit or rooming unit.

Rooming house means any dwelling or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three (3) or more persons who are not related by blood or marriage.

Rooming unit means any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

Tenancy agreement includes all agreements, written, oral or implied, and rules and regulations embodying the terms and conditions concerning the use and occupancy of a rental unit.

Tenant means any person entitled to occupy a rental unit under a tenancy agreement to the exclusion of others.

(Added by Ord. 2017-^^)

Sec. 18-4 - Relationship to other ordinances

- (a) It is the intent of the Town Council of the Town of New Chicago, Indiana, that this article provides a comprehensive regulatory program for rental housing within the Town of New Chicago.
- (b) Provisions of this article are to be interpreted to be compatible with all other ordinances of the Town, whether in effect as of the date of the adoption of the ordinance from which this article derives, or thereafter adopted.
- (c) When this article conflicts with other ordinances, private covenants, commitments, permits, agreements, state laws, federal laws, or other regulations, the regulation which provides the greater protection for health and safety shall control.

(Added by Ord. 2017-^^)

Sec. 18-5 - Compliance required; application of ordinance

- (a) No person shall occupy or maintain a rental unit within the Town unless the rental unit complies with this article. This article applies to all rental units located within the Town, but shall not apply to the following:
 - (1) Rental units in hotels or motels, accommodations in licensed health care facilities or graduated care, not for profit shelters and school dormitories, housing and urban development (HUD) projects (i.e., AHEPA), and units owned by nonprofits dedicated to housing those with disabilities (i.e., In-Pact).
- (b) Occupancy by the purchaser of a dwelling unit under a recorded contract of sale.
- (c) Transient occupancy in a hotel, motel or other similar lodging, except for units occupied for continuous stays of thirty (30) days or greater.
 - (1) It shall be the responsibility of each owner to prove that the owner's rental unit is exempt as provided in this section by producing such documentation or other information as may be requested by the rental housing officer so as to permit the rental housing officer to determine whether said rental unit is exempt.

(Added by Ord. 2017-^^)

Sec. 18-6 - Registration of rental units required

- (a) No owner of real estate within the Town shall use said real estate for the purpose of erecting or maintaining a rental unit thereon without registering each rental unit with the Town.
- (b) Registration shall be affected by furnishing to the Town a complete and accurate registration application on forms prescribed by the Town, setting forth the following information:
 - (1) Proof of ownership (mortgage, deed, property tax statement, etc.);
 - (2) Proof of property insurance (reflecting coverage amounts);
 - (3) Copy of valid driver's license or state-issued identification of each tenant;
 - (4) Copy of valid driver's license or state-issued identification for the owner(s) of the property;
 - (5) Occupant information for each and every occupant of the premises;
 - (6) Owner and contact information for the owner;
 - (7) Address of the rental property;
 - (8) A local contact person with contact information in the case of an absentee owner or owner who resides more than fifty (50) miles from the Town of New Chicago.
- (c) Landlords shall be obligated to update the information required by paragraph (b) within thirty (30) days whenever said information changes.

(Added by Ord. 2017-^^)

Sec. 18-7 - Annual rental registration fee; late fees

- (a) There shall be a five dollar (\$5.00) registration fee assessed for each rental unit located within the Town of New Chicago regardless of if the property is vacant or occupied. This will be payable by cash, check, cashier's check, or money order. The Town may refuse to accept a check as payment to any individual who has previously written a dishonored check to the Town.
- (b) The registration fee shall be paid at the time that the owner submits the registration application to the Town of New Chicago.
- (c) This shall be an annual fee and such fee shall be due on or before April 15 of each year. If an owner fails to register a rental unit by April 15, but otherwise is not in violation of this article, a one hundred dollar (\$100.00) late fee may be assessed for each rental unit not registered in addition to the five dollar (\$5.00) registration fee.

(Added by Ord. 2014-01. Amended by 2017-^^)

Sec. 18-8 – Reserved.**Sec. 18-9 - Rental permit**

- (a) The rental housing officer shall issue a rental permit to an owner who:
 - (1) Files a complete registration application;
 - (2) Pays the registration fee required; and
 - (3) Is in compliance with all applicable building codes;
 - (4) Is in compliance with the New Chicago Property Maintenance Code.

- (5) Is in compliance with all requirements of this chapter.
- (b) The Town shall issue a rental permit for all registered rental units stating the date of the unit's registration.
- (c) The owner of each rental unit shall be responsible for continuously maintaining a copy of the rental permit. Each owner shall provide the rental housing officer with a copy of the rental permit upon request.

(Added by Ord. 2017-^^)

Sec. 18-10 – Inspections of rental units

- (a) Each rental unit within the Town is subject to inspection by the Building Inspector in accordance with this article. Upon receipt of information creating a reasonable belief that a non-exempt rental unit violates any of the standards of this article (including non-registration of a rental unit), the rental housing officer may conduct an inspection of the rental unit.
- (b) A rental unit shall be inspected if a complaint about the condition of the rental unit has been provided to the rental housing officer by any tenant occupying the rental unit for which the permit was issued.
- (c) Each rental unit shall be inspected before new tenants occupy any rental property. A failure to obtain an inspection shall be considered a violation.
- (d) Unless waived by either the owner or tenant, the following procedure shall be used to obtain entry to rental units for the purpose of inspection. The rental housing officer shall cause written notice to be mailed to the owner and tenant of the rental unit setting forth the date and time scheduled for the inspection.
- (e) The rental housing officer shall inspect the rental unit for compliance with the building code, property maintenance codes, and other ordinances of the Town of New Chicago. The building inspector, in his/her sole discretion, may perform inspections over a period of time. The Building Inspector shall notify the owner that the inspection shall be conducted over a period of time, the future time period when the inspection will be made, and the obligations of the owner during the interim period.
- (f) In the event the owner and/or tenant refuses entry to any given rental unit for inspection pursuant to this article, the Building Inspector may request in the Lake Circuit or Superior Court an order allowing entry to the given rental unit for inspection pursuant to this chapter. The Building Inspector shall conduct an inspection as authorized by such order.
- (g) The Town Council has determined that inspection of all rental units, as provided in this article, constitutes a reasonable method to protect the health, safety, and welfare of its citizens.
- (h) Any refusal to permit an inspection shall be punishable by a fine in an amount of no less than two hundred fifty dollars (\$250.00) or more than one thousand dollars for a first offense (\$250.00). Any subsequent violations shall. Subsequent refusals will be punishable by fine of no less than five hundred dollars (\$500.00) or more than seven thousand five hundred dollars (\$7,500.00).
- (i) An owner or tenant who refuses entry to a rental unit for inspection pursuant to this article which results in a court order for inspection is liable for the reasonable attorney fees and costs incurred by the Town.

(Added by Ord. 2017-^^)

Sec. 18-11 - Inspection fees

- (a) In the event that the initial inspection reveals any violation of this article, the owner shall be charged an inspection fee of one hundred dollars (\$100.00). The owner shall pay this inspection fee within thirty (30) days of the date of the notice of violation.
- (b) When an owner fails to meet with the Building Inspector for a scheduled inspection and/or re-inspection of the rental unit without having provided at least twenty-four (24) hours' notice, the owner shall be charged a fee of one hundred dollars (\$100.00). The owner shall pay this fee within thirty (30) days of the date of the missed inspection and/or re-inspection.
- (c) If a landlord fails on more than one occasion to provide access without at least twenty-four hours' notice, the Inspector may deem any such inspection failed and revoke the rental permit for the property.
- (d) If provided access by a tenant, the Building Inspector may inspect the premises in the absence of an owner who fails to be present for a scheduled inspection or fails to provide twenty-four (24) hours of notice.
- (e) No rental permit shall be issued until all fees and utility charges owed by the property are paid.

(Added by Ord. 2017-^^)

Sec. 18-12 - Notice of violation to owner; re-inspections

- (a) In the event any inspection reveals a violation of this article, the Building Inspector shall within fourteen (14) days from the date of the inspection serve by hand delivery or certified mail a notice of violation on the owner of the rental unit. Such notice of violation shall:
 - (1) Be in writing;
 - (2) Include a description of the real estate sufficient for identification;
 - (3) Include a determination of all sections of the ordinances and Codes that have been violated;
 - (4) Set forth a reasonable date for completion of the repairs and improvements required to bring the rental unit into compliance with provisions of this article. This date shall be in no less than fourteen (14) days; and
 - (5) Include an explanation of the owner's right to seek modification or withdrawal of the notice by petition to the Planning Commission.
- (b) The notice of violation prescribed above shall be properly served by the Building Inspector or his/her designee upon the owner at the address shown on the registration application.
- (c) After the expiration of time provided in subsection (d) of this section, a re-inspection shall be conducted.
- (d) If the Building Inspector finds that the owner has failed to remedy all noted violations, the Building Inspector may commence proceedings to suspend and or revoke the rental permit for the rental unit.
- (e) If the Building Inspector finds that substantial steps have been made to effectuate the necessary repair, but that all violations have not yet been corrected, the Building Inspector may issue a conditional rental permit. This permit shall be issued for no more than thirty days and may only be renewed once

at the discretion of the Building Inspector. A subsequent inspection must be made prior to any renewal to ensure that progress is being made toward correcting the violations.

- (f) If a violation is found, all re-inspections performed shall result in an assessment of a fee of one hundred dollars (\$100.00) per rental dwelling unit to be re-inspected.

(Added by Ord. 2017-^^)

Section 18-13 – Appointment of Rental Housing Officer

The building inspector is hereby appointed as the Rental Housing Officer for the Town of New Chicago.

(Added by Ord. 2017-^^)

Sections 18-14 through 18-32 – Reserved.

Sec. 18-33 - Appeal of Rental Housing Officer determination

The determination of the Rental Housing Officer may be appealed to the Planning Commission by filing a written appeal with the Planning Commission within thirty (30) days of the date of the Building Inspector's notice of violation. Upon receipt, the Planning Commission shall immediately provide a copy of the written appeal to the Rental Housing Officer.

(Added by Ord. 2017-^^)

Sec. 18-34 - Issuance of conditional rental permit

- (a) If the Rental Housing Officer denies the issuance of the rental permit, he may issue a conditional rental permit to the owner.
- (b) A conditional rental permit shall set forth the reasons why the rental permit was denied and the conditions required for issuance of the rental permit.
- (c) The owner issued a conditional rental permit shall have not more than thirty (30) days to comply with the requirements of this article, except that Rental Housing Officer may grant additional time not to exceed thirty (30) days for good cause. Once the owner has come into compliance with this article, a rental permit shall be issued.
- (d) If the owner has been issued a conditional rental permit, but the owner has not corrected the violations within the time designated by the Rental Housing Officer, the conditional rental permit shall expire.
- (e) Upon expiration of the conditional rental permit, the owner shall immediately cease renting the rental unit and cause the rental unit to be vacated.
- (f) Failure to cease renting the rental unit after the expiration of a conditional rental permit shall result in a fine of three hundred dollars (\$300.00) per day for each day of violation.

(Added by Ord. 2017-^^)

Sec. 18-35 - Suspension and revocation of rental permit

- (a) Based upon determinations filed by the Rental Housing Officer, the Planning Commission may, if it finds the determinations to be true, suspend an owner's rental permit for any rental unit under the following circumstances:
 - (1) Failure to register the rental unit as required by section 18-6;
 - (2) Knowingly providing the Building Inspector with any false or misleading information, or knowingly omitting information that would mislead the Rental Housing Officer, in connection with the rental unit or the rental permit;
 - (3) Retaliation as prohibited by section 18-37;
 - (4) Four (4) or more violations of the Building Codes, Town of New Chicago Code, or the Indiana Criminal Code related to the rental unit, rental building or premises within one year, unless the owner was the party reporting the violation; or unless the owner has evicted the tenant as permitted by law;
 - (5) Failure to correct any building code violation in the rental unit or on the premises affecting the health and safety within the time allowed;
 - (6) Illegal use or allowing the illegal use of a rental unit; or
 - (7) Violation of any other provision of this article.
- (b) The suspension of a rental permit of the owner shall be enforced until the owner comes into compliance with the requirements of this article.
 - (1) If the owner fails to comply with the requirements of this article within sixty (60) days of the commencement of suspension under this section, the Planning Commission shall revoke the owner's rental permit for not less than thirty (30) days, and not more than two (2) years, unless the owner shows that it has acted in good faith to come into compliance with this article.

(Added by Ord. 2017-^^)

Sec. 18-36 – Planning Commission Appeals; appeals

- (a) The Planning Commission shall set a date for each hearing and shall serve notice of the hearing upon the owner and the Building Inspector at least thirty (30) days prior to the date of the hearing.
- (b) For all hearings before the Planning Commission, whether initiated as a request of an owner or if the Building Inspector is seeking suspension or revocation of a rental permit, the Rental Housing Officer shall prepare and file a summary of the case with the Planning Commission at least ten (10) days prior to the hearing. The summary shall include a statement describing the purpose of the hearing, who requested the hearing, the desired relief, a copy of any notices of violation previously served upon the owner pursuant to section 18-12, and a copy of the owner's rental permit. Upon filing the summary, it shall be served by the Building Inspector upon the owner or his/her agent at the address of record. The Planning Commission shall hear the evidence and argument of the Building Inspector and the owner. After the hearing, the Planning Commission shall issue a written decision supported by and shall

contain an explanation of the owner's right to appeal the decision of the Planning Commission to the Lake Circuit or Superior Court within thirty (30) days from the date of the written decision.

- (c) Following the revocation of a rental permit by the Planning Commission, an owner may apply to the Town after the revocation period ends for the issuance of a new rental permit. As part of the application process for a new rental permit the owner shall permit the Building Inspector to inspect each rental unit wherein the rental permit was previously revoked to determine compliance with the requirements of this article.

(Added by Ord. 2017-^^)

Sec. 18-37 - Retaliation prohibited

- (a) It shall be a violation of this article for an owner or his/her agent to bring or threaten to bring an action for possession of a rental unit, to refuse to make repairs to a rental unit, or evict a tenant for the purpose of retaliating against a tenant for requesting an inspection of a rental unit.
- (b) Retaliatory threats to bring action for possession of a rental unit or retaliatory refusal to make repairs shall be punishable by a fine of one thousand dollars (\$2,500.00) for a first offense. A second offense shall be punishable by a fine of two-thousand five hundred dollars (\$2,500.00). Subsequent offenses shall be punishable by a fine of no less than two thousand five hundred dollars or more than seven thousand five hundred dollars (\$7,500.00).
- (c) Retaliatory eviction shall be punishable by a fine of two thousand five hundred dollars (\$2,500.00) for a first offense. Subsequent offenses shall be punishable in an amount of no less than two thousand five hundred dollars (\$2,500.00) or more than seven thousand five hundred dollars (\$7,500.00).

(Added by Ord. 2017-^^)

Sec. 18-38 – Violations; penalty

- (a) In addition to suspension and revocation of a rental permit as set forth in section 18-35, the Rental Housing Officer shall impose a fine of one hundred dollars (\$100.00) for the first offense, a fine of five hundred dollars (\$500.00) for the second offense, and a fine of two thousand five hundred dollars (\$2,500.00) for the third and any subsequent violations of this article within a calendar year unless a more specific ordinance provides for a penalty. Each day a violation of this provision exists or continues to exist beyond the time limits provided in this article shall constitute a separate and distinct violation of this article.
- (b) The escalation provision will apply for each landlord and not per property. (If a single landlord has one violation at three different properties, it shall be treated as three offenses for purposes of this section).
- (c) Violations include, but are not limited, the following:
 - (1) Failure to register the rental unit as required by 18-6.

- (2) Knowingly providing the Rental Housing Officer with any false or misleading information, or knowingly omitting information that would mislead the Building Inspector, in connection with the rental unit or the rental permit.
 - (3) Four (4) or more violations of the building code, Town of New Chicago Code, or the Indiana Criminal Code related to the rental unit, rental building or premises within one year, unless the owner was the party reporting the violation; or unless the owner has evicted the tenant as permitted by law;
 - (4) Failure to correct any building code violation in the rental unit or on the premises affecting the health and safety within the time allowed;
 - (5) Illegal use or allowing the illegal use of a rental unit; or
 - (6) Violation of any other provision of this article.
- (d) In the event that the Planning Commission finds that an owner has retaliated against a tenant as prohibited by section 18-37, the Planning Commission shall assess the owner a fine of one thousand dollars (\$1,000.00) for the first offense and a fine of two thousand five hundred dollars (\$2,500.00) for a second offense, and seven thousand five hundred dollars (\$7,500.00) for any subsequent offenses.

(Added by Ord. 2017-^^)

Sec. 18-39 - Transfer of permit

- (a) A rental permit, as provided in this article, is transferable only after written notification to the Rental Housing Officer
- (b) When an owner transfers his, her, or its interest in or control of a rental unit, the owner shall notify the Rental Housing Officer within five (5) business days after the transfer.
- (c) The notice shall include all the information required by section 18-6 relating to the new owner who has succeeded to the ownership interest or control, and an acknowledgment by the new owner of its obligations under this article.
- (d) Conditional rental permits are nontransferable.

(Added by Ord. 2017-^^)

Sec. 18-40 - Disclaimer of liability

- (a) The issuance of a rental permit or a conditional rental permit does not constitute any warranty, express or implied, nor guarantee by the Town or Rental Housing Officer, or their respective agents or representatives, that the rental unit is free from defect or fit for habitation.
- (b) The Town and the Building Inspector, and their respective agents or representatives, shall not be liable or responsible for the condition or safety of any rental unit.

(Added by Ord. 2017-^^)

Sec. 18-41 – Registration of lease agreements

- (a) The owner or owners, or the designee of the owner or owners, of residential property within the Town of New Chicago, who execute a Lease Agreement providing for the lease of said property shall provide the following information to the office of the Clerk-Treasurer, within thirty (30) days from the execution of the Lease Agreement, or otherwise within thirty (30) days from the date on which the lessees assume possession of the property:
 - (1) The address of the leased property;
 - (2) The name(s), address, and telephone number of the owner(s) of the leased property;
 - (3) The name of the person(s) leasing the property;
 - (4) The beginning and ending dates of the lease;
 - (5) The number of persons authorized by the terms of the lease to reside on the leased property.
- (b) The Owner(s) of the leased property shall be required to maintain insurance on each leased property and shall provide proof of same to the Town upon request.
- (c) It shall be the duty of the owner to provide notification to the Office of the Clerk-Treasurer of any changes in the above information.
- (d) For the purposes of consistency in the collection and maintenance of the information required to be recorded by this Section, the Clerk-Treasurer may proscribe forms upon which the Owner(s) shall be required to provide the required information.
- (e) A violation of this section shall be punishable by a fine of one hundred dollars (\$100.00). Each day on which the offense continues shall be deemed a separate violation.
- (f) Upon the repeated failure by an owner to comply with the provisions of this section, the Town Council may, after due notice of the owner(s) and resident, conduct a hearing to determine whether the occupancy permit for said premises should be revoked.

(Added by Ord. 2017-^^)

Section 18-42 – Mold

- (a) The Town of New Chicago finds that there is a history of landlords failing to disclose mold and failing to properly remediate mold before renting out properties.
- (b) Mold is known to cause numerous and substantial health risks such as migraines, respiratory ailments, allergic reactions, and other potentially serious health ailments.
- (c) No landlord shall lease or rent any property in the Town of New Chicago which has been known to contain mold at any point within the past ten (10) years.
- (d) In the event that the landlord comes to believe that there may be mold upon the premises, the landlord shall immediately contact the Rental Housing Officer and have a professional test for mold conducted.
- (e) In the event that any mold is found upon the property, the landlord shall have the residence and any connected garage remediated by a professional mold remediation company before leasing out the premises.
- (f) Due to the substantial health risks inherent to mold, the Town of New Chicago finds that it is reasonable and necessary to charge a fine of no less than five hundred dollars (\$500.00) for a first offense of this article and no less than two thousand five hundred dollars (\$2,500.00) for any

subsequent violations. Maximum fines shall be two-thousand five hundred dollars (\$2,500.00) for a first offense and seven-thousand five hundred dollars (\$7,500.00) for subsequent offenses.

- (g) For the purposes of counting subsequent violations, violations shall be counted against each landlord or property owner and not against the individual properties.
- (h) No rental permit shall be granted to any property which is known to contain mold without proof that professional mold remediation has occurred. This proof shall include, at minimum, an invoice from a mold remediation company indicating all areas treated. Proof of remediation must demonstrate that each and every area with known mold has been remediated and a satisfactory mold test. The Building inspector may withhold a rental permit for up to fourteen (14) days in order to confirm that remediation which has occurred.

(Added by Ord. 2017-^^)

Sections 18-42 through 18-50 – Reserved.

Article 2 - Fair housing policy

Sec. 18-51 - Policy statement

It shall be the policy of the Town of New Chicago, Indiana to provide, within constitutional limitation, for fair housing throughout its corporate limits as provided for under the federal Civil Rights Act of 1968, as amended, the federal Housing and Community Development Act of 1974, as amended, and IC § 22-9.5-1 et seq.

(Added by Ord. 2017-^^)

Sec. 18-53 - Definitions

- (i) The definitions set forth in this section shall apply throughout this article:
 - (1) *Dwelling* means any building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by one (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 one (1) or more families (IC § 22-9.5-2-8).
 - (2) *Family* includes a single individual (IC § 22-9.5-2-9), with the status of such family being further defined in subsection (8) of this section.
 - (3) *Person* (IC § 22-9.5-2-11), includes one (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.
 - (4) *To rent* (IC § 22-9.5-2-13), includes to lease, to sublease, to let and otherwise to grant for a consideration the rights to occupy the premises owned by the occupant.

- (5) *Discriminatory housing practice* means an act that is unlawful under sections 18-53, 18-54, 18-55, 18-56, 18-57, 18-58, or 15-9 of this article or IC § 22-9.5-5.
- (6) *Handicap* means, with respect to a person:
 - i. A physical or mental impairment which substantially limits one or more of such person's major life activities;
 - ii. A record of having such an impairment; or
 - iii. Being regarded as having such an impairment;
 - iv. An impairment described or defined pursuant to the federal Americans with Disabilities Act of 1990;
 - v. Any other impairment defined under IC § 22-9.5-2-10.
- (7) The term handicap shall not include current illegal use of or addictions to a controlled substance as defined in Section 802 of Title 21 of the United States Code (IC § 22-9.5-2-10(b)); nor does the term handicap include an individual solely because that individual is a transvestite (IC § 22-9.5-2-10(c)).
- (8) *Aggrieved person* includes any person who (IC § 22-9.5-2-2):
 - i. Claims to have been injured by a discriminatory housing practice; or
 - ii. Believes that such person will be injured by a discriminatory housing practice that is about to occur.
- (9) *Familial status* means one or more individuals who have not attained the age of eighteen (18) years being domiciled with:
 - i. A parent or another person having legal custody of such individual or the written permission of such parent or other person.
 - ii. The protections afforded against discrimination on the 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 eighteen (18) years.
- (10) *Commission* (IC § 22-9.5-2-3) means the Indiana Civil Rights Commission created pursuant to IC § 22-9-1-4, et seq.
- (11) *Complainant* (IC § 22-9.5-2-4) means a person, including the commission, who files a complaint under IC § 22-9.5-6.

(Added by Ord. 2017-^^)

Sec. 18-54 - Unlawful practice

Subject to the provisions of subsection (b) of this section, section 18-60 of this article and IC § 22-9.5-3, the prohibitions against discrimination in the sale or rental of housing set forth IC § 22-9.5-5-1 and in section 10-74 of this article shall apply to:

- (a) All dwellings except as exempted by subsection (b) and IC § 22-9.5-3 of Indiana Code.
- (b) Other than the provisions of subsection (c) of this section, nothing in section 18-55 shall apply to:
 - (1) Any single-family house sold or rented by an owner where the private individual owner does not own more than three (3) such single-family houses at any one time; provided that in the sale of such single family house by a private individual owner not residing in the house at the time

of sale or exemption shall apply only to one such sale within any twenty-four (24) month period. The private individual owner may not own any interest in, nor have owned or reserved on his/her behalf, title to or any right to all or a portion of the proceeds from the sale or rental of more than three (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 such house is sold or rented:

- (2) Without the use in any manner of the sales or rental facilities or services of any real estate broker, agent or salesman, or any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent or salesman, or person; and
 - (3) Without the publication, posting or mailing, after notice of advertisement or written notice in violation of section 18-55 of this article, but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstracters, title companies and other such professional assistance as necessary to perfect or transfer this title; or
 - i. Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his/her residence.
- (c) For the purposes of subsection (2), a person shall be deemed to be in the business of selling or renting dwellings if:
- (1) He has, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein; or
 - (2) He has, within the preceding twelve (12) months, participated as agent, other than in the sale of his/her own personal residence, in providing sales or rental facilities or services in two (2) or more transaction 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, five (5) or more families.

(Added by Ord. 2017-^^)

Sec. 18-55 - Discrimination in the sale or rental of housing

As made applicable by section 18-54 and except as exempted by section 18-54 (2) and section 18-20, 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, handicap, familial status or national origin.
- (b) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services of facilities in connection therewith, because of race, color, religion, sex, handicap, familial status or national origin.
- (c) To make, print, or publish, or cause to be made, printed, or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial 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 or national origin that any dwelling is not available for inspection, sale or rental when such 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 or national origin.
- (f) To discriminate in the following manners:
 - (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:
 - i. That buyer or renter;
 - ii. A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
 - iii. 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 such dwelling, because of a handicap of:
 - i. That person; or
 - ii. A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
 - iii. Any person associated with that person.
 - (3) For purposes of this subsection, discrimination includes:
 - i. A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modifications, reasonable wear and tear excepted;
 - ii. A refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy dwelling; or
 - iii. In connection with the design and construction of covered multi-family dwellings for first occupancy after the date that is thirty (30) months after September 13, 1998, a failure to design and construct those dwellings in such a manner that:
 - A. The public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;
 - B. All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and
 - C. All premises within such dwellings contain the following features of adaptive design:
 - I. An accessible route into and through the dwelling;
 - II. Light, switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

- III. Reinforcements in bathrooms such that an individual in a wheelchair can maneuver about the space.
- IV. Compliance with the appropriate requirement Americans with Disabilities Act of 1990 and of the American National Standard for Buildings and Facilities providing accessibility and usability for physically handicapped people (commonly cited as AANSI A117.1) suffices to satisfy the requirements of this provision.
- iv. Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health of safety of other individuals of whose tenancy would result in substantial physical damage to the property of others.

(Added by Ord. 2017-^^)

Sec. 18-56 - 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, 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:
 - i. For purchasing, constructing, improving, repairing, or maintaining a dwelling; or
 - ii. Secured by residential real estate.
 - (2) The selling, brokering, or appraising of residential real property.
- (c) Nothing in this article 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, or familial status.

(Added by Ord. 2017-^^)

Sec. 18-57 - Discrimination in the provision of brokerage service

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 or national origin.

(Added by Ord. 2017-^^)

Sec. 18-58 - 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/her having exercised or enjoyed, or on account of his/her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by sections 18-54, 18-55, 18-56, or 18-57 of this article.

(Added by Ord. 2017-^^)

Sec. 18-59 - Reserved.**Sec. 18-60 - Exemptions**

- (a) Exemptions defined or set forth under IC § 22-9.5-3 et seq. shall be exempt from the provisions of this article to include those activities or organizations set forth under subsections (b) and (c) of this section.
- (b) Nothing in this article 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. Nor shall anything in this article 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 such lodging to its members or from giving preference to its members.
- (c) Housing for older persons
 - (1) Nothing in this article regarding familial status shall apply with respect to housing for older persons.
 - (2) As used in this section, "housing for older persons" means housing:
 - i. 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 person (as defined in the state or federal program); or
 - ii. Intended for, and solely occupied by, person sixty-two (62) years of age or older; or
 - iii. Intended and operated for occupancy by at least one person fifty-five (55) years of age or older per unit.

(Added by Ord. 2017-^^)

Sec. 18-61 - Administrative enforcement of article

- (a) The authority and responsibility for properly administering this article and referral of complaints hereunder to the commissioner as set forth in subsection (b) hereof shall be vested in the Planning Commission of the Town of New Chicago, Indiana.

- (b) Notwithstanding the provisions of IC § 22-9.5-4-8, the Town of New Chicago, Indiana, because of lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under the article, herein elects to refer all formal complaints of violation of the articles of this article by complainants to the Indiana Civil Rights Commission for administrative enforcement actions pursuant to IC § 22-9.5-6 and the Planning Commission of the Town of New Chicago, Indiana, shall refer all said complaints to the commission as provided for under subsection (a) of this section to said commission for purposes investigation, resolution and appropriate relief as provided for under IC § 22-9.5-6.
- (c) All executive departments and agencies of the Town of New Chicago, Indiana shall administer their departments, programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this article and shall cooperate with the chief elected official and the commission to further such purposes.
- (d) The Clerk-Treasurer, shall provide information on remedies available to any aggrieved person or complainant requesting such information.

(Added by Ord. 2017-^^)

Sec. 18-62 - Severability of provisions

If any provision of this article or the application thereof to any person or circumstances shall be determined to be invalid, the remainder of the article and the application of its provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

(Added by Ord. 2017-^^)

Sections 18-63 through 18-80 – Reserved.

Article 3 – Requirements for rental residences.

Sec. 18-81 – Applicability of other ordinances.

Nothing in this chapter shall be construed to limit or restrict any other right or obligation placed upon a property under any other law or ordinance.

(Added by Ord. 2017-^^)

Sec. 18-82 – Landlord obligations

A landlord shall be obligated to fulfill the following obligations:

- (a) Deliver the rental premises to a tenant in compliance with the rental agreement, and in a safe, clean, and habitable condition.
- (b) Comply with all health and housing codes applicable to the rental premises.
- (c) Make all reasonable efforts to keep common areas of a rental premises in a clean and proper condition.
- (d) Provide and maintain the following items in a rental premises in good and safe working condition, if provide don the premises at the time the rental agreement is entered into:
 - (1) Electrical systems;
 - (2) Plumbing systems sufficient to accommodate a reasonable supply of hot and cold running water at all times;
 - (3) Sanitary systems;
 - (4) Heating, ventilating, and air condition systems, a heating system must be sufficient to adequately supply heat at all times;
 - (5) Elevators, if provided;
 - (6) Appliances supplied as an inducement to the rental agreement.
- (e) Violation of this ordinance shall be punishable by a fine of no less than three hundred dollars (\$300.00) or more than two thousand five hundred dollars (\$2,500.00) for a first offense. Subsequent offenses shall be punishable by a fine of no more than seven thousand and five hundred dollars (\$7,500.00).

(Added by Ord. 2017-^^)

Sec. 18-83 – Smoke detectors and carbon monoxide detectors

- (a) Each landlord shall be required to provide his/her tenant with at least one (1) functioning smoke detector and carbon monoxide detector on each floor of the premises.
- (b) Any smoke detector or carbon monoxide detector with dead batteries or more than ten (10) years old shall be presumed as non-functioning.
- (c) Nothing in this ordinance shall be construed to limit or restrict any more restrictive ordinance, regulation, or law. In any such event, the more demanding standard shall prevail.
- (d) Upon application for a renewal of any rental permit, the applicant provide an affidavit stating that all smoke detectors and carbon monoxide detectors have been tested and found to be in working order. The building inspector may conduct an inspection to ensure that all smoke detectors and carbon monoxide detectors are operational.
- (e) A violation of this section shall be punishable by a fine of one hundred dollars (\$100.00) for a first offense and two hundred fifty dollars (\$250.00) for any subsequent offense. Each day on which the offense continues shall be deemed a separate offense.

(Added by Ord. 2017-^^)

Chapter 19 – Fire and hazardous materials safety

Article 1 – In general

Sec. 19-2 - Short title

This chapter shall be known and cited as the "Fire and Hazardous Materials Safety Code of New Chicago, Indiana."

(Added by Ord. 2017-^^)

Sec. 19-2 - Purpose

The purposes of this chapter are:

- (a) To promote the public health, safety, welfare of the citizens of New Chicago.
- (b) To promote fire prevention through fire inspections and enforcement of fire regulations.
- (c) To protect the public from potential problems of leaks, spills, discharges, or fires in areas where dangerous, hazardous, and toxic substances are stored, used, handled, disposed, or transported.
- (d) To require special information from persons, partnerships, or corporations that use, store, handle, or dispose of hazardous, dangerous, or toxic materials in order to limit the potential discharges of these materials into the air, water, or onto the land in New Chicago.

(Added by Ord. 2017-^^)

Sec. 19-3 - Definitions

- (a) *Biomedical hazard* shall mean any item, property, or substance that has the potential to transmit any infectious disease or etiologic agent to another item, person, or property.
- (b) *CERCLA* shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and any amendments to the act, inclusive.
- (c) *Consumer* shall mean the person or facility who shall purchase an item for use by that person or facility. The product shall not be resold or distributed by the purchaser.
- (d) *Environment* shall mean any surface water, groundwater, drinking water supply, land surface or subsurface strata, or ambient air, within the Town of New Chicago, and the interrelationship which exists among and between the water, air, and land and all living things.
- (e) *EPCRA* shall mean the Emergency Planning and Community Right-to-Know Act of 1986, and any amendments to the act, inclusive.
- (f) *Etiologic agent* shall mean a viable microorganism, or its toxin, which causes or may cause human disease, limited to those agents listed in 42 CFR 72.25(c) of the regulations of the Department of Health and Human Services.
- (g) *Facility* shall mean:
 - (1) Any piece of equipment, buildings, installations, pipe or pipeline, well, pit, pond, lagoon, impoundment, ditch landfill, storage container, structures, any other stationary items which are on a single site or on contiguous or adjacent sites and which are owned, or operated by the same

person (or by any person which controls, is controlled by, or under common control with, such person); or

- (2) Any site or area where a hazardous substance or material has been deposited, stored, disposed of, placed, or otherwise come to be located; but does not include any consumer product in consumer use; or
- (3) Any motor vehicle, rolling stock, boat, or airplane.

(h) *Hazardous material* and *hazardous substance* shall be interchangeable and shall mean:

- (1) Any substance listed in the latest edition of the U.S. Department of Transportation "Guidebook for Hazardous Material Incidents";
- (2) Any substance listed in the latest edition of "Dangerous Properties of Industrial Materials" by N. Irving Sax and contain the terms dangerous, hazardous or toxic in the toxic and hazard reviews (THR) statement, the disaster hazard statement, the fire hazard statement, the explosion hazard statement, or the acute toxicity statement;
- (3) Any substance listed in the latest edition of the "Condensed Chemical Dictionary" by Gessner G. Hailey and the words dangerous, hazardous, or toxic are used in the hazard explanation used to categorize the substance;
- (4) Any substance that is required to have a material safety data sheet by OSHA; or is listed on a material safety data sheet which contains the terms dangerous, hazardous, or toxic in the fire and explosion hazard statement, the reactivity statement, the health hazard statement, or special precautions statement, of the material safety data sheet for that substance; or
- (5) Any substance that is listed by the U.S. EPA or the state emergency response commission as an extremely hazardous substance designated under EPCRA, listed in CERCLA or the Clean Air Act as hazardous, dangerous, or toxic.

(i) *Immediately* shall mean within five (5) minutes after discovery of the spill, leak, discharge, or release of the dangerous, hazardous, or toxic substance.

(j) *Industry standard* shall mean any nationally recognized agency, governmental or private, that issues or writes suggested standards for fire and hazardous materials safety.

(k) *Infectious disease* shall mean a disease likely to cause or transmit infection to others.

(l) *Infectious waste* shall mean products, items, or property which have been discarded and are potentially contaminated with disease-producing organisms or matter.

(m) *Material safety data sheet* shall mean the sheet required to be developed under section 1910.1200 (g) of title 29 of the Code of Federal Regulations, as that section may be amended from time to time.

(n) *NFPA 704 hazard communication system* shall mean the identification system defined in section 704 of the National Fire Protection Association National Fire Code. It is a system that identifies the hazards of a material(s) in terms of three (3) principal categories: "Health," "Flammability," and "Reactivity." It indicates a degree of severity by a numerical rating that ranges from 4 (most severe) to 0 (no hazard). A special hazard section is also provided to indicate unusual reactions with water, or to further define the type of hazard.

(o) *Nonoperational storage tank* shall mean any underground storage tank in which regulated substances will not be deposited or from which regulated substances will not be dispensed after November 8, 1984. (IC § 13-7-20-2).

(p) *Owner or operator* shall mean:

- (1) The person holding deed or title to the property, equipment, vehicle, or facility in question;

- (2) Any person in control of, or having responsibility for, the daily operation of any facility, business, vehicle, or underground storage tank;
 - (3) The person who owns the underground storage tank that was in use on November 8, 1984, or brought into use after that date for the storage, use, dispensing of a regulated substance;
 - (4) Any person who owned an underground storage tank immediately before the discontinuation of its use which had been in service before November 8, 1984, but is no longer in use after November 8, 1984; or
 - (5) Any person who owned, operated, or otherwise controlled activities of any facility immediately before title or control was conveyed due to bankruptcy, foreclosure, tax delinquency, abandonment, or similar means to a unit of state or local government.
 - (6) The term "owner or operator" does not include a unit of state or local government which acquired ownership or control involuntarily through bankruptcy, tax delinquency, abandonment, or other circumstances in which it involuntarily acquired title by virtue of its function as sovereign.
- (q) *Person* shall mean individual, partnership, cooperative, firm, joint stock company, company, corporation, association, trust, estate, government entity, or any other legal entity or their legal representatives, agents, or assigns.
- (r) *Petroleum* shall mean petroleum and crude oil or any part of petroleum or crude oil that is liquid at standard conditions of temperature and pressure (sixty (60) degrees Fahrenheit and fourteen and seven-tenths (14.7) pounds per square inch absolute (IC § 13-7-20-6).
- (s) *Program* shall mean an underground storage tank release detection, prevention, and correction program created with the requirements of IC § 13-7-20.
- (t) *Regulated substance* shall mean:
- (1) A hazardous material or substance but excluding any substance regulated as a hazardous waste under subtitle C of the Solid Waste Disposal Act, as amended (42 U.S.C. 6921 through 6936(a) or IC § 13-7-8.5-3;
 - (2) Petroleum; and
 - (3) Any substance designated by rules adopted by the board under IC § 13-7-20-13.
- (u) *Release* shall mean any spilling, leaking, emitting, discharging, escaping, leaching, pumping, pouring, emptying, injecting, dumping, or disposing in the environment (including the abandonment or discarding of barrels, containers, and other closed or open receptacles) of any hazardous chemical, extremely hazardous substances, or toxic materials from any type of container, vehicle, or tank into the environment.
- (v) *Underground storage tank* shall mean a tank or a combination of tanks, including underground pipes connected to the tank or combination of tanks:
- (1) That is used to contain an accumulation of regulated substances; and
 - (2) The volume of which (including the volume of the underground connected pipes) is ten (10) percent or more beneath the surface of the ground.
 - (3) The term does not include:
 - iii. A farm or residential tank with a capacity of less than one thousand one hundred (1,100) gallons that is used for storing motor fuel for noncommercial purposes;
 - iv. A tank which is used for storing heating oil for consumptive use on the premises on which it is stored;
 - v. A septic tank;

- vi. A pipeline facility (including gathering lines) that:
 - A. Is regulated under the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1971 et seq.);
 - B. Is regulated under the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 2801 et seq.); or
 - C. Is an intrastate pipeline facility regulated under state laws comparable to the laws identified in clauses a. through b.;
 - vii. A surface impoundment, pit, pond, or lagoon;
 - viii. A stormwater or wastewater collection system;
 - ix. A flow-through process tank;
 - x. A liquid trap or associated gathering lines directly related to oil or gas production and gathering operations;
 - xi. A storage tank situated in an underground area (such as a basement or cellar) if the storage tank is situated upon or above the surface of the floor;
 - xii. Any other tank exempted by rules adopted by the board in accordance with the regulations adopted by the Administrator of the United States Environmental Protection Agency; or
 - xiii. Any pipeline connected to a tank described in subdivisions (1) through (10). (IC § 13-7-20-11).
- (w) *User* shall mean any person, individual, owner, operator, partnership, cooperative, firm, company, corporation, association, trust, estate, or any other legal entity or their legal representatives, agents, or assignees, or facility that uses, stores, handles, or disposes of hazardous materials in excess of forty (40) gallons or two hundred (200) pounds on site at any one time.

(Added by Ord. 2017-^^)

Sec. 19-4 - Inspection and registrations fees

- (a) The Town of New Chicago Clerk-Treasurer shall be responsible for the collection of the following fees for inspections and registrations required by this chapter. A schedule of fees shall be approved by the Town Council and kept on file at the Town Hall.
- (b) Fire inspection fees:
 - (1) Occupying less than three thousand (3,000) square feet, first inspection
 - (2) Occupying three thousand (3,000) square feet or more, first inspection
 - (3) Reinspections, per inspection
- (c) Hazardous materials and underground storage tank fees:
 - (1) Hazardous materials registration fee
 - (2) Remote site hazardous materials registration fee
 - (3) Etiologic and biomedical hazard registration fee
 - (4) Underground storage tank registration fee, per tank
 - (5) Underground storage tank: Installation, testing, retrofitting, removal or closure fee

(Added by Ord. 2017-^^)

Sec. 19-5 - Fire and hazmat fund

- (a) There is hereby created a fund to be designated as the fire and hazmat fund. Any balance remaining at the end of any fiscal year shall be carried forward to the following year and shall not revert to the general fund.
- (b) All fees, response reimbursements, fines and donations that are received pursuant to the operation of the fire and hazardous materials safety Code shall be collected and deposited into the fire and hazmat fund and shall not be deposited into the general fund.
- (c) Monies deposited into the fire and hazmat fund shall be used solely for expenses related to the operation of the New Chicago Fire Service and the New Chicago Police Department related to response issues and enforcement of the fire and hazardous materials safety Code, after appropriation, as provided by law.

(Added by Ord. 2017-^^)

Sections 19-6 through 19-10 – Reserved.

Article 2 – Administration and enforcement

Sec. 19-11 - Administration

- (a) The Town of New Chicago Chief of Police and the Fire Service fire chief shall be the administrators of the regulations set forth in the chapter.
- (b) The administrators shall receive applications required by this chapter, issue registrations, and furnish prescribed reports.
- (c) They shall examine premises for which registrations and/or permits will be issued, and shall make the necessary inspections to see that the provisions of this chapter are complied with. The Chief of Police shall enforce all provisions relating to the hazardous materials regulations and the fire chief shall enforce state fire Code and shall interpret all environmental issues which arise out of enforcement of this chapter.
- (d) When requested by the Town Council, or when the interests of the municipality so require, they shall make investigations in connection with matters referred to in this chapter and render written reports on the same.
- (e) For the purpose of enforcing compliance with law, they shall issue notices or orders as may be necessary.

(Added by Ord. 2017-^^)

Sec. 19-12 - Police Department responsibilities

- (a) The Town of New Chicago Chief of Police shall insure that hazardous materials regulations are complied with and that enforcement activities are ongoing.
- (b) A New Chicago Police officer may:
 - (1) Exercise powers to prevent hazardous materials accidents and fires and may assist if requested, in conducting arson investigations in conjunction with the local fire department;
 - (2) Enter and inspect any property at a reasonable hour;
 - (3) Issue citation(s) to enforce any section(s) of the Town of New Chicago fire and hazardous materials safety Code;
 - (4) Request assistance from the fire department and/or hazardous materials team to assist the officer with environmental issues;
 - (5) Cooperate with law enforcement and fire department officers; and
 - (6) Conduct inspections to insure accuracy of reporting information as required in the registration sections.
- (c) The New Chicago Police Department shall carry out a program to:
 - (1) Enforce all hazardous material safety laws and related orders;
 - (2) Review completed applications to insure that the required information has been provided;
 - (3) Inspect facilities requesting the issuance of a hazardous materials registration for violations of the hazardous materials safety Code; and
 - (4) Protect the public from hazardous materials.
- (d) The division shall carry out a program to investigate complaints.
- (e) The division shall coordinate its enforcement program with the enforcement program conducted by the Town Clerk-Treasurer and the New Chicago Fire Service.
- (f) The Chief of Police may adopt rules consistent with this chapter in order to implement the provisions of this chapter.
- (g) The Police Department shall receive the assistance and cooperation of the New Chicago Fire Service, the Chief of Police and the Town Attorney in enforcing orders and prosecuting violations.

(Added by Ord. 2017-^^)

Sec. 19-13 - Fire department responsibilities

- (a) The New Chicago Fire Service shall seek to insure that fire safety regulations are complied with and that enforcement activities are ongoing.
- (b) The fire chief may utilize the New Chicago Fire Service, Building Inspector, or Department of Code Enforcement to carry out the administration and enforcement of the fire safety regulations set forth in this chapter.
- (c) The New Chicago Fire Service personnel utilized to enforce the provisions of this chapter must have:
 - (1) A recognized interest and knowledge in the areas of fire prevention and fire safety and,
- (d) The assistant Fire Service chief may exercise any of the fire chief's responsibilities in the absence of the fire chief.
- (e) The fire chief, fire inspector, or designated agent may:

- (1) Exercise powers to prevent fires and conduct arson investigations in conjunction with law enforcement agencies;
 - (2) Enter and inspect any property at a reasonable hour;
 - (3) Issue citation to enforce any section(s) of the Indiana state fire Code;
 - (4) Request assistance from the Police Department;
 - (5) Cooperate with law enforcement officers; and
 - (6) Research industry practice to insure that users are in compliance with applicable standards.
- (g) The New Chicago Fire Service shall carry out a program to:
- (1) Enforce all fire safety laws and related orders;
 - (2) Provide assistance to the New Chicago Police Department in interpreting environmental issues and identifying hazards associated with a specific hazardous substance;
 - (3) Conduct fire inspections of all facilities in the Town of New Chicago; and
 - (4) Protect the public from fire hazards.
- (h) The Fire Service shall carry out a program to investigate complaints.
- (i) The Fire Service shall receive the assistance and cooperation of the Town Clerk-Treasurer, the Chief of Police and the Town Attorney in enforcing orders and prosecuting violations.
- (j) The Fire Service shall be responsible to provide the New Chicago Police Department access to computers, reference materials, monitors, equipment and training that are essential for the fulfillment of their duties.

(Added by Ord. 2017-^^)

Sec. 19-14 – Violations; fines

Unless stated by a more specific ordinance, a first violation of any ordinance within this chapter shall be punishable by a fine of one hundred dollars (\$100.00). A second violation shall be punishable by a fine of two hundred fifty dollars (\$250.00). Subsequent offenses shall be punishable by a fine of no less than five hundred fifty dollars (\$500.00) or more than seven thousand five hundred dollars (\$7,500.00). Each day a violation occurs shall constitute a separate offense.

(Added by Ord. 2017-^^)

Sec. 19-15 - Notification of violation

- (a) Any party in violation of any provision of this chapter shall be advised by the enforcement officer in writing.
- (b) Violations for which fines may be assessed shall be cited in writing on a form prescribed by the violations clerk.

(Added by Ord. 2017-^^)

Sections 7.5-16—7.5-20 - Reserved.

Article 3- Registration of hazardous materials

Sec. 19-21 - Applicability

Any hazardous materials user must secure a hazardous materials registration from the Town of New Chicago Police Department prior to acceptance of any material deemed hazardous at a business or the opening of a new business which requires the use, storage, handling, or disposal of a hazardous material.

(Added by Ord. 2017-^^)

Sec. 19-22 - Exceptions

- (a) No party shall be responsible for reporting gasoline or diesel fuel used in their vehicles and the storage of gasoline or diesel fuel shall not be reported until the quantity of the substance is greater than one hundred (100) gallons at any one time.
- (b) No home owner shall be responsible for reporting fuel oil used for heating of their home until the quantity exceeds five hundred fifty (550) gallons at any one time.

(Added by Ord. 2017-^^)

Sec. 19-23 - Application for hazardous materials registration

- (a) Any person or facility wishing to obtain a hazardous materials registration may do so by requesting an application from the Town of New Chicago Police Department. Upon submission of the completed application, a facility inspection shall be conducted by the New Chicago Police Department and the New Chicago Fire Service. Once the application has been reviewed by the New Chicago Police Department and a background check completed on the applicant, the applicant shall be issued a registration through the office of the New Chicago Clerk-Treasurer.
- (b) The hazardous materials registration fee shall be paid as provided in section 19-4 of this chapter.

(Added by Ord. 2017-^^)

Sec. 19-24 - Required application information

- (a) Any user of a hazardous material shall provide a list of business information, a list of all hazardous materials, quantities, location of each material on a facility diagram, and the material safety data sheet for each chemical, to the Town of New Chicago Police Department and the New Chicago Fire Service.
- (b) The required information shall include the following:
 - (1) The business name, address, and business telephone number, number of employees at the business and normal hours of operation, the owner's name, address, and telephone number, and

emergency contact names and phone numbers. In addition, the name and address of the insurance company handling the insurance on the facility, the name of the hazardous waste removal company handling the removal of the waste (if such is required) and the name of any clean-up contractors to be contacted shall be provided.

- (2) The chemical list shall provide the proper chemical names for all chemicals onsite regardless of quantity. The chemical family, the chemical formula, the chemical concentration, the Chemical Abstract Service registry number (CAS), a material safety data sheet, and the physical state of the chemical shall also be required for all chemicals.
- (3) The quantity requirement shall state the onsite yearly maximum, the onsite daily maximum and the daily average amount used for each hazardous material. In addition the type of storage container normally used for storage, and the maximum amount of product the container will hold in pounds, or in gallons where applicable, for each chemical.
- (4) A floor plan for every floor or building occupied by the business. This plan shall indicate all interior and exterior walls, doors, and windows, location of heating and air conditioning units (and shut-offs), electrical panel(s), building construction materials, roofing materials, fences or other type of security barriers, and the location of the following items:
 - i. All aboveground tanks and types.
 - ii. Products contained in each tank.
 - iii. Other storage areas: Loading and unloading areas.
 - iv. Roads.
 - v. Water distribution systems.
 - vi. All compressed gas storage areas.
 - vii. Drains to sanitary sewer system.
 - viii. Gas and electrical shutoffs: Municipal water shutoffs.
 - ix. Main and auxiliary product shutoffs (when piped).
 - x. Location and type of any firefighting equipment or spill clean-up items.
 - xi. Location of chemical(s) stored, quantity, and container type.
 - xii. Location of lock box.
 - xiii. Nearest fire hydrant, and fire department hook-up locations for sprinkler system.
Included should also be sprinkler system type, control system location, and standpipe locations.
- (5) Providing false information on such an application shall be punishable by a fine of no less than five hundred dollars (\$500.00) or more than two thousand five hundred dollars (\$2,500.00) for a first offense. Subsequent offenses shall be punishable by a fine of no less than five hundred dollars (\$500.00) or more than seven thousand five hundred dollars (\$7,500.00)

(Added by Ord. 2017-^^)

Sec. 19-25 - Reporting changes in required information

- (a) The Town of New Chicago Police Department and the New Chicago Fire Service shall be notified in writing within ten (10) working days of any changes in the required information previously reported.

- (b) A failure to report changes in required information shall be punishable by a fine of one hundred dollars (\$100.00). Each day on which the offense continues shall be deemed a separate offense.

(Added by Ord. 2017-^^)

Sec. 19-26 - Renewal of hazardous materials registration

- (a) The hazardous materials registration shall be valid for a term of one (1) year commencing January 1 and ending December 31. The registration shall be renewed prior to the expiration date specified on the registration.
- (b) Applications for registration renewal shall be made available from the New Chicago Police Department and must be submitted no sooner than ninety (90) days and not later than sixty (60) days prior to the expiration date of the registration.
- (c) Required in the renewal application will be the business information, chemical data, and the quantity requirements as specified in section 19-24. A hazardous materials registration renewal shall be issued after the requirements established in this chapter are met.

(Added by Ord. 2017-^^)

Sec. 19-27 - Facility inspection

Upon presentation of proper credentials, an officer of the New Chicago Police Department or New Chicago Fire Service may enter at reasonable times any building, structure or premises in the Town to perform any duty imposed upon them by this chapter. The New Chicago Police Department shall inspect for violations of the Town of New Chicago Town Code and the New Chicago Fire Service shall inspect for violations of the Indiana state fire Code and improper handling of chemicals.

(Added by Ord. 2017-^^)

Sec. 19-28 - Application for remote site hazardous materials registration

- (a) Any person or company wishing to use any material defined as hazardous at a site other than their registered place of business, shall submit an application for a remote site hazardous materials registration.
- (b) The applications may be obtained from the New Chicago Police Department and must be submitted twenty-five (25) days prior to the scheduled date for usage of the material in the Town limits.
- (c) Applications must contain business information, chemical data, quantity of product being used and storage container type. The location of the material to be used, the purpose for the use, length of expected use, and the insurance company providing liability insurance for the user shall also be required.

(Added by Ord. 2017-^^)

Sec. 19-29 - Issuance of remote site hazardous materials registration.

A remote site hazardous materials registration may be issued by the New Chicago Police Department after notifying the New Chicago Fire Service and the fire station responsible for the location at which the material will be used. The remote site hazardous materials registration fee shall be paid as provided in section 19-4.

(Added by Ord. 2017-^^)

Sec. 19-30 - Revocation of registration

A hazardous materials registration may be revoked if any of the following occur:

- (a) A hazardous materials release occurs at the facility due to negligence.
- (b) During any inspection, a violation of the state fire Code or mishandling of chemicals is observed or detected.
- (c) Violation of any condition set forth for the issuance of the permit or falsifying any information on the application.
- (d) Violation of any section of this chapter.

(Added by Ord. 2017-^^)

Sec. 19-31 - Cease and removal of materials, notice, fines

- (a) If no current registration is held and materials defined as hazardous material are in the possession of a facility, the facility shall, upon written notice from the Town of New Chicago Police Department, remove that substance within twenty-four (24) hours or as otherwise specified by the New Chicago Police Department.
- (b) The removal of the product must comply with local, state, and federal laws regarding transportation of that product.

(Added by Ord. 2017-^^)

Sec. 19-32 - Compliance with applicable industry standards

Any user or facility, whether established or new, shall comply with all applicable industry standards which shall include but not be limited to: requirements of special fire extinguishing or detection devices; special storage, containment, or use devices or procedures, and special training for employees.

(Added by Ord. 2017-^^)

Sections 19-33 through 19-40 – Reserved.

Article 4 – Reporting Spills, Leaks, and discharges of hazardous materials

Sec. 19-41 - Immediate reporting of incidents

Any spill, leak, discharge, or release of a dangerous, hazardous, or toxic substance into the environment shall be immediately reported by the owner or operator to the New Chicago Fire Service by telephone, or in person, as provided below:

- (a) Any spill, leak, discharge, or release of a dangerous, hazardous, or toxic substance into the environment in excess of a reportable quantity (RQ) established by any state or federal statute shall be immediately reported to the New Chicago Fire Service.
- (b) Any spill, leak, discharge, or release of a hazardous substance into the environment not in excess of any reportable quantity (RQ) established by any state or federal statute which does not remain on the grounds of a facility shall be immediately reported to the New Chicago Fire Service.
- (c) Any spill, leak, discharge, or release of a hazardous substance into the environment not in excess of a reportable quantity (RQ) established by any state or federal statute which remains on the grounds of a facility shall not require reporting.
- (d) Any spill, leak, discharge, or release of a hazardous substance into the environment involving any mode of transportation on public rights-of-way, highways, railways, etc. shall be immediately reported to the New Chicago Fire Service via a 911 telephone call.

(Added by Ord. 2017-^^)

Sec. 19-42 - Notification of Police Department

The New Chicago Fire Service, upon notification of a spill, shall immediately contact the New Chicago Police Department and advise them of the circumstances, location, and chemicals involved.

(Added by Ord. 2017-^^)

Sec. 19-43 - Spill reporting required information

The following information shall be supplied at the time of the notification:

- (a) Company and/or person's name reporting the incident.
- (b) Location of the incident.
- (c) The chemical name or identity of the substance.
- (d) An estimate of the quantity of the substance released into the environment.
- (e) An estimate of the time and duration of the occurrence.
- (f) The medium or media into which the spill, leak, discharge or release occurred.

- (g) Any known or anticipated acute or chronic health risks associated with the emergency and appropriate advice regarding medical attention referenced on the material safety data sheets.
- (h) Recommended precautions, if any, to take as a result of occurrence, including the need for the special response team.
- (i) The name and telephone number of the person or persons to be contacted for further information.

(Added by Ord. 2017-^^)

Sec. 19-44 - Time limit for written report of incidents

Within ninety-six (96) hours, excluding Saturdays, Sundays, and legal holidays, after a spill, leak, discharge or release of a dangerous, hazardous or toxic substance (that was required to be reported) has been terminated, the person and/or company reporting or responsible for the spill, leak, discharge or release shall submit the following written information to the Town of New Chicago Police Department and the New Chicago Fire Service:

- (a) The actual quantity of the substance involved in the incident and the method used to determine that quantity.
- (b) The circumstances leading to the occurrence of the incident.
- (c) The action to be taken to prevent similar incidents.
- (d) The method, extent and duration of any cleanup actively required or undertaken.

(Added by Ord. 2017-^^)

Sec. 19-45 - Dumping

- (a) No party may discharge, emit, cause, allow, or threatened to discharge, emit, cause, or allow any contaminant or waste including any noxious odor, either alone or in combination with contaminants from other sources, into the environment or into any publicly owned treatment works in any form which causes or would cause pollution.
- (b) No party may discharge, apply, or allow the application of used oil (as defined in IC § 13-7-1-25.5) to any ground surface, except for the purpose of treatment in accordance with a permit issued by the Indiana Department of Environmental Management under IC § 13-7-10.

(Added by Ord. 2017-^^)

Sections 7.5-45 through 7.5-50 – Reserved.

Article 5 – Lock Box

Sec. 19-51 - Applicability

Any person or facility that uses, stores, handles, or disposes of hazardous substances on property which is not staffed twenty-four (24) hours per day shall be required to install and maintain a lock box and provide the information outlined herein.

(Added by Ord. 2017-^^)

Sec. 19-52 - Lock box specifications

- (a) A weatherproof lock box of sufficient size to hold binders which shall contain all material safety data sheets or other similar substance information sheets on all the hazardous materials at that facility shall be required at all facilities identified in section 19-51.
- (b) The lock box shall be bright yellow in color on all sides including the top and bottom and meet ANSI (American National Standards Institute) Specification 253.1.
- (c) The police or fire chief, or their designee, shall have the authority to modify the requirements of this section.

(Added by Ord. 2017-^^)

Sec. 19-53 - Location of lock box on property

- (a) The lock box shall be located within one hundred (100) feet of the entrance to the plant or facility at a height of between thirty-six (36) inches and forty-eight (48) inches above the ground.
- (b) The placement of the lock box in the plant or facility shall be approved by the Town of New Chicago Police Department and/or fire department.

(Added by Ord. 2017-^^)

Sec. 19-54 - Required information

- (a) The required information shall be stored in binders. The facility plot plan and other plans and documents shall be made to scale suitable for indicating the information required below.
- (b) Information on the plot plan and other plans and documents shall include:
 - (1) The location and identification of each structure.
 - (2) The location and size of all fire hydrants located on the premises and within five hundred (500) feet of the boundary line of the premises.
 - (3) The location and quantity of all major fire fighting, spill response or safety related equipment such as, but not limited to:
 - i. Water sprinkler system,
 - ii. Foam suppressants (by type and quantity),

- iii. Dry powder suppressants (by weight or size),
 - iv. Protective clothing (specify fire/acid suits or other special suits),
 - v. Self-contained breathing apparatus (specify amount of breathing time in minutes),
 - vi. Resuscitator,
 - vii. Natural gas shutoff valves,
 - viii. Electric shutoff points,
 - ix. Municipal water shutoff points,
 - x. Drains to any sanitary sewer,
 - xi. In-plant telephones,
 - xii. Telephones,
 - xiii. Other items the Fire Service or Police Department may require.
- (4) An emergency action plan (E.A.P.) which shall outline the responsible persons and their actions in the event of a fire, spill, leak, discharge or release of a hazardous substance.

(Added by Ord. 2017-^^)

Sec. 19-55 - Access keys

Two (2) keys to the lock box shall be provided to the New Chicago Fire Service and two (2) keys shall be provided to the Town of New Chicago Police Department for use solely by the New Chicago Fire Service and Town of New Chicago Police Department in the event of a fire, spill, leak, discharge, release or inspection.

(Added by Ord. 2017-^^)

Sec. 19-56 - Modification of requirements

The police chief or the fire chief, or their designee, shall have the authority to alter or modify any of the requirements in this article including the authority to require the installation of lock box at a particular facility, based upon the specific hazards associated with that facility.

(Added by Ord. 2017-^^)

Sections 19-57 through 19-60 – Reserved.

Article 6 – Right of entry to premises

Sec. 19-61 - Entry of personnel

- (a) All persons shall allow the New Chicago Fire Service hazardous material response team and Town of New Chicago Police Department personnel to enter any premises whereupon a spill, leak, discharge, or release of a dangerous, hazardous, or toxic substance has been reported or has occurred.

(b) Entry of personnel pursuant to this section shall be enforced by the Town of New Chicago Police Department.

(Added by Ord. 2017-^^)

Sections 19-62 through 19-70 – Reserved.

Article 7 – Cost recovery for emergency response

Sec. 19-71 - Responsible party

Any individual, partnership, cooperative, firm, company, corporation, association, trust, estate, government entity, or other legal entity or their legal representatives, agents, lessee, shipper, transporter, carrier, or assignees who cause or suffer a leak, discharge, release, or spills of any hazardous material, through accident or otherwise, in which the spilled material shall enter onto any public right-of-way, highway, railway, or shall enter the environment outside of the facility boundaries shall be considered the responsible party.

(Added by Ord. 2017-^^)

Sec. 19-72 - Reimbursement for equipment used

- (a) The party responsible for or incurring a release of any hazardous material in which the special response team and/or New Chicago Fire Service vehicles respond shall reimburse the New Chicago Fire Service within thirty (30) days of the receipt of the bill from the New Chicago Fire Service for the equipment used.
- (b) The responsible party shall reimburse for the special response team equipment whether used and returned, used and discarded, damaged, lost, spent, destroyed, or rendered irreparable, pursuant to the equipment inventory which is incorporated by reference as fully equipped.

(Added by Ord. 2017-^^)

Sec. 19-73 - Reimbursement for special response team members or other Fire Service personnel

The responsible party who causes or suffers leaks, discharges, releases, or spills of hazardous materials for which more than one (1) member of the New Chicago Fire Service (or any other emergency response agency) responds, shall reimburse the New Chicago Fire Service within thirty (30) days of the receipt of the bill for the man-hour (or fractions thereof) involved in the response as follows:

Fire personnel Fee (per hour)

Firefighter.....\$22.00

Lieutenant.....24.00

Captain.....26.00

Hazmat officer.....28.00

Assistant battalion chief.....28.00

Battalion chief.....30.00

Assistant chief.....30.00

Chief.....32.00

Other personnel..... Hourly pay rate plus 20%

(Added by Ord. 2017-^^)

Sec. 19-74 - Reimbursement of special response team unit

The responsible party who causes or suffers leaks, discharges, releases, or spills of hazardous materials for which special response team unit responds shall reimburse the New Chicago Fire Service pursuant to the schedule of charges established under IC § 36-8-12-16 within thirty (30) days of the incident for the response of the unit.

(Added by Ord. 2017-^^)

Sections 19-75 through 19-80 - Reserved.

Article 8 – Hazard communication system

Sec. 19-81 - Applicability

Any person that uses, stores, handles, or disposes of substances defined as dangerous, hazardous, or toxic by law shall be required to post the N.F.P.A. 704 Hazard Communication System in the locations specified herein.

(Added by Ord. 2017-^^)

Sec. 19-82 - Assignment of numeric ratings

The numeric rating shall be assigned for all locations which shall indicate the most severe hazard generated in each category. The rating system defined in Chapter 2 of 704 National Fire Code shall be used to determine the overall hazards generated.

(Added by Ord. 2017-^^)

Sec. 19-83 - Required locations

A 704 symbol no smaller than four (4) inches on a side shall be located in the middle lower half of all entry doors into the facility and it shall be displayed no lower than twelve (12) inches and no higher than thirty-six (36) inches from the ground. The 704 symbol shall also be displayed on the exterior of the lock box installed on the building or fence.

(Added by Ord. 2017-^^)

Sections 19-84 through 19-85 - Reserved.**Article 9 – Etiological and biomedical hazards****Sec. 19-86 - Applicability**

Any business or person who uses, handles, stores, or disposes of items known to contain, or possibly be contaminated with an infectious disease or etiologic agent shall register with the Town of New Chicago Police Department.

(Added by Ord. 2017-^^)

Sec. 19-87 - Application for etiologic and biomedical hazard registration

- (a) The Town of New Chicago Police Department shall prepare a written application form for the etiologic and biomedical hazard registration.
- (b) This application shall include the information required in section 19-24(a), the approximate number and type of containers used to secure the possibly infected items, and method of disposal.
- (c) This registration shall be valid for the period of one year from the date of issuance.
- (d) A new application shall be submitted for each renewal.

(Added by Ord. 2017-^^)

Sec. 19-88 - Issuance of etiologic and biomedical hazard registration

The Town of New Chicago Police Department shall register all applicants upon submission of the application and tendering of the registration fee provided in section 19-4 of this chapter.

(Added by Ord. 2017-^^)

Sec. 19-89 - Enforcement responsibilities

The Town of New Chicago Police Department shall keep on file a copy of all registrations, and shall provide the registrant with a log to record all transactions between the business and the disposal company. This record shall be made available to the Police Department and Fire Service for inspection, and shall be returned to the Police Department once the log has been filled. The Police Department may periodically contact the hazard waste disposal company(s) indicated on the log to audit the removal of the waste.

(Added by Ord. 2017-^^)

Sections 19-90 through 19-100 - Reserved.**Article 10 – Underground storage tanks****Sec. 19-101 - Definitions**

The definitions contained in IC § 13-7-20 are adopted as applicable to this chapter except to the extent that other terms and conditions of this chapter dictate otherwise.

(Added by Ord. 2017-^^)

Sec. 19-102 - Registration of underground storage tanks

- (a) Every owner or operator of an underground storage tank that has been used to store regulated substances since January 1, 1974, which is in the ground as of May 8, 1986, or that is brought into use after May 8, 1986 shall register the tank with the Town of New Chicago Police Department no later than October 1, 2017.
- (b) The Town of New Chicago Police Department shall make available to the owner or operator of any underground storage tank required to register a notification form requesting the information required under the Resource Conservation and Recovery Act, (RCRA) section 9002.

(Added by Ord. 2017-^^)

Sec. 19-103 - Registration fee

Every owner or operator of an underground storage tank shall pay a one-time registration fee as provided in section 19-4 of this chapter.

(Added by Ord. 2017-^^)

Sec. 19-104 - Tank tightness testing

- (a) The Town of New Chicago Police Department shall be provided with a copy of all documentation, information or reports submitted to the Indiana Department of Environmental Management or the United States Environmental Protection Agency in reference to the tank tightness testing pursuant to IC § 13-7-20-28.
- (b) The testing frequency shall be specified by schedule issued by the United States Environmental Protection Agency Office of Underground Storage Tanks.

(Added by Ord. 2017-^^)

Sec. 19-105 - Permits for installation, testing, retrofitting, removal or closure of an underground storage tank

- (a) Any person engaging in any activity for which certification is required pursuant to IC § 13-7-20-13.1 shall obtain a permit for such activity from the Town of New Chicago Police Department.
- (b) Application for such permit shall be made at least twenty (20) days prior to the installation, testing, retrofitting, removal or closure of any underground storage tank. The Town of New Chicago Police Department shall prepare a written application form for the issuance of the permit. A permit fee provided in section 19-4 shall be paid per site and shall be tendered with each application for a permit.
- (c) Prior to the issuance of a permit under this chapter, the applicant shall show proof of notification as required by 40 CFR 280 and 281 and proof of the issuance of a letter to proceed by the Indiana Department of Environmental Management.

(Added by Ord. 2017-^^)

Sec. 19-106 - Competency of contractor

The installation, testing, retrofitting, removal or closure of any underground storage tank in New Chicago shall be performed only by a person holding a valid certification for such activity pursuant to IC § 13-7-20-13.1 and a valid Town of New Chicago contractor license as required by Chapter 9 and Chapter 10 of the New Chicago Town Code.

(Added by Ord. 2017-^^)

Sec. 19-107 - Contractor operational guidelines

- (a) Any installation, testing, retrofitting, removal or closure of an underground storage tank in New Chicago shall be performed in accordance with the following guidelines:
- (1) American Petroleum Institute Guide 1604, 2215 and 2215A.
 - (2) National Fire Protection Association Guide 30.
 - (3) All applicable federal and state regulations.
 - (4) Secondary containment systems shall be required where applicable on all new installations and retrofittings.
 - (5) Regulations promulgated by New Chicago Fire Service.
- (b) A person certified pursuant to IC § 13-7-20-13.1 shall be present during any excavation work performed under the provisions of this chapter.
- (c) The New Chicago Fire Service shall have the right to mandate the type and extent of necessary safety and monitoring equipment needed at the site of each excavation undertaken pursuant to this chapter. The permit holder shall be responsible for assuring the presence of safety and monitoring equipment at each excavation site and shall be responsible for assuring that all safety and monitoring equipment is in working order.

(Added by Ord. 2017-^^)

Sec. 19-108 - Display of permit

The permit issued pursuant to this chapter by Town of New Chicago Police Department shall be prominently displayed at all excavation sites for inspection by the Town of New Chicago Police Department and the local fire department with jurisdiction of the area.

(Added by Ord. 2017-^^)

Sec. 19-109 - Date of excavation

The permit issued pursuant to provisions of this chapter shall contain a date for the commencement of excavation. Any change in the date for the commencement of excavation shall be immediately communicated to the Town of New Chicago Police Department and the local fire department having jurisdiction in the area.

(Added by Ord. 2017-^^)

Sec. 19-110 - Documentation and reports

- (a) The Town of New Chicago Police Department shall be provided with a copy of all documentation, information or reports submitted to the Indiana Department of Environmental Management pursuant to IC § 13-7-20. The Town of New Chicago Police Department shall be provided with a copy of all

sampling test results done at each excavation site under the provisions of this chapter within fifteen (15) days of the permit holder's receipt of such sampling test results. The Town of New Chicago Police Department shall be provided with a copy of all disposal records within fifteen (15) days of the disposal of all liquids or sludges removed from any underground storage tank pursuant to the provisions of this chapter. The Town of New Chicago Police Department shall be advised as to the proposed procedure for disposal of soil associated with the excavation activities regulated by this chapter and shall be immediately notified of any groundwater contamination or soil contamination which is found to be present in conjunction with the activities regulated by this chapter. Any soil excavated under the provisions of this chapter shall be placed on plastic and covered in order to limit further contamination of the environment.

- (b) The Town of New Chicago Police Department and the New Chicago Fire Service shall receive copies of any and all plans for remedial action if remedial action is required at any excavation site regulated by the provisions of this chapter. Upon completion of such remedial action at any excavation site regulated by the provisions of this chapter, the Town of New Chicago Police Department and the New Chicago Fire Service shall be provided with a copy of the permit holder's final report concerning the completion of remedial action at the site.

(Added by Ord. 2017-^^)

Sec. 19-111 - Stop work order

Failure of any person to comply with any provision of this article shall result in the Police Department or Fire Service issuing an order requiring the stoppage of all work until such time as compliance with the provisions of this chapter is obtained.

(Added by Ord. 2017-^^)

Sections 119-112 through 119-120 – Reserved.

Article 11 – Fire safety

Sec. 19-121 - Fire inspections

- (a) Every place of business, public assembly, school, institution, care facility, apartment complex, and public way in the Town of New Chicago, except the municipal and Township facilities, and the interiors of private dwellings, shall be inspected for compliance with the fire safety laws at least annually.
- (b) Fire inspections shall be required for special activity events that are deemed necessary by the New Chicago Fire Service fire chief or his/her designee.
- (c) A written record of each such inspection, and reinspection if needed, shall be maintained by the New Chicago Fire Service at the New Chicago Fire Service building.
- (d) Fees for inspections and reinspections shall be paid as provided in section 19-4 of this chapter.

(Added by Ord. 2017-^^)

Sec. 19-122 - Fire lanes

- (a) Parking shall not be permitted in any means of access within twenty (20) feet of a fire hydrant, sprinkler, or standpipe connection or in any other manner that will interfere with the fire department's use of the hydrant or connection.
- (b) At least two (2) means of access for fire apparatus shall be required for each structure exceeding three (3) stories or thirty-five (35) feet in height not less than one of which shall be a fire lane or street.
- (c) At least fourteen (14) feet nominal clearance shall be provided over the full width of fire lanes and private means of access.
- (d) Landscaping or other obstructions shall not be placed around structures so as to impede or impair accessibility to firefighting and rescue operations.
- (e) Fire department access to all structures under construction shall be provided at all times. In areas where ground is likely to become soft, hard all-weather ground surface access roads shall be provided.
- (f) A violation of this section is punishable by a fine of one hundred dollars (\$100.00). Said fine shall be placed into the general fund of the Town.

(Added by Ord. 2017-^^)

Sec. 19-123 - Fire inspections of new or remodeled buildings

- (a) A fire inspection of all new and remodeled building shall occur prior to issuance of an occupancy permit.
- (b) No building occupancy permits of any type shall be issued by the Town of New Chicago prior to all lawfully necessary inspections.

(Added by Ord. 2017-^^)

Sections 19-125 through 19-130 - Reserved.

Article 12 – Hotel and motel safe occupancy

Sec. 19-131 - Purpose and applicability

- (a) The purpose of this article is to discontinue and prevent the unsafe use of short-term stay hotels and motels which have been used as long-term residential facilities in Northwest Indiana.
- (b) Not only do these locations not meet the Indiana Fire and Building Code requirements for long-term use, they create a burden on public safety departments. During inspections of such locations, living conditions are deplorable and unsafe. As a result of these buildings not being designed for extended

stay, occupants often disable or remove life safety equipment in order to cook using make shift stoves and other cooking appliances which create fire hazards.

(c) This article shall be applicable to all new and existing hotels/motels within the Town of New Chicago.

(Added by Ord. 2017-^^)

Sec. 19-132 - Definitions

Residential Group 1: Residential occupancies containing sleeping units in which the occupants are transient in nature including: hotels (transient), motels (transient) and boarding houses (transient).

Residential Group 2: Residential occupancies containing sleeping units or more than two (2) dwelling units in which the occupants are primarily permanent in nature including: apartment houses, boarding houses, convents, dorms, hotels (non-transient), motels (non-transient) monasteries, vacation timeshare, fraternities and sororities.

Room accommodation: The paid public occupancy by reason of concession, permit, right of access, rental or other agreement by any person or persons.

(Added by Ord. 2017-^^)

Sec. 19-133 - Prohibitions

(a) Occupancy limits.

- (1) Room accommodations in any establishment shall not be made available for more than thirty (30) consecutive days or for more than sixty (60) days total in any consecutive one hundred and eighty-day period unless the establishment meets or exceeds all requirements for a Residential Group R-2 occupancy under the Indiana Fire and Building Code in effect at the time the violation is discovered.
- (2) If a room accommodation is rented to or otherwise occupied by any person for either of the maximum time periods allowed by this section, then such accommodation may not again be rented or occupied by that same person or any person that is a member of that person's party. The right to occupy any accommodation shall not be assigned or transferred to any other person.
- (3) Exceptions:
 - i. Extended stay hotels/motels constructed as or meeting the requirements of a Residential Group R-2 Occupancy under the Indiana Fire and Building Code shall be allowed a room accommodation occupancy time limit of three hundred and sixty-five days at which time a ninety-day check out period is required.
 - ii. Full time live-in staff are permitted if proper living quarters are provided with means for cooking which meet all applicable Indiana fire, building, plumbing, fuel gas, electrical and mechanical Code requirements at the time of construction, inspection, or adoption of the ordinance from which this chapter derives.

(b) Cooking.

- (1) *Short stay*: In room cooking shall be limited to microwave or coffee pot use as supplied by management. This shall not be construed to prevent lawful use of other cooking appliances that are rated or listed for such use and are supplied by management in rooms specifically designed for such that meet all applicable Indiana fire, building, plumbing, electrical, fuel gas and mechanical Codes at the time of inspection. The use of solid fuel or gas grills shall be prohibited in rooms or on balconies.
 - (2) *Extended stay*: In room cooking shall be conducted only on equipment rated and listed for the intended use which is provided by management in rooms designed for such that meet all applicable Indiana building, fire, plumbing, fuel gas, electrical and mechanical Codes at the time of inspection. Allowed equipment includes but is not limited to microwaves, electric cookers, gas fired appliances, and hot plates. The use of solid fuel or gas grills shall be prohibited in rooms or on balconies.
- (c) *Storage*. The storage of items in interior hallways or stairways as well as the exterior of the building including balconies and walkways shall be prohibited.

(Added by Ord. 2017-^^)

Sec. 19-134 - Enforcement

- (a) Enforcement of this article may be conducted by agents of the Town of New Chicago Police Department, Code Enforcement, Building commissioner, and Fire Department.
- (b) Room accommodation and occupancy records shall be kept for a period of not less than five (5) years. These records shall include the name of all individual occupants, date of birth, room number and the date the room accommodation was created and terminated. These records shall be produced within forty-eight (48) hours to enforcement agents listed above upon request.

(Added by Ord. 2017-^^)

Sec. 19-135 - Penalties

Violation of any portion of this article shall result in a fine of not less than one hundred dollars (\$100.00) and not to exceed two thousand five hundred dollars (\$2,500.00) for the operator of the hotel or motel. Each day of a violation shall constitute a separate offense.

(Added by Ord. 2017-^^)

Sections 19-136 through 19-140 – Reserved.

Article 13 – Alarm systems

Sec. 19-141 - Definitions

The following definitions shall be applicable for the purposes of this article:

Alarm equipment supplier. Any person, firm or corporation that sells, leases or installs automatic protection devices or signaling devices which transmit alarms upon receipt of a stimulus from a detection apparatus or manually operated system.

Alarm conditions. Alarms activated by unlawful violation of a user's property or other violations that the systems were designed to protect against, acts of God, other violent conditions or by outside agencies or external forces not under the control of the owner, lessee or his/her employee or agent.

Alarm user. Any person on whose premises an alarm system is maintained within the Town except for alarm systems on motor vehicles. Also included are those systems which employ an audible signal emitting sounds or a flashing light or beacon designed to alert or signal persons outside the premises.

Alarm systems. An assembly of equipment and devices, such as a solid state unit, arranged to signal the presence of a hazard requiring urgent attention and to which the police or fire department are expected to respond.

Central station. A facility whose prime purpose is to monitor incoming alarm signals 24 hours a day and relay the signal information to the appropriate authorities.

Direct line. A telephone line leading directly into the communication center of the Police Department that is for use only to report signals on a station-to-station basis.

False alarms. The activation of an alarm system caused by improper operation, negligence of the owner or lessee or his/her employee or agent, or equipment malfunction.

Local alarms. A signaling system which, when activated, causes an audible and/or visual signaling device to be activated in or on the premises within which the system is installed.

Person. Any individual, partnership, corporation, association, or society, but such term does not include the Town of New Chicago.

Police chief or Chief of Police. The chief of the Police Department of the Town or his/her authorized representative.

Public trunkline. A telephone line leading into the communications center of the Police Department that is for the purpose of handling emergency and administrative calls on a person-to-person basis.

Signaling device. An electrically operated instrument which automatically sends visual and/or audible signals to be registered to indicators at a monitor panel at the receiving terminal or central station.

(Added by Ord. 2017-^^)

Sec. 19-142 - Permitted devices

- (a) No person shall use or cause or permit to be used, an alarm system utilizing signaling devices that automatically select a public trunkline of the Police Department of the Town and then reproduce any pre-recorded message to report any robbery, burglary, fire or other emergency.
- (b) With the exception of local alarms, only signaling devices shall be permitted to be installed in the Town for the purpose of reporting any robbery, burglary, fire or other emergency to the Police Department of the Town.
- (c) A violation of this ordinance is punishable by a fine of one hundred dollars (\$100.00). Each day during which a violation occurs shall be deemed a separate offense.

(Added by Ord. 2017-^^)

Sec. 19-143 - Enforcement and compliance

- (a) The fire department or its designee shall be responsible for ensuring that all fire alarms are compliant with this article and with the provisions of the Indiana Fire Code as it is amended from time to time.
- (b) The Police Department or its designee shall be responsible for ensuring that all burglar alarms are compliant with the article.

(Added by Ord. 2017-^^)

Sec. 19-144 - Certification by alarm equipment supplier

- (a) Within ten (10) days after the professional initial installation of an alarm system, and within ten (10) days after a modification of an existing alarm system, the alarm equipment supplier shall deliver to the Clerk-Treasurer a certification by it that the alarm system is installed and operating in accordance with standard industry practices and in compliance with applicable laws and ordinances.
- (b) A violation of this ordinance is punishable by a fine of one hundred dollars (\$100.00). Each day during which a violation occurs shall be deemed a separate offense.

(Added by Ord. 2017-^^)

Sec. 19-145 – Audible alarm tones

- (a) Local alarms with an externally audible alert shall not make a sound similar to that of Civil Defense warning systems and such alarms in residential districts or within six hundred and sixty (660) feet thereof must have an automatic cutoff after fifteen (15) minutes of sounding.
- (b) A violation of this ordinance is punishable by a fine of one hundred dollars (\$100.00). Each day during which a violation occurs shall be deemed a separate offense.

(Added by Ord. 2017-^^)

Sec. 19-146 - Testing of equipment

- (a) No alarm system shall be tested or demonstrated without first obtaining permission from the police or fire department.
- (b) Failure to notify the police or fire department prior to testing an alarm system shall constitute a false alarm.
- (c) A violation of this ordinance is punishable by a fine of one hundred fifty dollars (\$150.00). Each day during which a violation occurs shall be deemed a separate offense.

(Added by Ord. 2017-^^)

Sec. 19-147 - False fire calls

- (a) That if the Fire Service serving the Town of New Chicago dispatches fire apparatus or personnel to a building or premises in the Town of New Chicago in response to:
 - (1) The activation of any fire alarm system which results in a response by the fire department and which is caused by the negligence of the owner, its employees, agents, or any other activation of a fire alarm system not caused by heat, smoke, water or fire; or
 - (2) The activation of any fire alarm system, which results is a response by the fire department, caused by mechanical failure, malfunction, improper installation, lack of proper maintenance or any other response for which fire department personnel are unable to determine the apparent cause of the alarm activation.
- (b) Then in the following above instances, the Town of New Chicago shall impose a fine upon the owner of the property.
 - (1) The amount of the service charge imposed shall be: A charge of one hundred fifty dollars (\$150.00) for a second false or subsequent false alarm in any ninety (90) day period;
- (c) For purposes of determining the number of false alarms in any time period (a), a false alarm that occurs within an apartment or industrial complex, regardless of the building, is considered a false alarm by the complex as a whole.

(Added by Ord. 2017-^^)

Sec. 19-148 – Intentional false alarm

A person or entity who knowingly, intentionally, and without just cause activates a security alarm to notify the police or fire department in a situation where there is no actual or threatened emergency or criminal activity of the type for which the alarm is designed is subject to a fine of five hundred dollars

(\$500.00) for a first offense. Subsequent offenses shall be punishable by a fine of no less than five hundred dollars (\$500.00) or more than seven thousand five hundred dollars (\$7,500.00).

(Added by Ord. 2017-^^)

Sec. 19-149 - Disconnection of burglar alarms

- (a) Whenever alarm conditions are received by the police or fire department that evidence a failure of burglar alarm equipment or said alarm user to comply with the requirements of this article, the Chief of Police may order that the burglar alarm user disconnect such alarm system until it is made to comply with the requirements of this article.
- (b) If there are more than six (6) false alarms in a calendar year from any burglar alarm system, the Chief of Police may, in his/her discretion, remove the burglar alarm system from the signal board.
- (c) No action of disconnection shall take place unless the Chief of Police first gives written notice of his/her intention to do so, and the date on which the action will be taken, provided, however, that in the event the Chief of Police believes that an action of disconnection is necessary for the public health or safety, he may disconnect a burglar alarm system and provide the alarm user with prompt notification thereof.

(Added by Ord. 2017-^^)

Sec. 19-150 - Hold harmless

- (a) In the event that an alarm user or alarm equipment supplier has violated or failed to comply with any provision of this article, such alarm user and such alarm equipment supplier shall hold the Town harmless from any cost, expense, claim or the like incurred or paid by the Town arising out of or occurring as a result of the installation and operation of an alarm system within the Town including, but not limited to, reasonable attorney fees, litigation expenses and court costs.
- (b) The alarm user and the alarm equipment supplier, by voluntarily choosing to install and utilize an alarm system within the Town, waives any claim or cause of action which either may have against the Town for acts and/or omissions taken by the Town in good faith.

(Added by Ord. 2017-^^)

Chapter 20 - Animals

Article 1 – Generally

Sec. 20-1 - Definitions

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly dictates a different meaning:

Animal means as defined in IC § 35-46-3-3.

Animal pound means any facility operated by a humane society, or municipal agency or its authorized agents, for the purpose of impounding animals under the authority of this chapter or state law for the care, confinement, return to owner, adoption, or euthanasia.

Circus means a commercial variety show featuring animal acts for public entertainment.

Commercial animal establishment means any pet shop, grooming shop, guard dog auction, riding school or stable, zoological park, performing animal exhibition, or boarding or breeding kennel.

Grooming shop means a commercial establishment where animals are bathed, clipped, plucked, or otherwise groomed.

Guard dog means any type of dog used primarily for the purpose of defending, patrolling, or protecting property or life.

Humane officer or animal control officer means any person designated by the state or Town, either individually or collectively, to perform such duties as required to enforce the provisions of this chapter or the laws of the state pertaining to animals.

Harbor means to keep or to permit any dog or cat to frequent or remain on or within one's house, property, building, enclosure, or premises, and to feed, lodge, or otherwise care for such an animal.

Kennel or cattery means any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs or cats. Four or more dogs or cats owned, harbored, possessed, or cared for or kept in the custody of any person shall be construed and constitute a kennel.

Owner means any person owning, keeping, or harboring one or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for three (3) or more consecutive days.

Pet shop means any person, whether operated separately or in connection with another business enterprise (except a licensed kennel), that buys, sells, or boards any species of animal.

Public nuisance means any animal that unreasonably annoys humans, endangers life or health of other animals or humans, or substantially interferes with the rights of citizens, other than their owners, to the enjoyment of life or property. The term "public nuisance animal" shall mean and include, but is not limited to, any animal to which any of the following applies:

- (1) Is repeatedly found at large;
- (2) Damages the property of anyone other than its owner;
- (3) Molests or intimidates pedestrians or passersby;
- (4) Chases vehicles;
- (5) Makes disturbing noises, including, but not limited to, continued and repeated howling, barking, whining, or other utterances causing unreasonable annoyance, disturbance, or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
- (6) Causes fouling of the air by odor and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
- (7) Causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored;
- (8) Is offensive or dangerous to the public health, safety, or welfare by virtue of the number and or type of animal maintained;
- (9) Attacks other domestic animal or humans.

Restraint means any animal secured by a leash or lead under the control of a responsible person and obedient to that person's commands, or within the real property limits of its owner. This definition shall not be construed or interpreted to encompass IC § 15-5-9-13.

Riding school or stable means any place that has available for hire, boarding, and/or riding instruction, any horse or pony, donkey, mule, or burro, or any place that regularly buys, sells, or trains such animals, including a racetrack, trotting track, or rodeo.

Veterinary hospital means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis, and treatment of disease and injuries of animals.

Vicious animal means any animal that attacks, bites, or injures human beings or domesticated animals without provocation, or which, because of temperament, conditioning, or training has a known propensity to attack, bite, or injure humans or domesticated animals.

Wild animal means any living member of an animal kingdom, including those born or raised in captivity, except the following: human beings, domestic dogs (excluding hybrids with wolves, coyotes, or jackals), domestic cats (excluding hybrids with ocelots or margays), farm animal, rodents, any hybrid animal that is part wild, and captive-bred species of common cage birds.

Zoological park means any facility operated by a person, partnership, corporation, or governmental agency, other than a pet shop or kennel, displaying or exhibiting one or more species of nondomesticated animal.

(Added by Ord. 2017-^^)

Sec. 20-2 – Poultry, chickens, and pigeons

No person shall keep any poultry, chickens, or pigeons or maintain any place where such poultry, pigeons, or chickens are kept within the Town of New Chicago.

(Added by Ord. 2017-^^)

Sec. 20-3 – Livestock

No person shall keep any horses, cattle, swine, potbelly pigs, goats, or any other livestock within the Town.

(Added by Ord. 2017-^^)

Sec. 20-4 - Bees

No person shall keep bees within three hundred (300) feet of the dwelling house of any person other than the keeper or owner of such bees.

(Added by Ord. 2017-^^)

Sec. 20-5 - Wild animals

- (a) No person shall own, harbor, have custody of, or otherwise possess on his/her premises or in his/her vehicle, any wild animals, and/or vicious animals for rehabilitation, display, training or exhibition purposes or for any other purpose. Harboring shall mean to permit such animal to frequent or remain on or within a building, house, premises or enclosure.
- (b) No person shall keep, possess, or have custody on his/her premises any wild or vicious animal for display, training, or exhibition purposes whether gratuitously or for a fee. This section shall not be construed to apply to ASCPA accredited facilities.
- (c) No person shall keep or permit to be kept any wild animals as a pet or for breeding purposes.
- (d) The Town Council shall have the power to release or order the release of any infant wild animal under temporary permit that is deemed capable of survival.
- (e) Department of natural resources licensing and permitting notwithstanding, the rehabilitation of wild animals is prohibited for all purposes within the corporate limits of the Town
- (f) Wild animals shall means any living member of the animal kingdom, including those born or raised in captivity, including lions, tigers, cougars, and any other Class e animal pursuant to DNR regulations, except the following: human beings, domestic dogs (excluding hybrids with wolves, coyotes, or jackals), domestic cats, farm animals, domesticated rabbits, rodents, fish, and hybrid animals that are part wild, captive-bred species of common cage birds.

(Added by Ord. 2017-^^)

Sec. 20-6 - Farm animals

No person shall own, possess, or have custody any animal classified as a farm animal, such as, but not limited to, chickens, horses, pigs, swine, goats, roosters, etc.

(Added by Ord. 2017-^^)

Sec. 20-7 - Performing animal exhibitions

- (a) No person may sponsor, promote, train a wild animal to participate in, contribute to the involvement of a wild animal in, or attend as a spectator any activity or event in which any wild animal engages in unnatural behavior or is wrestled, fought, mentally or physically harassed, or displayed in such a way that the animal is abused or stressed mentally or physically or is induced or encouraged to perform through the use of chemical, mechanical, electrical, or manual devices in a manner that will cause or is likely to cause physical injury or suffering.
- (b) This prohibition applies to events and activities taking place in either public or private facilities or property, and applies regardless of the purpose of the event or activities and irrespective of whether or not a fee is charged to spectators.
- (c) All equipment used on a performing animal shall fit properly and be in good working condition.
- (d) This section shall not apply to bona fide circuses or those activities in IC § 35-46-3-8 et seq.
- (e) A violation of this ordinance shall be punishable by a fine of no less than five hundred dollars (\$500.00) or more than two thousand five hundred dollars (\$2,500.00) for a first offense. Subsequent offenses shall be punishable by a fine of no less than five hundred dollars (\$500.00) or more than seven thousand five hundred dollars (\$7,500.00).

(Added by Ord. 2017-^^)

Sec. 20-8 – Reserved.

Sec. 20-9 – Animal waste

- (a) The owner of every animal shall be responsible for the instant cleanup and removal of any excreta deposited by the owned animal on public property or the private property of others, and at all times while escorting the animal away from its home premises, such owner shall carry on person the material and equipment necessary to accomplish such cleanup and removal.
- (b) If necessary, the owner of the animal shall be responsible for the reasonable costs of any DNA testing proving that an individual's animal is responsible for unremoved animal waste.
- (c) The owner who fails to comply with any requirement of this section commits a violation.

(Added by Ord. 2017-^^)

Sec. 20-10 – Dead animals

- (a) No person shall dispose of or throw away any carcass, animal, animal blood, or parts of any carcass upon any street, alley, or other public place or upon any land within the corporate limits of the Town.
- (b) No person shall convey or transport any dead body of an animal through or along any of the streets or alleys of the Town so as to expose to view any part of the carcass of such animal, and unless such dead body or carcass is enclosed in a tight box or tank with sufficient covering to prevent the escape of noxious fumes, vapors, or odors therefrom.

(Added by Ord. 2017-^^)

Sec. 20-11 - Motor vehicle caused injuries

- (a) Any person operating a motor vehicle which causes injuries or death to a domestic animal shall stop at once, assess the extent of the injury, and immediately notify the owner or animal control, through the Town police dispatcher.
- (b) A violation of this section shall be punishable by a fine of two hundred fifty dollars (\$250.00) for a first offense. Subsequent offenses shall be punishable by a fine of no less than two hundred fifty dollars (\$250.00) or more than seven thousand five hundred dollars (\$7,500.00).

(Added by Ord. 2017-^^)

Sec. 20-12 – Animals as prizes or giveaways

No person shall give away any live animal, reptile, or bird as a prize for, or as an inducement to enter, any contest or other competition, as an inducement to enter a place of amusement, or as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.

(Added by Ord. 2017-^^)

Sec. 20-13 – Reserved.**Sec. 20-14 - Restraint of animal**

- (a) *Dogs.* All dogs shall be kept under restraint.
- (b) *Cats.* All cats shall be kept under restraint.
- (c) *Ferrets.* All ferrets shall be kept under restraint.
- (d) *Public nuisance.* Owners shall exercise proper care and control of their animals to prevent them from becoming a public nuisance.
- (e) *Dogs or cats in heat.* Every female dog or cat in heat shall be confined in a building or secure enclosure in such a manner that such female dog or cat cannot come into contact with another animal except for planned breeding.

- (f) *Vicious animal.* Every vicious animal shall be confined by the owner within a building or secure enclosure and shall be securely muzzled or caged whenever off the premises of its owner.

(Added by Ord. 2017-^^)

Sec. 20-15 - Care of animals

- (a) No owner shall fail to provide his/her animals with sufficient wholesome and nutritious food, water in sufficient quantities, proper air, shelter space and protection from weather, veterinary care when needed to prevent suffering and humane care and treatment. Fresh food and water shall be provided a minimum of every twenty-four (24) hours.
- (b) No person shall beat, cruelly ill-treat, torment, overload, overwork or otherwise abuse an animal or cause, instigate or permit any dogfight, cockfight, bullfight or other combat between animals and/or humans.
- (c) No owner of an animal shall abandon such animal.
- (d) No person shall crop a dog's ears or dock a dog's tail, except when a licensed veterinarian issues a signed certificate that the operation is necessary for the dog's health and comfort. In no event shall any person except a licensed veterinarian perform such operation.
- (e) No person shall expose any known poisonous substance, whether mixed with food or not, so that the same shall be liable to be eaten by any animal, provided that it shall be lawful for a person to expose on his/her own property common rat or insect poison mixed only with a vegetable substance intended for the destruction of mice, rats, or insects.
- (f) No person shall confine any animal in a motor vehicle in such a manner that places it in a life- or health-threatening situation by exposure to a prolonged period of extreme heat or cold, without proper ventilation or other protection from such heat or cold. In order to protect the health and safety of an animal, an animal control officer, law enforcement officer, or other investigator who has probable cause to believe that this section is being violated by any reasonable means, after making a reasonable effort to locate the owner or other reasonable person, such animal may be impounded or taken for emergency veterinary care at owner's expense. Reasonableness shall consider various factors, including the weather, and shall take into account an emergency situation threatening the animal. The Town will not be liable for any property damage that occurs as a result of rescuing an animal reasonably believed to be endangered under this subsection.
- (g) Nothing within this section shall reduce a citizen's responsibilities under state law or prevent prosecution for state animal crimes.
- (h) This section shall be punishable by a fine of no less than one hundred dollars (\$100.00) or more than two thousand five hundred dollars (\$2,500.00) for a first offense.

(Added by Ord. 2017-^^)

Sec. 20-16 – Parties responsible for enforcing this chapter

- (a) The Department of Code Enforcement shall be primarily responsible for enforcing this chapter.

- (b) The Town of New Chicago may contract with third parties to provide animal control services. Said third parties shall possess all of the authority of a Code Enforcement officer while acting within the scope of their contractual capacities. At least two (2) copies of any such contracts shall be available for public inspection and copying at the Town Hall.
- (c) The New Chicago Police Department may write citations for individuals found in violation of this chapter.

(Added by Ord. 2017-^^)

Sec. 20-17 – Ferocious and dangerous animals

It shall be unlawful for any person to keep, shelter, or harbor within the Town any animal or beast which by nature is inherently vicious, ferocious, or dangerous, whether such animal is caged or otherwise restrained. Notwithstanding, dangerous breed dogs may be kept in conformity with Article 5 of this chapter.

(Added by Ord. 2017-^^)

Sections 20-18 through 20-30 - Reserved.

Sec. 20-31 – Running at large – prohibited

The owner of any dog or cat shall keep his/her dog under restraint at all times and shall not permit such animal to be at large either on or off the property of the owner unless it is under the control of a competent person.

(Added by Ord. 2017-^^)

Sec. 20-32 – Immunization Required

All dogs over the age of six (6) months must be immunized against rabies every twelve (12) months by a licensed veterinarian.

(Added by Ord. 2017-^^)

Sec. 20-33 – Sheltering non-immunized dog

No individual shall knowingly shelter, house, or feed a dog which is not vaccinated in conformity with Section 20-32 within the Town of New Chicago.

(Added by Ord. 2017-^^)

Sec. 20-34 – Maximum number of dogs, cats, or other domesticated quadrupeds permitted

- (a) Each household shall be limited to a maximum of three (3) dogs, cats, or other domesticated quadrupeds (i.e. rabbits, ferrets, etc.). This limitation shall not apply to newborn litters under four (4) months of age.
- (b) The following shall be excluded:
 - (1) Lawfully licensed and registered veterinarian offices and pet clinics.
 - (2) Certified police canines used by law enforcement agencies.
- (c) This limit of three (3) domesticated quadrupeds is cumulative total of three (3) animals between any species. For example, two dogs and two cats or two cats and two rabbits would exceed the permissible limit under this ordinance.
- (d) Violators shall be subject to a fine of one hundred dollars (\$100.00). Each animal in excess of the number permitted shall constitute a separate violation. Each day on which the condition exists shall constitute a separate violation.
- (e) Certified Seeing Eye dogs, hearing dogs, governmental police dogs, or other certified animals that are trained to assist the physically handicapped do not count towards the maximum number of animals permitted.

(Added by Ord. 2017-^^)

Sec. 20-36 - Lost or stray animals; notification

- (a) A person finding a stray or lost animal is to notify the Town animal control within twenty-four (24) hours.
- (b) At the discretion of animal control, the finder may keep the animal at their residence, providing that the finder makes a report that would enable the department to return the animal to its rightful owner.
- (c) Upon demand by animal control, any animal reported found will be surrendered to the department and held for three (3) working days before disposition is made.
- (d) Persons finding an animal are obligated to comply with all rules and regulations of this chapter pertaining to humane care and treatment of animal, while the animal is in their custody awaiting return to its actual owner.

(Added by Ord. 2017-^^)

Sec. 20-38 – Destruction of animal

- (a) No person other than a duly authorized agent of the Town may destroy any domestic animal within the corporate limits of the Town; provided, however, that this section shall not apply to the following:
 - (1) A licensed veterinarian acting in the scope or course of business;
 - (2) Those persons acting in self-defense;
 - (3) Police officers or firefighters acting to prevent undue animal suffering and/or injury to persons.
- (b) This section shall be punishable by a fine of no less than two hundred dollars (\$100.00) or more than two thousand five hundred dollars (\$2,500.00) for a first offense.

(Added by Ord. 2017-^^)

Sec. 20-39 - Inspection

- (a) If the animal control officer, health, or police officer has reasonable cause to believe that the keeping or maintaining of an animal is so hazardous, unsafe or dangerous as to require immediate inspection to safeguard the animal or public health or safety, the officer shall first present proper credentials and request entry, explaining the reasons therefor.
- (b) If entry is refused or cannot be obtained because the owner or other person having charge or control of the property cannot be found after a reasonable search, the officer shall seek legal recourse to secure lawful entry and inspection of the property.

(Added by Ord. 2017-^^)

Sec. 20-40 - Enforcement

- (a) The civil and criminal provisions of this chapter shall be enforced by those persons or agencies designated by municipal authority.
- (b) It shall be a violation of this chapter to interfere with a humane officer or police officer in the performance of his/her duties related to this chapter. Such a violation shall be punishable by a fine of two hundred fifty dollars (\$250.00) for a first offense.
- (c) If any costs are incurred as a result of obtaining information required by this chapter, such as medical expenses for the treatment of animals, it shall be the responsibility of the license holder/owner of the animal to reimburse the Town for such expenses.
- (d) The Town Council may civilly enforce these reimbursement provisions.

(Added by Ord. 2017-^^)

Sec. 20-41 – Commercial animal establishment license and permit issuance and revocation

- (a) After an application fee is filed, the Town Council, by its duly authorized agent, shall inspect the facility prior to issuing the permit. The Town Council may revoke any permit or license if the person

holding the permit or license refuses or fails to comply with this chapter, the regulations promulgated by the Town Council, or any law governing the protection and keeping of animals.

- (b) Any person whose permit or license is revoked shall, within ten (10) days thereafter, humanely dispose of all animals owned, kept, or harbored. No part of the license fee shall be refunded.
- (c) It shall be condition of the issuance of any permit or license that the Town Council, by its agents, shall be permitted to inspect all animals and the premises where animal are kept at any time and shall, if permission for such inspection is refused, revoke the permit or license of the refusing owner.
- (d) If the applicant has withheld or falsified any information on the application, the licensing authority shall refuse a permit or license. Additionally, it shall be punishable by a fine of no less than three hundred dollars (\$300.00).
- (e) No person who has been convicted of cruelty to animals shall be issued a permit or license to operate a commercial animal establishment.
- (f) Any person having been denied a license or permit may not reapply for a period of thirty (30) days. Each reapplication shall be accompanied by a ten dollar (\$10.00) fee.

(Added by Ord. 2017-^^)

Sections 20-42—20-50 - Reserved.

Article 2 - License

Sec. 20-51 - Required; exceptions

Any person owning, keeping, harboring, or having custody of any dog over four (4) months of age within the Town must obtain a license as provided in this section.

(Added by Ord. 2017-^^)

Sec. 20-52 - Application—Contents

Written applications for licenses, which shall include the name and address of the applicant, a description of the animal, the appropriate fee, and a current rabies certificate issued by a licensed veterinarian or antirabies clinic, shall be made to the licensing authority.

(Added by Ord. 2017-^^)

Sec. 20-53 - Same—filing period; exception

- (a) Application for a license must be made within thirty (30) days after obtaining a dog over four (4) months of age. However, application must be made within fourteen (14) days for any animal classified as a dangerous breed animal under Article 6 of this chapter.

- (b) This requirement will not apply to a nonresident keeping a dog or cat within the Town for not longer than thirty (30) days.

(Added by Ord. 2017-^^)

Sec. 20-54 - Fees—Issuance

A license shall be issued upon acceptance of the application and after payment of the following application fee, as appropriate:

- (1) Male dog..... \$10.00
- (2) Female dog..... \$10.00
- (3) Kennel license.....\$500.00

(Added by Ord. 2017-^^)

Sec. 20-55 - Same—Exceptions

License fees shall not be required for certified Seeing Eye dogs, hearing dogs, governmental police dogs, or other certified dogs or other service animals that are trained to assist the handicapped. However, the license application and other requirements of this chapter remain applicable.

(Added by Ord. 2017-^^)

Sec. 20-56 - Tags—Required

Dogs must wear collars with identification and license tags at all times when off the premises of the owners.

(Added by Ord. 2017-^^)

Sec. 20-57 - Same—Issuance

- (a) Upon acceptance of the license application and fee, the Clerk-Treasurer shall issue a durable tag or identification collar, stamped with an identifying number and the year of issuance.
- (b) Tags should be designed so that they may be conveniently fastened or riveted to the animal's collar or harness.

(Added by Ord. 2017-^^)

Sec. 20-58 - Same—Record of identifying numbers

The licensing authority shall maintain a record of the identifying numbers of all tags issued and shall make this record available to the public at all times.

Sec. 20-59 - Validity period; late application; late fee

- (a) If not revoked, licenses for the keeping of dogs shall be valid for a period of one calendar year running from January 1 to December 31. All permits shall expire on December 31.
- (b) The licensing period shall begin with the calendar year and shall run for one year. A license application may be made thirty (30) days prior to and up to sixty (60) days after, the start of the calendar year.
- (c) Persons in custody or control of a dog who fail to obtain a license as required within the time period specified in this section will be subjected to a late fee of twenty-five dollars (\$25.00).

(Added by Ord. 2017-^^)

Sec. 20-60 – Transference prohibited

No person may use a license for any animal other than the animal for which it was issued.

(Added by Ord. 2017-^^)

Sec. 20-61 – Violations

- (a) The violation of any provision of this article, including a failure to obtain a license, shall be considered a violation.
- (b) Each day on which the violation occurs shall be considered a separate offense.
- (c) Each individual animal shall constitute a separate offense.

(Added by Ord. 2017-^^)

Sections 20-62 through 20-70 – Reserved.**Article 3 – Commercial animal establishments****Sec. 20-71 – License required**

No person shall operate a commercial animal establishment or animal shelter without first obtaining a permit in compliance with this chapter.

(Added by Ord. 2017-^^)

Sec. 20-72 - Regulations for issuance of permits and humane care of animals to be promulgated by council

- (a) The Town Council shall promulgate regulations for the issuance of permits and shall include requirements for humane care of all animals and for compliance with the provisions of this chapter and other applicable laws.
- (b) The Town Council may amend such regulations from time to time as deemed desirable for public health and welfare and for the protection of animals.

(Added by Ord. 2017-^^)

Sec. 20-73 - Basis of issuance; applicant's willingness to comply with regulations; payment of applicable fee

- (a) When a permit applicant has shown that he is willing and able to comply with the regulations promulgated by the Town Council, a permit shall be issued upon payment of the applicable fee.
- (b) No kennel, cattery, or other commercial animal establishment shall be permitted in any residential area.
- (c) No kennel or cattery shall be permitted to maintain more than thirty cats and dogs at any given time.
- (d) No kennel or pet shop shall be permitted within the Town of New Chicago which are not effectively soundproofed.
- (e) No outdoor dog run of any commercial animal establishment shall come within fifty (50) feet of any property of public right of way.
- (f) Annual permits shall be issued upon completion and acceptance of the application and payment of the application fee as follows:
 - (1) Kennel authorized to house fewer than ten (10) dogs or cats.....\$100.00
 - (2) Kennel authorized to house ten (10) to thirty (30) dogs or cats.....\$250.00
 - (3) Kennel authorized to house fifty (50) or more dogs or cats.....\$500.00
 - (4) Pet shop.....\$250.00
 - (5) Riding stable.....\$250.00
 - (6) Auction.....\$200.00
 - (7) Zoological park.....\$500.00
 - (8) Circus.....\$400.00
 - (9) Grooming shop.....\$75.00
 - (10) Petting zoo.....\$300.00

(Added by Ord. 2017-^^)

Sec. 20-74 - Period of validity; renewal; start of new establishment

- (a) The permit period shall begin with the calendar year and shall run for one (1) calendar year. Regardless of when the permit is granted, it shall expire on December 31st.
- (b) Renewal applications for permits shall be made thirty (30) days prior to and up to thirty (30) days after the start of the calendar year.
- (c) Application for a permit to establish a new commercial animal establishment under the provisions of this chapter may be made at any time.

(Added by Ord. 2017-^^)

Sec. 20-75 - Transference

- (a) If there is a change in ownership of a commercial animal establishment, the new owner may have the current permit transferred to his/her name upon compliance with this chapter and payment of a twenty dollar (\$20.00) transfer fee.
- (b) No transference will be permitted to anyone who has been convicted of any animal cruelty related offense.

(Added by Ord. 2017-^^)

Sec. 20-76 - Failure to obtain; violation

- (a) No person shall train any dog to be used as a guard or sentry dog without possessing a valid license. This section shall not apply to governmental bodies.
- (b) Any commercial animal establishment operating within New Chicago without a permit shall be deemed a nuisance.
- (c) The operation of an animal establishment without a license shall be punishable by a fine of two hundred fifty dollars (\$250.00). Each day on which the offense continues shall be deemed a separate violation.

(Added by Ord. 2017-^^)

Sec. 20-77 - Reclassification of fee

Any person who has a change in the category under which a permit was issued shall be subject to reclassification of the permit fee.

(Added by Ord. 2017-^^)

Sec. 20-78 - Training of guard or sentry dogs; requirements

- (d) No person shall train any dog to be used as a guard or sentry dog without possessing a valid license. This section shall not apply to governmental bodies.
- (e) The application for a guard dog or sentry dog training license shall state the name and address of the owner and trainer, location of the facility, the maximum number of dogs to be housed at the training facility, and the insurance company and policy limits for the guard dog facility.

(Added by Ord. 2017-^^)

Sec. 20-79 - Individual permits for each facility required

Every facility regulated by this chapter shall be considered a separate enterprise requiring an individual permit.

(Added by Ord. 2017-^^)

Sections 20-97 through 20-110 – Reserved.

Article 4 - Rabies control

Sec. 20-111 - Biting incidents generally

After a dog or cat has bitten someone, the following actions shall be taken:

- (a) If the dog or cat has up-to-date shots, and it is agreeable between both parties, the dog or cat can be confined inside the owner's residence for the required time period.
- (b) If the dog or cat does not have the required up-to-date shots, it shall be confined for the required period, ten (10) days from the time of the bite, at an animal hospital or veterinarian clinic, with the owner paying all costs of confinement.
- (c) It shall be the duty of every physician to report to animal control the names and addresses of persons treated for bites inflicted by animals, together with such other information as will help with rabies control. It shall also be the duty of every licensed veterinarian to report to the Code Enforcement Officer his/her diagnosis of any animal observed by him as a rabies suspect.

(Added by Ord. 2017-^^)

Sec. 20-112 - Notification of animal control of bite

Any person knowing that an animal or person has been bitten by another animal shall immediately notify animal control or the Police Department.

(Added by Ord. 2017-^^)

Sec. 20-113 - Surrender of biting animal for observation; exception

The owner or person in custodial control of any animal which has bitten another animal or person shall, on demand of animal control, surrender such animal to animal control for rabies observation for a minimum period of ten (10) days. However, animal control shall have the discretion to allow home confinement of the animal if the bite which was inflicted was not on the face, head, or neck; there is evidence of a current rabies vaccination in force for at least one (1) month; and appropriate confinement procedures of the animal by the owner meet with the approval of animal control.

(Added by Ord. 2017-^^)

Sec. 20-114 - Home confinement; evidence of veterinary exam

If home confinement is allowed, the owner shall be required to furnish evidence to animal control of a veterinary examination for the biting animal on the tenth day of observation and bear any costs incurred thereby.

(Added by Ord. 2017-^^)

Sec. 20-115 - Home quarantine procedures

The following procedure applies only if the animal has a current rabies vaccination:

- (a) Before authorizing home quarantine, animal control must verify with a licensed veterinarian that animal does have current shots.
- (b) Animal control must take steps to ensure that the owner understands all the conditions of the home quarantine.
- (c) A home quarantine means that the animal must be kept indoors at all times. Dogs may only be taken out for brief walks to defecate and urinate. It must be on a leash held by an adult.
- (d) While it is outdoors the owner must make sure it does not come in contact with any other animal or human. It cannot be left outside.
- (e) As soon as the animal has finished doing its business, it must be brought indoors, where it can remain only in the company of the owner's immediate family members.
- (f) Should the owner have any guests visit his/her home, he must warn guests concerning the quarantined animal and remove the animal to an area where it will not come in contact with such guests.
- (g) The date for this release will be ten (10) days from the date of the bite.
- (h) If the animal appears ill or dies any time during the quarantine, animal control must be notified immediately.
- (i) At the end of ten (10) days, animal control will come to the owner's home to view the animal and determine if should be released from quarantine.

(Added by Ord. 2017-^^)

Sec. 20-116 - Notification of bite victim, attending physician and health agencies upon signs of rabies

If the biting animal shows signs of rabies or acts in a manner which would lead a person to believe the animal may have rabies, the owner, treating veterinarian, or animal control shall immediately notify by telephone or in person the person bitten or the physician attending the person bitten and the responsible health agencies as soon as reasonably possible.

(Added by Ord. 2017-^^)

Sec. 20-117 - Euthanization of rabid animals

If such biting animal is determined to be infected with rabies after examination by a licensed veterinarian, it shall be euthanized at the cost of the owner.

(Added by Ord. 2017-^^)

Sec. 20-118 - Return to owner of nonacid animal; payment of costs

If such biting animal is not found to be infected with rabies at the expiration of the period for observation of rabies, the animal may be returned to the owner, if there is no additional reason in the judgment of animal control to continue impoundment, upon payment of the costs of the keep of such animal, including any veterinarian service fees.

(Added by Ord. 2017-^^)

Sec. 20-119 - Sale or transport of biting animal

- (a) No person owning or possessing, keeping, harboring, or having custody of any animal that has bitten any other animal or person shall sell, give away, or permit such biting animal to be taken beyond the corporate limits of the Town or otherwise dispose of such biting animal until it is examined for rabies and released by animal control except for the sole reason to take the animal to and from a licensed veterinarian located within ten (10) miles of the corporate limits of New Chicago.
- (b) Violation of this ordinance shall be punishable by a fine of no less than one thousand dollars (\$1,000.00).

(Added by Ord. 2017-^^)

Sec. 20-120 - Animal report bite form

In all cases where an animal has bitten a person or another animal, it shall be the duty of animal control or the Police Department to investigate and fill out an animal report bite form, setting forth the facts and circumstances surrounding the bite.

(Added by Ord. 2017-^^)

Sec. 20-121 - Examination of dead animal by state board of health

If an animal that has bitten a person or another animal dies, is accidentally killed or is humanely euthanized before the tenth day following the bite, such animal shall be forwarded to the state board of health laboratory for examination in a manner as is required by the state board of health.

(Added by Ord. 2017-^^)

Sections 20-122 through 20-129 – Reserved.

Article 5 – Facilities for keeping animals

Sec. 20-130 - Facilities (outdoors)

- (a) When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to allow animals kept outdoors to protect themselves from the direct rays of the sun.
- (b) Whenever animal are outdoors, they shall be provided with access to shelter to allow them to remain dry during rain or snow.
- (c) In kennels where animals are housed exclusively outdoors, adequate shelter (see structures) from the weather shall be provided at all times when the atmospheric temperature falls below fifty (50) degrees Fahrenheit. Sufficient clean bedding material or other means of protection from the weather elements shall be provided when the ambient atmospheric temperature falls below (that temperature to which an animal is acclimated) forty (40) degrees Fahrenheit. Each shelter shall be provided with a windbreak at its entrance.
- (d) A suitable method shall be provided to drain surface water rapidly.
- (e) Surfaces of outdoor enclosures of pet shops, shelters, and boarding kennels shall be constructed and maintained so that they are impervious to moisture and may be readily cleaned and disinfected; run off from outdoor enclosures shall be disposed of properly.

(Added by Ord. 2017-^^)

Sec. 20-131 - Primary enclosures (where animals are kept outdoors)

- (a) Primary enclosures shall be structurally sound and maintained in good repair so as to:

- (1) Contain the animals.
 - (2) Protect animals from injury.
 - (3) Keep predators out.
 - (4) Ensure that animals remain dry and clean.
 - (5) Permit animals convenient access to food and water as required in these rules.
 - (6) Provide sufficient space for each animal to turn about freely and to stand, sit, and lie in a comfortable normal position.
 - (7) Have no sharp edges accessible to the animals that could cause injury.
- (b) In addition to the other provisions of this section, each dog in any primary enclosure shall be provided a minimum square footage of floor space equal to the mathematical square of the sum of the length of the dog in inches, as measured from the tip of its nose to the base of its tail, plus six inches, expressed in square feet.
 - (c) Animals kept in accessory buildings (garages, sheds, etc.) shall have access to outside kennel runs.
 - (d) Animals housed in the same primary enclosure shall be maintained in compatible groups.
 - (e) The floors of primary enclosures shall be constructed so as to protect the animal's feet and legs from injury. Enclosures may have grid type flooring, provided that the grid material is of adequate gauge to prevent sagging under the weight of the animals and that the mesh is small enough to prevent their feet from passing through or to cause cutting injuries to the foot pad.
 - (f) Adult dogs confined in cages of less than double the minimum standard size as stated in subsection (b), above shall be exercised in runs at least twice a day or walked on a leash for at least twenty (20) minutes per day.
 - (g) Animals shall not be tied to fences or cages or any other structure in lieu of being housed in primary enclosures.
 - (h) Animals shall not be kept in any vehicle in lieu of being kept in a suitable primary enclosure.

(Added by Ord. 2017-^^)

Sec. 20-132 - Structures

- (a) *Weatherproof.* Shelter must be of solid construction. There shall be no cracks or openings other than the entrance. The shelter shall not have any metal or plastic primary interior surfaces. Commercially made shelters with insulation material between the inner and outer layers of fiberglass/plastic construction are generally acceptable.
- (b) *Door flap.* Entrance must be covered with a flexible flap and/or entrance placed downwind when necessary to protect the animal from the elements of the weather.
- (c) *Bedding.* Bedding must be dry. Straw, leaves, hay, cedar chips or other material must be provided as needed during cold and inclement weather.
- (d) *Size.* Large enough to allow the animal to enter, stand, turn around and lie down comfortable. Small enough to allow the animal to warm the interior with its body.
- (e) If a chain, rope or other such item is used to restrain the animal, it shall be of sufficient length to safely and humanely allow the animal freedom of movement without becoming entangled in obstructions. It must be of sufficient length to allow the animal access to shelter at all times.

(Added by Ord. 2017-^^)

Sections 20-133 through 20-150 – Reserved.

Article 5 – Vicious dogs and dangerous breeds of dogs

Sec. 20-151 - Purpose

- (a) This Article is intended to utilize the authority and powers of the city, a home rule municipality, in order to secure for the citizens of this city, the protection of their health, safety and welfare. It is intended to be applicable to dogs which are commonly referred to as vicious and dangerous breeds and which are defined herein.
- (b) This Article is designed to regulate these dogs and to ensure responsible handling by their owners through registration, confinement and liability insurance.
- (c) The unique history, nature and characteristics of dangerous breeds have been determined to require the special regulations and provisions contained within this subchapter which the City Council finds reasonable and necessary.

(Added by Ord. 2017-^^)

Sec. 20-152 - Definitions

“Owner” as used in this Ordinance means any person, firm corporation, organization, or department possession, harboring, or having the care or custody, whether temporarily or permanently, of a dog. This shall exclude veterinarian hospitals, pet clinics, animal grooming facilitates, veterinarians, and animal groomers.

“Vicious Dog” as used in this chapter means any dog with a propensity, tendency, or disposition to attack unprovoked, to cause injury to or otherwise threaten the safety of human beings or domestic animals; or any dog, which without provocation attacks or bites, or has been attacked or bitten, a human being or domestic animal; or any dog owned or harbored primarily, or in part, for the purpose of dog fighting or any dog trained for dog fighting, or any dog which has been found to be vicious by a Court in a trial or hearing upon a charge of harboring a vicious animal.

“Dangerous Dog” as used in this article means (a) Any dog which, because of its aggressive nature, training or characteristic behavior, is capable of inflicting serious physical harm or death to humans, and which would constitute a danger to human life or property if it were not kept in the manner required by this chapter. (b) Any dog which, when unprovoked, chased or approaches a person in a menacing fashion or apparent attitude of attack on public or private property.

(Added by Ord. 2017-^^)

Sec. 20-153 - Dangerous breeds of dogs

(a) The following are considered “Dangerous Breeds” of dogs:

- (1) “Pit Bull” shall be considered a dangerous breed of dog and shall include any Pit Bull Terrier, American Pit Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Terrier breed of dog.
- (2) German Shepherd.
- (3) Rottweiler.
- (4) Akita.
- (5) Chow.
- (6) Doberman Pinscher.

(b) Any breed of dog containing an element of any of the above-listed breeds.

(Added by Ord. 2017-^^)

Sec. 20-154 - Vicious dogs

(a) No person shall harbor, keep, or maintain within the Town limits any vicious dog.

(b) Any dog alleged to be vicious by virtue of any attack upon a human being or domestic animal shall be impounded as directed by the Town of New Chicago Police Department until disposition of the charge issued by citation.

(c) The owner of any dog found to be vicious in the trial of a charge of harboring a vicious dog, or by plea to such a charge, shall be prohibited from returning that dog to the Town or keeping that dog in the Town of New Chicago.

(Added by Ord. 2017-^^)

Sec. 20-155 - Dangerous Dogs

(a) Any person having knowledge which he or she believes constitutes probable cause to believe that another is harboring, keeping, or maintaining a dangerous breed or vicious dog which is not registered with and licensed by the Town of New Chicago in accordance with this Chapter, may file with the New Chicago Police Department a sworn affidavit setting forth the basis on which they believe the animal to be a dangerous dog, the name and address of the owner of the dog, and a description of the dog.

(b) The Police Department shall, upon receipt of such affidavit, inquire of the Town Clerk if the dog is currently registered as a dangerous dog pursuant to this Chapter.

(c) If the dog is not registered and there is reasonable suspicion to believe that the dog is dangerous breed dog, the Town Clerk shall notify the New Chicago Department of Code Enforcement of this fact and the New Chicago Department of Code Enforcement shall service notice upon the owner of the alleged dangerous dog, which notice shall include the requirement that the owner shall bring the alleged dangerous dog to the veterinarian stated in the aforementioned notice for inspection to determine whether this dog is a dangerous dog by definition set forth in this chapter.

- (d) If the dog is a dangerous breed dog or not licensed within the Town, the dog's owner shall be responsible for the veterinarian bill to confirm the dog's breed.

(Added by Ord. 2017-^^)

Sec. 20-156- Liability insurance required to be maintained by owners of dangerous breeds

In order to protect the public from the severe harm and injury which is likely to result from a dangerous breed dog attack, every owner of a dangerous breed dog shall at all times that he or she owns the dog, maintain in full force and effect a liability insurance policy of one million dollars (\$1,000,000.00).

(Added by Ord. 2017-^^)

Sec. 20-157 - Confinement of pit bulls

- (a) Because of the pit bull's propensity to attack other animals, and because of the danger posed to humans and animals alike by a pit bull when running loose or while running together in a pack situation, pit bulls must at all times be securely confined indoors, or confined in a securely and totally enclosed or locked pen, with either a secure top or with sides at least six (6) feet high.
- (b) At any time that a pit bull is not confined as required in subsection (a) above of this section, the dog shall be muzzled in a manner as to prevent it from biting or injuring any person or animal, and kept on a leash with the owner or custodian in attendance.
- (c) An exception to this section is provided for any pit bull in attendance at, and participating in, any lawful dog show, contest or exhibition sponsored by a dog club, association, society or similar organization.

(Added by Ord. 2017-^^)

Sec. 20-158 – Registration of dangerous breed dogs

- (a) In order to assure that owners of dangerous breed dogs are aware of the full requirements of this subchapter, and to assure compliance therewith, every owner of a dangerous breed dog shall register the dog with the Town Clerk-Treasurer's office.
- (b) The registration shall include the following: name, address and telephone number(s) of the dog's owner, the address where the dog is harbored, if different from the owner's address; a complete identification of the dog including the dog's sex, color and any other distinguishing physical characteristics; a photograph of the dog taken within the past year; proof of rabies vaccination; proof of the liability insurance required pursuant to this subchapter; and a signed affidavit indicating the owner's knowledge of, agreement to abide by, the requirements of this subchapter.
- (c) Newly acquired dangerous breed dogs shall be registered with the City Clerk-Treasurer's office no later than 72 hours after acquisition. If the deadline is on a weekend or legal holiday, the owner may register the dog on the next business day.

(Added by Ord. 2017-^^)

Sec. 20-159 - Biting incidents by vicious, dangerous, or dangerous breed dogs

If any of the dogs identified in this chapter shall be involved in a biting incident the following procedure must be followed in order for the dog to be kept in the Town of New Chicago.

- (a) A certified animal behaviorist must determine that it is safe for the dog to be near humans, within seven (7) days of the biting incident.
- (b) If the biting incident resulting in physical injury, the owners of the dog must show proof of liability insurance in the amount of at least one million dollars (\$1,000,000.00).
- (c) Any dog involved in a second biting incident shall be deemed vicious and shall not be permitted in the Town of New Chicago.

(Added by Ord. 2017-^^)

Sec. 20-160 - Enforcement

- (a) It shall be the duty and responsibility of all law enforcement officers, animal control officers, and the department of code enforcement to enforce the provisions of this subchapter.
- (b) Any dangerous, vicious, or dangerous breed dog running at large shall be impounded and may be returned to its owner only upon proof of registration as a dangerous dog.
- (c) An uninsured or underinsured dog may be deemed a public nuisance.
- (d) If liability insurance is required under the terms of this chapter, the Town shall impound the dog for up to fourteen (14) days to permit the dog's owner time to obtain liability insurance or to obtain a home for the dog outside of the Town. The dog's owner shall be charged twenty-five dollars (\$25.00) for each day of this service.

(Added by Ord. 2017-^^)

Sec. 20-161 – Falsified information or false promise to remove dog

If an impounded dangerous breed dog is released due to a falsified insurance document, falsified veterinarian document, insurance which has been cancelled, or a false promise to remove the dog from the Town, the owner shall be fined in an amount one thousand dollars (\$1,000.00).

(Added by Ord. 2017-^^)

Sec. 20-162 – Violations of this article

Unless otherwise specified by a more specific ordinance, any individual who violates any provision of this article shall be fined in an amount of one hundred dollars (\$100.00). In the event that the violation endangers any person or animal, the personal shall be fined in an amount of two hundred fifty dollars (\$250.00). Each day on which the violation continues shall be deemed a separate offense.

(Added by Ord. 2017-^^)

Sections 20-163 through 20-170 – Reserved.

Article 6 - Impoundment

Sec. 20-171 - Unrestrained dogs, cats and nuisance animals

A domestic animal may be impounded under any of the following circumstances:

- (1) Any animal running at large or not under restraint;
- (2) A stray animal brought to the Code Enforcement Officer by any resident of the Town;
- (3) A stray animal picked up by the Code Enforcement Officer;
- (4) An injured animal for which no owner can immediately be located;
- (5) Biting or vicious animal or those suspected of being rabid;
- (6) Dogs without current license tags;
- (7) Dogs without current vaccination;
- (8) Any animal which is a nuisance.

(Added by Ord. 2017-^^)

Sec. 20-172 - Minimum confinement period for unclaimed dogs and cats

- (a) Unclaimed, impounded dogs and cats shall be kept for not less than three (3) working days.
- (b) If the owner of an animal can reasonably be identified and located by tags or microchip, the owner shall have at least forty-eight (48) business hours from the time of in-person or telephone notice or three (3) business days from the date of mailing to claim the animal.

(Added by Ord. 2017-^^)

Sec. 20-173 - Owner identification; notice

- (a) If by a license tag, microchip, tattoo, or other readily identifiable means, the owner of an impounded animal can be identified, the animal control officer shall as soon as practicable notify the owner by

- (1) Telephone
 - (2) Personal service
 - (3) Both certified and first class mail.
- (b) This notice shall advise the owners of whether and under what circumstances the animal may be redeemed, the applicable fees, and any deadlines for reclaiming the animal.

(Added by Ord. 2017-^^)

Sec. 20-174 - Reclamation fees

- (a) An owner reclaiming an impounded animal shall pay any reclamation fee charged by the humane society and any impounding costs assessed by the humane society.
- (b) In the event that any charges are assessed to or incurred by the Town, any such expenses shall be reimbursed to the town before any animal is released.

(Added by Ord. 2017-^^)

Sec. 20-175 - Unclaimed animals; adoption or euthanization

- (a) Any animal not reclaimed by its owner within the time limitation of section 20-172 shall become the property of the Town and may be placed for adoption in a suitable home or humanely euthanized.
- (b) If the owner can be identified and does not reclaim the animal or delays to reclaim the animal after the owner is notified, the owner shall pay fifteen dollars each day for up to forty-five (45) days until the animal is adopted or euthanized. This fee is to compensate the town for the costs to care for the animal and attempt to find it a new home caused by the former owner's refusal or delay to reclaim the animal.

(Added by Ord. 2017-^^)

Sec. 20-176 - Notice of ordinance violation

- (a) *Penalty.* In addition to or in lieu of impounding an animal found running at large, the animal control officer or police may issue to the known owner of such animal a notice of ordinance violation.
- (b) Such notice shall impose upon the owner a penalty of one hundred dollars (\$100.00).
- (c) *Proceedings against owner.* The owner of an impounded animal may also be proceeded against for violation of this chapter.
- (d) *Repeat violators subject to license review and revocation.* All licenses issued to animal owners against whom three (3) or more ordinance violations have been assessed in a twelve (12) month period shall be subject to review and revocation by the Town Council.

(Added by Ord. 2017-^^)

Sec. 20-177 – Authorization to contract with humane society

The Town of New Chicago shall have the authority to contract with any duly licensed and insured humane society or animal shelter for purposes of housing impounded animals.

(Added by Ord. 2017-^^)

Sections 20-178 through 20-180 – Reserved.

Article 7 - Violations

Sec. 20-181 – Penalties for violation by individuals

- (a) An officer of the Police Department, Code Enforcement Officer, or animal control officer of the Town may issue a citation to any person, who commits any act prohibited by this chapter, fails or refuses to do any act or follow any provision, rule or order required by this chapter or who otherwise violates any provision of this chapter or fails or refuses to comply with any provision of this chapter.
- (b) Such violations shall be punishable by a fine of one hundred dollars (\$100.00) unless otherwise specified by a more specific ordinance.
- (c) Notwithstanding If the violation endangers the animal or a person, the fine shall be no less than two hundred fifty dollars (\$250.00).

(Added by Ord. 2017-^^)

Sec. 20-182 - Impoundment authorized

- (a) An animal may be impounded under any of the circumstances permitted by Article 6 of this chapter.
- (b) An animal may also be impounded for any of the following reasons
 - (1) A stray animal brought to the Code Enforcement Officer by any resident of the Town;
 - (2) A stray animal picked up by the Code Enforcement Officer;
 - (3) An injured animal for which no owner can immediately be located;
 - (4) Biting or vicious animal or those suspected of being rabid;
 - (5) Dogs without current license tags.

(Added by Ord. 2017-^^)

Sec. 20-183 - Disposition of impounded animals

- (a) Any owner wishing to reclaim his/her impounded animal must show proof of current rabies vaccination and state licensure.
- (b) If such proof is not available, a warning citation requiring vaccination and state licensure shall be presented to the owner, and such proof must be provided to the Department of Code Enforcement

within five (5) days. If such proof is not provided within five days, the Department of Code Enforcement shall assess a fine against the owner.

- (c) Repeat offenders within a calendar year shall be subject to an escalating fee for each successive impoundment, regardless of whether the owner reclaims the animal.

(Added by Ord. 2017-^^)

Chapter 21 - Nuisances

Article 1 – In general

Sec. 21-1 - Definitions

- (a) For the purpose of this chapter, the word “Nuisance” is hereby defined as the doing of an unlawful act, or the omitting to perform a duty, or the suffering or permitting any condition or thing to be or exist, which:
- (1) Injures or endangers the comfort, repose, health or safety of others;
 - (2) Offends decency
 - (3) Is offensive to the sense;
 - (4) Unlawfully interferes with, obstructs, or tends to obstruct or render dangerous for passage any public or private street, highway, sidewalk, stream, ditch, or drainage;
 - (5) Or in any way renders other persons insecure in life or the use of property
 - (6) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.
- (b) “Rubbish” is defined as nonputrescible solid wastes consisting of both combustible and non-combustible wastes such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery, tires, ferrous and nonferrous metals, roofing shingles, concrete, construction materials, plastics, or similar materials
- (c) “Owner” is defined as any person who, along or jointly or severally with others, shall have legal or equitable title to any premises, with or without accompanying actual possession thereof; or shall have charge, care of or control of any dwelling unit, as owner or as executor, executrix, administrator, administratrix, trustee, receiver, guardian, tenant, or as mortgagee in possession regardless of how such possession was obtained. Any person who is a lessee subletting or reassigning any part or all of any dwelling or dwelling unit shall be deemed to be an owner with a lessor and shall have joint responsibility over the portion of the premises sublet or assigned by sublessee.

(Added by Ord. 2017-^^)

Sec. 21-2 – Application

This chapter shall apply to all real estate located within the Town of New Chicago, regardless of whether owned by individuals, partnerships, corporations or other entities.

(Added by Ord. 2017-^^)

Sec. 21-3 - Illustrative enumeration

- (a) The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of the following items, conditions or actions are hereby declared to be and constitute a nuisance;
- (1) Noxious weeds and other rank vegetation.

- (2) Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or other things.
 - (3) Any condition which provides harborage for rats, mice, snakes and other vermin.
 - (4) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located.
 - (5) All unnecessary or unauthorized noises and annoying vibration, including noises.
 - (6) All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches.
 - (7) The carcasses of animals or fowl not disposed of within a reasonable time after death.
 - (8) The pollution of any public well or cistern, stream, leak, canal or body of water by sewage, dead animals, creamery, industrial wastes or other substances.
 - (9) Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained.
 - (10) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.
 - (11) Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.
 - (12) The unauthorized obstruction of any public street, road or sidewalk.
 - (13) Any abandoned vehicle.
 - (14) Any building, sidewalk or driveway that is defaced. Defaced is defined as "to mar the external appearance thereof" and to mar is defined as to detract from the perfection or wholeness thereof. Said meaning of deface is contained in IC § 35-43-1-2 and *Haverstick v. State*, 648 N.E. 2d (Ind. Ct. App. 1995).
 - (15) The sounding of any horn, signal device, or attachments on automobiles, motorcycles, bicycles, trucks, buses, or other vehicles except as a necessary warning of danger to person or property.
 - (16) The creation of grating, screeching, grinding squealing, or other noises in the use of automobiles, motorcycles, or other vehicles or appurtenances attached thereto.
 - (17) The creation of loud noises by the manipulation, handling, and playing of musical instruments except in conjunction with authorized parades or public functions for which a permit has been issued by the Town Council.
 - (18) The keeping of any animals, bird, or fowl which by causing frequent or continued noises or odor shall disturb the comfort or repose of persons in and dwelling, apartment house, residence, or business.
 - (19) The creation of noise by a radio, stereo system, or any musical instruments of the making of any loud, unnecessary, or boisterous noises.
 - (20) Anything else declared as to be a nuisance in the New Chicago Town Code.
- (b) This enumeration shall not be deemed or construed to be exclusive, limiting or restrictive.

(Added by Ord. 2017-^^)

Sec. 21-4 - Prohibited

Any person who causes, permits, maintains or allows the creation or maintenance of a nuisance shall be punished in an amount of one hundred dollars (\$100.00) unless otherwise specified by a more specific ordinance. Each day on which the offense continues shall constitute a separate offense.

(Added by Ord. 2017-^^)

Sec. 21-5 - Notice to abate

Whenever a nuisance is found to exist within the Town or within the Town's extraterritorial jurisdiction, the director of public works, Town engineer, police chief, Code enforcer and/or Clerk-Treasurer may give written notice to the owner or occupant of the property upon which such nuisance exists or upon the person causing or maintaining the nuisance.

(Added by Ord. 2017-^^)

Sec. 21-6 - Contents of notice

The notice to abate a nuisance issued under the provisions of this chapter shall contain:

- (a) An order to abate the nuisance or to request a hearing within a stated time, which shall be reasonable under the circumstances.
- (b) The location of nuisance, if the same is stationary.
- (c) A description of what constitutes the nuisance.
- (d) A statement of acts necessary to abate the nuisance.
- (e) A statement that if the nuisance is not abated as directed and no request for hearing is made within the prescribed time, the Town may abate such nuisance and assess the cost thereof against such person.

(Added by Ord. 2017-^^)

Sec. 21-7 - Service of notice

The notice to abate a nuisance shall be served as authorized by law.

(Added by Ord. 2017-^^)

Sec. 21-8 - Abatement by Town

Upon the failure of the person upon whom notice to abate a nuisance was served pursuant to the provisions of this chapter to abate the same, a duly designated officer or employee of the Town may proceed to abate such nuisance and shall prepare a statement of costs incurred in the abatement thereof.

(Added by Ord. 2017-^^)

Sec. 21-9 - Recovery of Town's costs

- (a) Should the Town abate the nuisance pursuant to section 21-8 of this Code, the Town will issue a bill to the person upon whom the notice to abate the nuisance was served, outlining the administrative and removal costs of the abatement.
- (b) Upon the failure of the person, upon whom notice to abate a nuisance was served, to pay any and all costs incurred by the Town in the abatement of a nuisance under the provisions of this chapter, the Town shall obtain a lien against the property upon which such nuisance existed and shall be certified by the Clerk-Treasurer to the county auditor who shall cause such costs to be placed upon the tax assessment of the owner of such property and such costs shall be collected from the owner as other taxes are collected.
- (c) In addition, such costs shall be a debt which may be collected by the Town in an appropriate civil action or may be assigned or sold to a collections agency.

(Added by Ord. 2017-^^)

Sec. 21-10 - Right to contest notice or bill

Any person upon whom a notice to abate a nuisance was served pursuant to the provisions of this chapter to abate the same has the right to a trial before a court of competent jurisdiction to contest the notice of the violation or a fine issued pursuant to section 20-9 of this Code.

(Added by Ord. 2017-^^)

Sec. 21-11 - Chapter to be supplemental

The provisions of this chapter are hereby declared to be supplemental to all other ordinances of the Town.

(Added by Ord. 2017-^^)

Sec. 21-12 - Failure to maintain house, building, structure or real estate

- (a) Any owner, tenant or resident who fails to maintain a house, building, structure or real estate, shall be in violation of this Code if the lack of maintenance results in any of the following:
 - (1) Structural deterioration rendering the house, building or structure unsafe;
 - (2) Unsafe or unhealthy condition of public utilities used in connection with the house, building or structure;
 - (3) The existence of any condition conducive to the propagation of illness or disease;

- (4) A gross or notorious state of general disrepair or dilapidation, or an imminent hazard to the public health, safety, and welfare, such that a blight on the neighborhood exists causing economic devaluation of surrounding properties.
- (5) The failure to properly maintain a house, building, structure, or real estate, as the same is set forth in subsections (a) herein, shall be deemed a public nuisance.
- (b) The Clerk-Treasurer shall be empowered to refer the case to the Town Attorney to maintain an action in any court of competent jurisdiction for the abatement of the nuisance and the recovery of all costs and expenses of the Town, including reasonable attorney fees.
- (c) A first violation of this ordinance shall be punishable by a fine of one hundred dollars (\$100.00). Any subsequent offense shall be punishable by a fine of up to seven thousand five hundred dollars (\$7,500.00). Each day on which the offense continues shall be a separate offense.

(Added by Ord. 2017-^^)

Sec. 21-13 - Violations

- (a) When a public nuisance is found to exist and after all persons known to have a substantial interest in the property have been given notice under section 21-5, and given reasonable opportunity to bring the property into compliance and have not done so, the Code Enforcement Officer or Police Department may issue a Town ordinance violation citation to the record owner of the property and/or to the person shown to have right of exclusive possession of the property. Such citation shall impose a fine in conformance with section 21-14.
- (b) Each subsequent day of violation shall be considered a separate violation for which a citation may be issued. No fine shall be imposed for the ten (10) day period immediately following receipt of the required notice to abate.
- (c) The property owner and any tenant shall be jointly and severally liable for any nuisance fine and the costs to abate any nuisance.
- (d) Any person served with a citation for violating the provisions of this chapter punishable by a fine of two hundred fifty dollars (\$250.00) or less may appear before the violations clerk pursuant to Chapter 6 of the New Chicago Town Code, admit the violation and pay the civil penalty. If a person does not appear within seven (7) days of issuance of the citation, it will be referred to the Town Attorney to be filed with a court of competent jurisdiction and prosecuted accordingly.

(Added by Ord. 2017-^^)

Sec. 21-14 - Penalties

Except as otherwise provided, any person found in violation of a provision of this Chapter shall be fined one hundred dollars (\$100.00). Each day after the expiration date of the time limited ordered for abatement of a nuisance condition under this chapter shall constitute a distinct and separate offense.

(Added by Ord. 2017-^^)

Sec. 21-15 - Joint and several liability for costs

- (a) When the Town abates a nuisance pursuant to an order and is performed by the enforcement authority or by a third party acting under this chapter, or for payment of citations issued under this chapter, each person who held a fee interest, life estate interest, or equitable interest of a contract purchaser in the violating property is jointly and severally responsible for said costs.
- (b) In the case of costs for work done by a contractor, responsibility shall begin from the time when the order requiring the work performed was recorded to the time that the work was completed, and include the following costs:
 - (1) The actual costs of the work performed by the enforcement authority or the bid price of work accomplished by the contractor.
 - (2) An amount that represents a reasonable forecast of the average processing expense that will be incurred by the enforcement authority in taking the technical, administrative, and legal actions concerning typical nuisance premises that are necessary under this section so that the action required by an order may be performed by a contractor.

(Added by Ord. 2017-^^)

Sec. 21-16 - Time to remedy nuisance

- (a) The owner, occupant, or agent of any owner or occupant of real property within the Town who violates this ordinance shall be responsible for the removal or cleanup of said nuisance and upon notification by the Town of New Chicago regarding aforesaid nuisance shall correct same within three (3) days of the notification.
- (b) The Town may elect to provide an extension of time if the owner, occupant, or agent is taking steps to correct the nuisance.
- (c) If the responsible party fails to correct the situation within three (3) days of notification (or any applicable extension of time), the Town shall have the authority to correct or remove the nuisance and the owner shall be responsible for any and all fees associated with the same.
- (d) If the Town has to file suit in order to collect the costs of removal of the nuisance from the responsible party, it shall be entitled to recovery of all reasonable related fees and costs.

(Added by Ord. 2017-^^)

Sec. 21-17 - Unsafe building violations and public nuisances

- (a) Unsafe building violations and public nuisances created by unsafe, blighted, and abandoned buildings shall be governed by the New Chicago Property Maintenance Code found in Chapter 11 of this Code.
- (b) The Town of New Chicago has created hearing authority for the enforcement of unsafe building violations in Section 11-5 of this Code.

(Added by Ord. 2017-^^)

Sec. 21-18 – Maintaining Unsanitary conditions

It shall be an unlawful nuisance for any person to place, deposit, or allow upon public or private property any of the following unsanitary substances:

- (a) Open privies, vaults, pits, or like places which are foul and malodorous
- (b) Animal manure in any quantity
- (c) Garbage in an quantity which is not securely protected in galvanized or other suitable receptacles
- (d) Trash, litter, rags, accumulations of empty barrels, boxes, crates, packing cases, tin cans, etc.

(Added by Ord. 2017-^^)

Sec. 21-19 – Expecting in public places

It shall be an unlawful nuisance for any person to spit or expectorate upon any of the sidewalks, public ways, public buildings, or other places intended for the general use of the public.

(Added by Ord. 2017-^^)

Sec. 21-20 – Duty to get property free of unsanitary conditions or fire hazards

- (a) The owner, occupant, or the agent of any owner or occupant of lots, parcels, or any real property within the Town of New Chicago shall be prohibited from allowing said property to become unsanitary or a fire menace through the allowance of any offensive or unsafe matter to grow, accumulate, or otherwise occupy and remain upon such premises.
- (b) The owner, occupant, or agent of any owner or occupant of lots, parcels, or real property within the Town of New Chicago shall be prohibited from permitting trash, rubbish, waste, and any other abandoned or discarded object to accumulate upon said property. Examples of such property would include furniture, stoves, refrigerators, freezers, cans, vehicle parts, vehicle parts stored in outdoor sheds, containers, and old lumber which would possible create a harborage for rats, snakes, and other pests and in any other way create an unsafe or unsanitary condition.

(Added by Ord. Ordinance 96-12).

Sections 21-21 through 21-30 – Reserved.

Article II – Noxious weeds

Sec. 21-31 - Definitions

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abate noxious weeds shall mean removing or trimming grass and weeds to a height not exceeding eight (8) inches.

Fiduciary shall mean and include any guardian, trustee, executor, administrator, receiver, escrow agent, conservator, or any persons, whether individual or corporate, acting in any fiduciary capacity for any individual, trust, or estate.

Noxious weeds shall mean any weeds which exceed eight (8) inches in height.

Occupant shall mean and include any person who occupies property whether as owner or otherwise.

Owner shall mean and include any person who holds any of the following interest in property:

- (1) Legal title in fee, either individually, as a joint tenant, a tenant by the entireties, or a tenant in common with one or more persons, or as a fiduciary.
- (2) A life estate.
- (3) A vested beneficial interest under a trust, land trust or escrow agreement.
- (4) An easement for surface use of property.
- (5) A leasehold, whether a tenancy for years, a month-to-month tenancy, a tenancy at will, or a tenancy at sufferance.
- (6) A license for the use of property.
- (7) An interest as purchaser under a real estate sales contract.

Property shall mean any real property located within the corporate limits of the Town, except property in the following categories:

- (1) Real property set apart and used for bona fide agricultural purposes;
- (2) Real property publicly dedicated for use as a preservation area for natural vegetation or wildlife;
- (3) Permanent marshes or bogs;
- (4) Real property on which noxious weeds cannot be abated with reasonable expenses and effort due to its location, the terrain, or soil conditions naturally existing on the property;
- (5) All real property zoned, agricultural and/or conservation.

Weeds shall mean and include any grasses, weeds, or plants, other than trees, shrubs, cultivated flowers, cultivated ornamental plants or crops.

(Added by Ord. 2017-^^)

Sec. 21-32 - Notice of demand to abate

- (a) Whenever noxious weeds exist upon property, it shall be duty of the Chief of Police or Code Enforcement Officer to serve or cause to be served a notice upon the occupant or owner of the property upon which such noxious weeds exist, which notice shall demand the abatement of such noxious weeds within three (3) days of the date of receipt of the notice.
- (b) The notice shall state:
 - (1) The name of the owner or occupant being served.
 - (2) The address or legal description of the property upon which noxious weeds exist.
 - (3) That there exists on such property grasses, weeds, or plants, other than trees, shrubs, cultivated flowers, cultivated ornamental plants or crops, which exceed eight (8) inches in height.
 - (4) That failure to remove or trim weeds or vegetation to a height less than eight (8) inches within three (3) days of receipt of the notice to abate constitutes a violation of this chapter.
 - (5) That failure to abate within the designated period will result in a fine of fifty dollars (\$50.00) for each day during or on which a violation of this article occurs or continues.
- (c) Notice may be served by delivering a copy of the form of notice to the occupant or owner personally, or by sending a copy of the form of notice by registered or certified mail or other public means by which a written acknowledgement of receipt may be requested and obtained to the residence, place of business, or place of employment of the occupant or owner, with return receipt requested and return showing receipt of the letter.

(Added by Ord. 2017-^^)

Sec. 21-33 - Failure to abate unlawful

If shall be unlawful for any occupant or owner to fail to abate noxious weeds existing upon property of which he is the occupant or owner after receipt of notice to abate and the expiration of three (3) days following the date upon which notice to abate was received.

(Added by Ord. 2017-^^)

Sec. 21-34 - Violations and penalty

- (a) Any person violating this article shall be fined fifty dollars (\$50.00) for each day during which such person fails to abate the noxious weeds, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues; provided however, that no fine shall be imposed for the three (3) day period immediately following receipt of the required notice to abate.
- (b) Any owner and tenant who has received notice of the violation shall be jointly and severally responsible for any fine or costs of abatement.
- (c) Any person served with a citation for violating the provisions of this chapter may appear before the violations clerk pursuant to chapter 6 of the New Chicago Town Code, admit the violation and pay the civil penalty. If a person does not appear within seven (7) days of issuance of the citation, it may be filed with a court of competent jurisdiction and processed accordingly.

- (d) It shall be the duty of the Police Department or Code Enforcement Officer to furnish copies of the citation to the Clerk-Treasurer's office within seventy-two (72) hours after issuance of the citation.
- (e) In addition to the above penalties and procedures permitted, the Town shall have the authority through its Code Enforcement Officer to make arrangements to have the noxious weeds on any property cut and/or removed.
 - (1) The cost for doing this shall only be the reasonable cost thereof and the cost of said removal, plus a twenty-five dollar (\$25.00) administrative fee, and may be filed as a lien against the real estate.
 - (2) The Town, through its Code Enforcement Officer or Clerk-Treasurer, shall file a verified statement with the auditor of Lake County as to the date of the removal of the noxious weeds and the reasonable cost thereof, plus administrative fees, and ask that the auditor of Lake County assess the cost against the real estate as in the nature of real estate taxes, pursuant to IC § 36-1-6-2.
- (f) In order to comply with IC § 36-7-10.1-3, the Code Enforcement Officer of the Town is identified as the entity responsible for the administration of this chapter. The definition of weeds and the offending height appears earlier in this chapter. The service of notice of violation is also set forth, *supra*.
- (g) The Code Enforcement Officer, or his/her designee, shall only enter the property for the purposes of cutting and/or removing noxious weeds after announcing their entry, during daylight hours, to any adult residing on the property. If the property is abandoned, the Code Enforcement Officer, or his/her designee, shall make reasonable attempts, via telephone, to notify the identified title holder of the intent to enter to cut the weeds.
- (h) After the noxious weeds have been abated, the Code Enforcement Officer shall cause a notice to be posted on the property disclosing the date and time of removal, the charge therefor, and the administrative fees charged. The notice shall also indicate that the costs will be assessed against the property. If the property is abandoned, the Code enforcement Officer shall mail the notice to the owner as shown on the Lake County tax roles. The notice shall further indicate that if the owner, as defined in this chapter, wishes to appeal the notice of violation and/or the charges for the weed removal, the owner may file a written appeal to the Town Council. The Town Council shall consider the appeal within thirty (30) days at a Council meeting and shall afford the owner the opportunity to present evidence on his/her appeal.

(Added by Ord. 2017-^^)

Sections 21-35 through 21-40 – Reserved.

Article 3- Open burning

Sec. 21-41 - Applicability

The requirements of this article establishes standards for prohibiting open residential burning of material which would result in emissions of regulated pollutants in the Town, except in areas where open burning is permitted by section 21-43 or as authorized by other state, federal, or local laws.

(Added by Ord. 2017-^^)

Sec. 21-42 - Prohibition against open burning

No persons shall openly burn any material except as provided in section 21-43 or section 21-44.

(Added by Ord. 2017-^^)

Sec. 21-43 - Exemptions

(a) The following types of fires are permitted:

- (1) Fires used for celebrating twelfth night ceremonies.
- (2) Fires used for celebrating school pep rallies.
- (3) Fires used for celebrating scouting activities.
- (4) Fires used for recreational and cooking purposes, i.e., camp fires.
- (5) Residential burning is allowed where a residence contains four (4) or fewer units. Open burning shall be in a noncombustible container with enclosed sides, a bottom, and a mesh covering with openings no larger than one-quarter (1/4) inch square, except for leaf burning or the burning of wood products which are too large to be placed in such a container. Open burning is prohibited in apartment complexes and mobile home parks.
- (6) Farm open burning of leaves or wood products derived from farming operations is allowed. Open burning of products accumulated from clearing operations as defined and discussed in section 4(a)94) of 325 IAC 4-1-4(a)(4) are not considered open burning.
- (7) Leaf burning in cemeteries.
- (8) Department of natural resources; in order to facilitate "prescribed" burning on DNR controlled properties for wildlife habitat maintenance, forestry purposes, and natural area management.
- (9) United States Department of the Interior; in order to facilitate a National Park Service Fire Management Plan for the Indiana Dunes National Lakeshore.
- (10) When a permit for open burning has been obtained from the Town of New Chicago, a state or federal agency having jurisdiction to issue such permits, or when the Town Council of the Town of New Chicago has issued a variance to this Ordinance.

(b) All exemptions shall be subject to the following:

- (1) Only wood products shall be burned unless otherwise stated above. Wood products are natural growth material; no processed, painted, or treated products.
- (2) Fires shall be attended at all times until completely extinguished.
- (3) If fires create an air pollution problem, a nuisance, or a fire hazard, they shall be extinguished. The persons responsible shall also be subject to penalties per this chapter.
- (4) All farm burning shall occur during daylight hours during which the fire(s) 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 during unfavorable meteorological conditions such as temperature inversions, high winds, or air stagnation.

(Added by Ord. 2017-^^)

Sec. 21-44 - Variances

Burning with prior approval from the Air Pollution Control Board of the State of Indiana shall be permitted per Indiana State Statutes and the Indiana Administrative Code.

(Added by Ord. 2017-^^)

Sec. 21-45 - Liability for fire

Any person who allows the accumulation or existence of combustible material which constitutes or contributes to a fire causing fire pollution shall not be excused from responsibility thereof on the basis that said fire was set by vandals, accidental or an act of God.

(Added by Ord. 2017-^^)

Sec. 21-46 - Violations; penalties

- (a) Any person violating this article shall be fined one hundred dollars (\$100.00) for a first violation, two hundred fifty dollars (\$250.00) for a second violation, and an amount not to exceed seven thousand five hundred dollars (\$7,500.00) for each subsequent violation.
- (b) Any person served with a citation for violating the provisions of this article may appear before the violations clerk pursuant to chapter 6 of the New Chicago Town Code, admit the violation and pay the civil penalty for any first or second offense. If a person does not appear within seven (7) days of issuance of the citation, it will be filed with a court of competent jurisdiction and processed accordingly.
- (c) It shall be the duty of the Police Department to furnish copies of the citation to the Clerk-Treasurer's office within seventy-two (72) working hours after issuance of the citation.

(Added by Ord. 2017-^^)

Sections 21-47 through 21-50 - Reserved.

Article 4 – Noise Control

Sec. 21-51 - Definitions

A-weighted sound level means the loudness of a sound measured through a filtering device intended to simulate human hearing. The level is designated DB(A) or DBA.

Commercial zone means the Local Business District as established in Chapter 13, Zoning, of the Town Code.

Decibel (DB) means a unit for measuring the sound pressure level of a sound.

Frequency means an objective way to describe the pitch of a sound.

Hertz (HZ) means a unit for measuring the frequency of a sound (sometimes called "cycles per second").

Industrial zone means the Industrial District as established in Chapter 13, Zoning, of the Town Code.

Light motor vehicle means any motorized vehicle with a gross vehicular weight less than eight thousand (8,000) pounds, including, by way of illustration and not by limitation, automobiles, vans, motorcycles, motor-driven cycles, motor scooters, dune buggies, motor homes, snowmobiles, all-terrain vehicles, go-carts, minibikes, trail bikes, and light trucks.

Modified exhaust system means exhaust system in which the original noise abatement devices have been removed, altered or replaced to produce more noise.

Octave band means a way to divide the entire frequency range of sound into sections for more accurate measurements.

Person means any individual, firm, partnership, association, corporation, company or organization of any kind.

Plainly audible means any noise for which the information content is unambiguously communicated to the listener, including, by way of illustration and not by limitation, understandable spoken speech, comprehension of whether a voice is raised (agitated) or normal or comprehensible musical rhythms.

Residential zones and agricultural zones means residential zones as established in Chapter 13, Zoning, of the Town Code.

Sound level meter means an instrument designed to measure sound pressure levels.

Sound pressure level means an objective way to describe the loudness of a sound.

All terminology used in this chapter shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body. (See Appendix I for Scientific Definitions).

(Added by Ord. 2017-^^)

Sec. 201-52 - General provisions

- (a) No person shall make or cause to be made any noise that unreasonably annoys, disrupts, injures or endangers the comfort, repose, health, peace, safety or welfare of any person or precludes their enjoyment of property or affects their property's value.
- (b) This general prohibition is not limited by the specific restrictions listed in the following sections.

(Added by Ord. 2017-^^)

Sec. 21-53 - Specific restrictions

The following acts are declared to be unlawful:

- (a) *Radios, television sets, musical instruments, tape or record players, CD players, digital music players, game consoles, musical instruments, amplifiers and similar devices:* Operating or permitting the use or operation of any such device between the hours of 9:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible across property boundaries or through partitions common to two (2) or more persons within a building.
- (b) *Domestic power tools:* Operating or permitting the use or operation of any mechanically powered saw, drill, sander, grinder, or other tool, lawn or garden tool, lawn mower, snow blower or similar device used outdoors or indoors between the hours of 9:00 p.m. and 6:00 a.m. in such a manner that will disturb or annoy any reasonable person nearby, or in the event of indoor use, in such a manner as to be plainly audible across or through partitions common to two (2) or more persons within a building.
- (c) *Construction:* Operating or permitting the operation of any tools or equipment used in construction, drilling or demolition between the hours of 9:00 p.m. and 6:00 a.m. in such a manner that will disturb or annoy any reasonable person nearby.
- (d) *Horns and signaling devices:* Operating a horn or other audible signaling device on any motor vehicle except in an emergency or when required by law.
- (e) *Participation in noisy parties or gatherings:* Participation in any party or gathering between the hours of 10:00 p.m. and 8:00 a.m. giving rise to noise that is plainly audible across property boundaries or between partitions common to two (2) or more persons within a building.
- (f) *Animal:* Harboring or keeping any animal(s) which by causing frequent or long continued noise shall disturb or annoy any reasonable person nearby.

(Added by Ord. 2017-^^)

Sec. 21-54 - Motor vehicles

- (a) It shall be unlawful for any person to cause the sound pressure level of the noise emitted during the operation of a light motor vehicle to exceed eighty (80) DBA in speed zones of thirty-five (35) miles per hour or less within the corporate limits of the Town of New Chicago. The sound pressure level measurement shall be at a distance of not less than fifteen (15) feet from the lane of travel of the violator.

- (b) It shall be unlawful for any person to operate a light motor vehicle which causes excessive noise as a result of a defective or modified exhaust system or as a result of an unnecessary rapid acceleration, deceleration, engine revving or tire squealing.
- (c) Any person found in violation of this ordinance shall be fined in an amount of one hundred dollars (\$100.00) for a first offense, two hundred fifty dollars (\$250.00) for a second offense, and no less than two hundred fifty dollars (\$250.00) or more one thousand dollars (\$1,000.00) for any subsequent offense.

(Added by Ord. 2017-^^)

Sec. 21-55 - Exceptions and permits

- (a) The provisions of this chapter shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of work to prevent or alleviate physical or property damage threatened or caused by a public calamity or other emergency.
- (b) The Clerk-Treasurer or his/her designee shall have the authority to issue permits for:
 - (1) Holidays, celebrations, concerts, parades or other special events per Code.
 - (2) Persons seeking issuance of such a permit must demonstrate that bringing the source of sound or activity for which the permit is sought into compliance with the provisions of this chapter would constitute an unreasonable hardship on the applicant, the community or other persons and that the adverse impact on the health, safety and welfare of persons affected by the permit would be outweighed by such hardship.
 - (3) Permits may contain any conditions (including time limits) that are necessary to limit the adverse impact of the activity.
 - (4) Noncompliance with any condition of the permit shall terminate it and subject the person holding it to the provisions of this chapter.
 - (5) The Clerk-Treasurer may issue guidelines defining the procedures to be followed in applying for a permit and the specific criteria to be considered in deciding whether to issue a permit. Any such guidelines will be kept on file and available for public copying and review at the Town Hall.

(Added by Ord. 2017-^^)

Sec. 21-56 - Penalties

- (a) Any person found in violation of this Article shall be punished in the amount of one hundred dollars (\$100.00) for a first offense, two hundred fifty dollars (\$250.00) for a second offense, and in an amount of no less than two hundred fifty dollars (\$250.00) or more than seven thousand five hundred dollars (\$7,500.00) for each subsequent offense.
- (b) Each day that a violation is in effect shall constitute a separate offense.

- (c) During any trial concerning the provisions of this article the court may admit evidence of the sound pressure level as tested by a sound level meter which meets or exceeds ANSI specifications for Type II equipment.

Sections 21-57 through 21-70 – Reserved.

Article 5 – Defacing public or private property

Sec. 21-71 - Defacing property prohibited

No person shall deface property owned by the Town or leased to the Town or property privately owned or privately leased and situated in the Town by marking, staining, painting, cutting, writing upon or by otherwise defacing any such property.

(Added by Ord. 2017-^^)

Sec. 21-72 - Definitions

For the purpose of this article, the following definitions shall apply:

Deface shall include, but not be limited to, deform, mar, disfigure, displace, tamper or damage.

Legal guardian shall mean a person appointed guardian or given legal custody of a minor child by a court.

Parent shall include the lawful mother or father of a minor child (under eighteen [18] years of age), whether by birth or adoption.

Property means real estate, including improvements thereon, and tangible personal property.

(Added by Ord. 2017-^^)

Sec. 21-73 - Exceptions

- (a) This article shall not apply to agents or employees of the Town or to contractors hired by the Town who are authorized by the Town to work on property owned by or leased to the Town.
- (b) This section shall not apply to agents or employees of the owner or lessee or to contractors hired by the owner or lessee who are authorized by the owner or lessee to work on owner's or lessee's property.
- (c) This section shall not prohibit the posting of notices required by law to be posted and otherwise legally posted.

(Added by Ord. 2017-^^)

Sec. 21-74 - Violations and penalties

- (a) Whoever violates any provision of this article shall be personally liable to the Town for a fine of no less than one thousand dollars (\$1,000.00) nor more than two thousand five hundred dollars (\$2,500.00) for a first offense. Subsequent offenses shall be punishable for a fine of no less than one thousand dollars (\$1,000.00) or more than seven thousand five hundred dollars (\$7,500.00). A separate offense shall be deemed to be committed when public property or private property situated within the Town is defaced in different locations or on different days.
- (b) In addition to the fine set forth above, whoever violates any provision of this article shall be personally liable to the Town for the actual damages to the Town arising from the defacing of public property. Actual damages to the Town may be measured by the cost to repair or replace the public property involved.
- (c) In the event the violator of this article is less than eighteen (18) years of age, then the parent or the legal guardian of said violator shall be liable for the violator's penalty for defacing of public property if the parent has custody of the child and the child is living with the parent or in the case of a legal guardian if the guardian has custody of the child and the child is living with the parent. The parent or legal guardian of said violator must be made a party defendant in all enforcement proceedings against the violator.

(Added by Ord. 2017-^^)

Sections 21-75 through 21-80 - Reserved.

Article 6 – Loud noises on public rights-of-way and public spaces

Sec. 21-81 - Definitions

For the purposes of this article, the following words, terms and phrases shall have the meanings set out in this section.

Device: Any radio, tape recorder, cassette player, compact disk player, game console, mobile phone, computer, tablet, mp3 player, stereo, television, or musical instrument.

Motor vehicle: Any vehicle, such as, but not limited to, passenger cars, trucks, truck-trailers, semi-trailers, campers, motorcycles, minibikes, go-carts, snowmobiles, amphibious craft on land, dune buggies, or racing vehicles, which are propelled by mechanical power.

Plainly audible: Any noise for which the information content of that noise is unambiguously communicated to the listener, such as, but not limited to understandable spoken speech, comprehension of whether a voice is raised or normal, or comprehensible musical rhythms or vocal song.

Public right-of-way and public spaces: Any street, avenue, boulevard, highway, parkway, sidewalk, alley or public space which is owned or controlled by a public government entity.

(Added by Ord. 2017-^^)

Sec. 21-82 - Standards

No person within the Town limits shall play, use, operate or permit to be played, used or operated, any device for receiving sound, producing sound, or reproducing sound, if the device is located in, on or associated with any motor vehicle on the public right-of-way or on public space; and if the sound generated by the device is plainly audible to a person with normal hearing at a distance greater than fifty (50) feet from the motor vehicle.

(Added by Ord. 2017-^^)

Sec. 21-83 - Exceptions

This section shall not apply to any person participating in a parade or public assembly that has received a lawful permit provided the parade is conducted in compliance with the terms of the permit.

(Added by Ord. 2017-^^)

Sec. 21-84 - Penalty

Whoever violates any provision of this article shall be fined one hundred dollars (\$100.00). Each day a violation occurs shall constitute a separate offense. A second violation of this article, within any twelve-month period shall include a mandatory fine of not less than two hundred fifty dollars (\$250.00). Any third, or subsequent violation of this article within a twelve-month period shall include a fine of no less than five hundred dollars (\$500.00) or more than seven thousand five hundred dollars (\$7,500.00).

(Added by Ord. 2017-^^)

Chapter 22 – Signs and street numbers

Sec. 22-1 – Display of street numbers

- (a) Each building, house, or other structure on a parcel of real estate which is or has been assigned a street number by the Planning Commission, shall have displayed, and properly maintain thereon, the assigned street number on a portion of the structure on or near the main entrance, which is plainly and readily visible by the naked eye from the street or other public way which adjoins said parcel.
- (b) Every building, house, or other structure which has been so assigned a street number by the Planning Commission, but which is so distant from the street or other public way which adjoins it as to be impractical to comply with the requirements of subsection (a), shall instead display the assigned street number on a light post, mailbox, fence or other structure near the entrance to said parcel, which is plainly and readily visible by the naked eye from the street or public way which adjoins the same.
- (c) The assigned street number display shall employ Arabic numbers, the color of which must clearly contrast with the background upon which they are placed.
- (d) An owner or occupant of a building, house, or structure on a parcel of real estate which has been or is so assigned a street number, and who fails to erect or to properly maintain the numerical display required by this article, shall be liable for a fine of one hundred dollars. Each day a violation of this article exists shall be deemed a separate violation.
- (e) The Building Commissioner and Code Enforcement Officer are authorized to enforce this chapter.
- (f) Any person who violates this article shall have fifteen (15) days following written notification of noncompliance in which to comply without fine or other penalty.
- (g) Any person in violation of the provisions of this article shall be fined as follows: Each day such violation is committed or permitted to continue shall constitute a separate violation.
 - (1) One hundred dollars (\$100.00) for failure to display street numbers in commercial or industrial zoned areas or any business within any residential area.
 - (2) Fifty dollars (\$50.00) for failure to display street numbers for residential structures in residentially zoned areas.
- (h) Any person in violation of any subsection of this article, may, in lieu of having such a violation filed with the court of competent jurisdiction, pay within seven (7) days after citation is issued the minimum fine as called for within this article; said sum payable to the Town of New Chicago.
- (i) Anyone cited with a violation pursuant to this article may be granted a two-week continuance to pay the amount to the Town Clerk-Treasurer before suit is filed in regard to the violation in a court of competent jurisdiction, provided the continuance is granted by either the Clerk-Treasurer of the Town of New Chicago.

(Added by Ord. 2017-^^)

Sec. 22-2 - Illumination of Signs

Signs may be illuminated within the following restrictions:

- (a) Signs which contain, include or are illuminated by any flashing, intermittent, or moving light or lights are prohibited except those giving public service information, such as time, date, temperature, or weather.

- (b) Signs which are not effectively shielded as to prevent beams or rays from being directed at any portion of a traveled way and are of such intensity or brilliance as to cause glare or impair vision of the driver to any motor vehicle are prohibited.
- (c) No sign shall be so illuminated that it interferes with the effectiveness of or obscures an official traffic sign or signal.
- (d) No illuminated sign shall be permitted in any area zoned as residential.
- (e) Any sign found in violation of this ordinance shall be deemed a nuisance
- (f) A violation of this ordinance is punishable by a fine of one hundred dollars (\$100.00) for each day on which the condition is allowed to persist.

(Added by Ord. 2017-^^)

Sec. 22-3 - General sign regulations and restrictions

The following restrictions and conditions shall apply to all signs erected or located in any district.

- (a) All signs shall be measured by the smallest square, rectangle, triangle, or combination thereof which shall encompass the entire sign facing.
- (b) No signs, except those established and maintained by the Town, county, state, or federal governments, shall be permitted to project into or overhang a public right-of-way or dedicated public easement. All ground signs shall be erected or placed a minimum of five (5) feet from any street or utilities easement and shall not be placed to obstruct the view of any driver or pedestrian. On corner lots, no sign shall be erected in the area bounded by the street lines of such corner lots and a line joining points along such street lines fifteen (15) feet from the point of such intersection.
- (c) No sign otherwise permitted shall project above or beyond the maximum height limitation of the use district in which it is located.
- (d) No sign shall be constructed which resembles any official marker erected by the Town, state, or any governmental agency, or which, by reason of position, shape, or color, would conflict with the proper functioning of any traffic or signal.
- (e) No sign or part thereof shall be located on any property without the consent of the owner, holder, lessee agent, or trustee.
- (f) The general area in the vicinity of a sign must be kept free and clear of all signs of material, weeds, debris, trash, and other refuse.
- (g) Signs advertising only the sale, rental, or lease of the building or premises on which it is maintained are permitted so long as such sign does not exceed the maximum square footage requirements.
- (h) The following signs are exempt from regulations of this Chapter.
 - (1) Memorial signs and tablets displayed on private property
 - (2) Flags and governmental insignias,
 - (3) Legal notices
 - (4) Official signs
 - (5) Temporary, non-illuminated signs during construction work on the premises, not exceeding the square footage requirements set forth hereinafter, bearing the street number and names of contractors, owners, tenants, or architects or others connected with the construction shall be

permitted provided that such signs shall be removed within one (1) week after the work has been completed or abandoned.

- (6) Temporary political signs in conformity with subsection (k) of this ordinance.
- (i) Certification: All permanent, free-standing signs described with fifty (50) square feet of face or larger must be certified by the building inspector. Structural base data and wind load must be provided prior to applying for a permit.
- (j) All temporary political signs are subject to the following restrictions:
 - (1) All temporary political signs shall be removed within seven (7) days after the election for which the sign was erected or placed.
 - (2) Temporary political signs may be erected or placed on private property only with the property owner's consent and no earlier than thirty (30) days prior to any primary day or sixty (60) days earlier than any general election.
 - (3) No political sign shall be erected or placed on any municipally owned building or structure.
- (k) All temporary portable signs shall be limited to a duration of six (6) weeks
- (l) No homemade signs shall be allowed on any business or commercial establishment, nor on the property which contains the business or establishment, nor off premises advertising the business or commercial establishment. A homemade sign is one which is not made by a professional sign maker.
- (m) Any violation of the heretofore stated terms and provisions of this Chapter shall subject the violator to a fine of one hundred dollars (\$100.00) unless a more specific ordinance is in place. Each day or on which the offense continues shall be deemed to a separate violation.

(Added by Ord. 2017-^^)

Sec. 22-4 - Posting of signs or notices on utility poles and trees

- (a) It shall be unlawful for any person to post or affix in any way to any utility post, pole, or tree any bill, advertisement, political sign, or poster.
- (b) A violation of this ordinance shall be punishable by a fine of one hundred dollars (\$100.00). Each sign posted and each day on which the sign remains posted shall constitute a separate offense.

(Added by Ord. 2017-^^)

Chapter 23 – Traffic and vehicles

Article 1 – In general

Sec. 23-1 - Definitions

The words and phrases used in this chapter shall have the same meanings and definitions assigned to in this section and the Uniform Act Regulating Traffic on Highways. In addition the following words and phrases, when used in this chapter shall have the meanings respectively assigned to them below:

Alley means a public thoroughfare which affords only secondary means of vehicular access to abutting property, and not over twenty (20) feet in width.

Commercial vehicle means every vehicle designed, maintained or used primarily for the transportation of property, equipment, material, and personnel.

Controlled-access highway means every highway, street or roadway in respect to which owners or occupants of abutting property or lands and other persons have no legal right of access to or from the same, except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway.

Curb loading zone means a space adjacent to a curb for the exclusive use of vehicles during the loading or unloading of passengers or materials.

Freight curb loading zone means a space adjacent to a curb for the exclusive use of vehicles during the loading or unloading of freight or passengers.

Park, when prohibited, means the standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading, not to exceed thirty (30) minutes.

Passenger curb loading zone means a place adjacent to a curb reserved for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

Stop when required, means a complete cessation of movement.

Stop, stopping or standing when prohibited, means any stopping or standing of a vehicle whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal.

Traffic division means the traffic division of the Police Department of the Town or, in the event a traffic division is not established, then such term whenever used herein shall be deemed to refer to the Police Department of the Town.

(Added by Ord. 2017-^^)

Sec. 23-2 – Weight restrictions

(a) Purpose

- (1) Whereas, the Town of New Chicago has numerous roads in the community which are constructed in such a fashion that they can be easily damaged by heavy vehicles.
- (2) It would be in the best interests of the safety of the citizens of New Chicago to maintain safe roadways.

(b) The Town of New Chicago street superintendent or Town Council may restrict the weight on roadways through the town, but no weight limit shall be less than ten thousand pounds (10,000) unless section 23-3 applies.

(c) The Town of New Chicago Street Superintendent or Town Council may post signs restricting the weight of vehicles on any roads within the town of New Chicago.

(d) This ordinance shall not apply to the following entities and uses:

- (1) Local deliveries.
- (2) Construction equipment intended for use within the Town of New Chicago.
- (3) Garbage trucks operated by the town's contracted garbage vendor.
- (4) Any highway in the state highway stem or route maintained by the State of Indiana.

(Added by Ord. 2017-^^)

Sec. 23-3 – Power to further restrict roadways due to conditions hazardous to roadways

(a) When necessary due to deterioration, rain, snow, or other climatic conditions which could seriously damage or destroy the roadways, the Town of New Chicago, by its Street superintendent shall have the power to take any of the following actions to protect the roadways.

- (1) Prohibit the operation of vehicles upon a roadway.
- (2) Prohibit the operation of certain types or classes of vehicles upon a roadway.
- (3) Restrict the weight of vehicles upon the roadway to any weight deemed necessary by the street superintendent.

(b) Any roads subject to such restrictions must be marked sign signs specifying the terms of the ordinance at the end of each part of any roadway affected by the ordinance and at all intersecting roadways.

(c) This ordinance may not be enforced until the signs are erected and maintained.

(d) This ordinance cannot be applied to any state highways or streets maintained by the State of Indiana.

(Added by Ord. 2017-^^)

Sections 23-4 through 23-20 - Reserved.

Article 2 – Vehicle operation and equipment

Sec. 23-21 - Obedience to police or firemen

- (e) It shall be unlawful for any person to refuse or fail to comply with any lawful order, signal or direction of a police officer, crossing guard, or fireman.
- (f) A violation of this section shall be violation punishable by a fine of two hundred dollars (\$200.00).

(Added by Ord. 2017-^^)

Sec. 23-22 - Obedience to official traffic control devices

- (a) The driver of every vehicle shall obey the instruction of any official traffic control device applicable thereto within the Town, unless otherwise directed by a police officer, fireman, or workman designated to do so as directed so as to promote the safe flow of traffic.
- (b) A violation of this section shall be violation punishable by a fine of two hundred dollars (\$200.00).

(Added by Ord. 2017-^^)

Sec. 23-23 - Application of chapter to animals

Every person propelling any pushcart or riding an animal upon a roadway and every person driving any animal-drawn vehicle, shall be subject to the provisions of this chapter applicable to the driver of any vehicle, except those provisions of this chapter which by their very nature can have no application.

Sec. 23-24 – Obedience by public employees

- (a) The provisions of this chapter shall apply to the driver of any vehicle owned by or used in the service of the United States government, this state, county or Town, and it shall be unlawful for any such driver to violate any of the provisions of this chapter, except as otherwise permitted in this chapter or state law.
- (b) Unless specifically made applicable, the provisions of this chapter shall not apply to persons, teams, motor vehicles and other equipment while actually engaged in work on the surface of a highway but shall apply to such persons and vehicles when traveling to or from work.

(Added by Ord. 2017-^^)

Sec. 23-25 - Authorized emergency vehicles

- (a) The driver of any authorized emergency vehicle when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding, but not upon returning from a fire alarm, may exercise the privileges set forth in this chapter, but subject to the conditions herein stated.
- (b) The driver of any authorized emergency vehicle may:

- (1) Park or stand, irrespective of the provisions of this chapter;
 - (2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
 - (3) Exceed the maximum speed limits so long as he does not endanger life or property;
 - (4) Disregard regulations governing direction of movement or turning in specified directions.
- (c) The exemptions herein granted to an authorized emergency vehicle shall apply only when such vehicle is making use of audible or visual signals meeting the requirements of law, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.
- (d) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his/her reckless disregard for the safety of others.

(Added by Ord. 2017-^^)

Sec. 23-26 - Interference with official traffic control devices or railroad signs or signals

- (a) No person shall, without lawful authority attempt to, or in fact, alter, deface, injure, knock down, obscure, or remove any official traffic control device, sign or street name sign, or any railroad sign or signal, or any inscription, shield or insignia thereon, or any other part thereof.
- (b) In the event any person violates the provisions of this article while on a state highway, then the prosecution for the offense shall be under the applicable state statute, and if there be none or if the offense is not committed on a state highway then the prosecution shall be under this section.
- (c) Violation of this ordinance shall be punishable by a fine of not less than two hundred fifty dollars (\$250.00) nor more than one thousand dollars (\$1000.00) for a first offense plus the costs of repairing or replacing the damaged traffic control device. Subsequent offenses may result in a fine of up to seven thousand five hundred dollars (\$7,500.00).

(Added by Ord. 2017-^^)

Sec. 23-27 - Travelling wrong-way upon roadway

- (a) It shall be unlawful for any person or persons to drive the wrong way on any one-way street or divided roadway.
- (b) A violation of this section is punishable by a fine of one hundred fifty dollars (\$150.00).

(Added by Ord. 2017-^^)

Sec. 23-28 - Speed limits

- (a) It shall be unlawful for any person or persons to drive or propel any motorized or other vehicle over or upon the streets in the Town at a speed greater than posted.
- (b) Persons violating this section shall be subject to civil penalty for the following speeds and areas:

Speeding 1—10 mph over the posted limit	\$125.00
Speeding 11—19 mph over the posted limit	\$150.00
Speeding 20 mph or more over the posted limit	\$200.00
Speeding school zone	Fines Doubled
Speeding in a work zone	Fines Doubled

(Added y Ord. 2017-^^)

Sec. 23-29 - Speed limit in alleys and public parks

- (a) Where no special hazard exists, a speed of ten (10) miles per hour on alleys and on all roadways within public parks shall be lawful.
- (b) No person shall operate any vehicle in excess of such limit, which shall be prima-facie evidence that such speed is not reasonable or prudent and that it is unlawful.

(Added by Ord. 2017-^^)

Sec. 23-30 - Riding on motorcycles

- (a) A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two (2) persons, or upon another seat firmly attached to the rear of the motorcycle.
- (b) A violation of this section is punishable by a fine of one hundred fifty dollars (\$150.00).
- (c) Both the driver and the passenger may be fined under this section.

(Added by Ord. 2017-^^)

Sec. 23-31 - Limitations on backing

- (a) The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic.
- (b) The driver of any vehicle shall not back such vehicle into an intersection or over a crosswalk and shall not in any event or at any place back a vehicle against the current of traffic, except to back into a parallel parking space or to back out of a designated angle parking space.
- (c) No vehicle shall be backed over a public sidewalk except where necessary, and where it is necessary to the driver shall either sound his/her horn or halt before crossing the sidewalk.
- (d) A violation of this section is punishable by a fine of one hundred and fifty dollars (\$150.00).

(Added by Ord. 2017-^^)

Sec. 23-32 - Driving vehicles on sidewalks

- (a) The driver of any motorized vehicle shall not drive over any sidewalk area except at a permanent or temporary driveway, or park within such area. No vehicle shall be driven over or across the curb of any street except as above provided.
- (b) A violation of this section is punishable by a fine of one hundred fifty dollars (\$150.00).

(Added by Ord. 2017-^^)

Sec. 23-33 - Stop when traffic obstructed

- (a) No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians notwithstanding any traffic control signal indication to proceed.
- (b) A violation of this section is punishable by a fine of two hundred dollars (\$200.00).

(Added by Ord. 2017-^^)

Sec. 23-34 - Left turns and U-turns

- (a) No driver of any vehicle shall make a left turn at any posted intersections prohibiting such a turn.
- (b) No driver of any vehicle shall make a U-turn on any street or at any intersection unless such movement can be made in safety without interfering with other traffic.
- (c) No driver of any vehicle shall make a U-turn at any place where a no U-Turn sign is posted.
- (d) The provisions of this section shall not be effective and shall not be enforced against an alleged violator if at the time of the alleged violation an official sign is not in position and sufficiently legible to be seen by any ordinarily observant person except that it shall not be necessary to post signs warning the operators of vehicles that U-turns are prohibited.

- (e) The Chief of Police is authorized to direct the placement of proper markers and signs within or adjacent to intersections indicating the turn prohibited in accordance with the provisions of this section.
- (f) A violation of this section is punishable by a fine of one hundred and seventy-five dollars (\$175.00).

(Added by Ord. 2017-^^)

Sec. 12-35 - Restrictions on turning at intersections

- (a) When authorized makers, signs or other indicators are placed within or adjacent to an intersection indicating the course to be traveled by vehicles turning thereat, no driver of any vehicle shall disobey the direction of such indicators.
- (b) A violation of this section is punishable by a fine of one hundred and seventy-five dollars (\$175.00).

(Added by Ord. 2017-^^)

Sec. 23-36 - Emerging from alley or building

- (a) The driver of a vehicle entering any roadway or alley stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any roadway or alley, yielding the right of way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right of way to all vehicles approaching on such roadway.
- (b) A violation of this section is punishable by a fine of one hundred and seventy-five dollars (\$175.00).

(Added by Ord. 2017-^^)

Sec. 23-37 – Reserved.

Sec. 23-38 - Towing of illegally parked vehicles

- (a) The Police Department and all members thereof are hereby authorized to remove and tow away, or have removed and towed away by commercial towing service, any vehicle illegally parked in violation of the load limits provided in this chapter.
- (b) When a vehicle is removed under this section, the owner of the vehicle will be responsible for all towing costs.
- (c) Vehicles so towed away for illegal parking shall be stored in a safe place and shall be restored to the owner or operator of such vehicle upon payment of a fine of one hundred dollars (\$100.00), the actual costs of towing the vehicle, and twenty-five dollars (\$25.00) for each subsequent day.
- (d) When a vehicle is authorized to be towed away, the Police Department shall keep and maintain a record of the vehicle towed, listing the color, year of manufacture, manufacturer's trade name, manufacturer's series name, body style, vehicle identification number, and license plate year and

number displayed on the vehicle. The records shall also include the date and hour of tow, location towed from, location towed to, reason for towing, and the name of the officer authorizing the tow.

(Added by Ord. 2017-^^)

Sec. 23-39 - Administrative fee for towing cars

- (a) A forty dollar (\$40.00) administrative fee shall be assessed for the towing of each automobile, truck, or other motorized vehicle within the corporate limits of the Town of New Chicago.
- (b) This administrative fee is in addition to the fee for towing the vehicle and any applicable storage charges.

(Added by Ord. 2017-^^)

Sec. 23-40 – Reserved.

Sec. 24-41 - Yielding

- (a) Motorists shall yield on the Town's streets and roads in the following manner:
 - (1) The driver of a vehicle approaching a yield sign shall, in compliance to the sign, slow down to a speed reasonable for the conditions or stop, if necessary, and yield the right-of-way to any vehicle in the intersection or that is approaching on another road so closely as to amount to an immediate hazard. The driver, having yielded and having stopped in order to yield, may then proceed, and the drivers of all other vehicles approaching the intersection on roads that intersect shall yield to the vehicle so proceeding.
 - (2) A driver who enters a yield intersection without stopping and causes or has a collision with a vehicle which entered the intersecting roadway shall, prima facie, be considered not to have yielded as required herein. The foregoing shall not absolve the drivers of other vehicles approaching the intersection at a distance that does not constitute an immediate hazard from the duty to drive with reasonable care to avoid a collision.
 - (3) The driver of a vehicle approaching a yield sign that is required for safety to stop, shall stop before entering the crosswalk on the near side of the intersection, or if there is no crosswalk, at a marked stop line but, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching vehicles on the intersecting roadway.
 - (4) The driver of a vehicle entering or crossing a street from a driveway or private road shall yield the right of way to all vehicles approaching on the street from either direction.
- (b) A violation of this section is punishable by a fine of one hundred and seventy-five dollars (\$175.00).

(Added by Ord. 2017-^^)

Sec. 23-42 - Driving over physical barriers and divided roadways

- (a) No person shall drive a vehicle over, across or within a public street that is divided into two (2) roadways by a physical barrier, an intervening space, or a clearly indicated dividing section constructed to impede traffic. The foregoing does not apply if there is a designated opening in the barrier, dividing the section or space, or at a crossover, or an intersection established by public authority.
- (b) A violation of this section is punishable by a fine of three hundred dollars (\$300.00).

(Added by Ord. 2017-^^)

Sec. 23-43 - Driving between vehicles comprising funeral or other procession

- (a) No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when the vehicles are clearly identified as required by this chapter.
- (b) A violation of this section is punishable by a fine of three hundred dollars (\$300.00).

(Added by Ord. 2017-^^)

Sec. 23-44 - Open alcoholic beverage containers in motor vehicle passenger compartments

- (a) *Operator's responsibility.* It shall be unlawful for the operator of a motor vehicle, who while the motor vehicle is in operation, to knowingly allow an alcoholic beverage container to be in the passenger compartment of the vehicle:
 - (1) that has been opened;
 - (2) that has a broken seal; or
 - (3) from which some of the contents have been removed;
- (b) *Alcoholic beverage container defined.* An alcoholic beverage container is a receptacle or device in which an alcoholic beverage is immediately contained and with which the alcoholic beverage contained in it is in immediate contact.
- (c) *Alcoholic beverage defined.* An alcoholic beverage is a liquid or solid which is, or contains, alcohol and which is fit for human consumption and which is reasonably likely to be used as a beverage.
- (d) A violation of this section is punishable by a fine of two hundred fifty dollars (\$250.00).

(Added by Ord. 2017-^^)

Sec. 23-45 - Passenger and child restraint requirements

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

- (1) *Child passenger restraint system*: A device that is manufactured for the purpose of protecting children from injury during a motor vehicle crash and meets the standards prescribed in IC § 9-13-2-23 and 49 CFR 571-213.
 - (2) *Truck*: A motor vehicle that is licensed as a truck by the State of Indiana or by any other state and does not include a motorcycle, bus, school bus, or recreational vehicle.
 - (3) *Front seat passengers*. Each front seat occupant of a truck that is equipped with a safety belt meeting the standards stated in the Federal Motor Vehicle Safety Number 208 (49 CFR 571.208) shall have a safety belt properly fastened about the occupant's body at all times when the vehicle is in motion.
- (b) *Child restraint requirements*.
- (1) A person who operates a truck in which there is a child less than four (4) years of age shall have said child restrained by a child passenger restraint system, however, if it is reasonably determined that the said child will not fit in a child restraint system then said child shall be properly fastened and restrained by a safety belt.
 - (2) A person who operates a truck that is equipped with a safety belt meeting the standards stated in the Federal Motor Vehicle Safety Standards Number 208 (49 CFR 571.208) shall have every child at least four (4) years of age but less than twelve (12) years of age properly fastened and restrained by a child passenger restraint system or a safety belt.
- (c) *Vehicle stop*. A vehicle may be stopped by a police officer to determine compliance with this section.
- (d) *Penalty*. Whoever violates this section shall be fined an amount of two hundred dollars (\$200.00).

(Added by Ord. 2017-^^)

Sec. 23-46 – Engine and jake brakes prohibited

- (a) *Definition*. "Engine-braking," commonly known as "jake-braking," shall mean the use or operation of any mechanical exhaust device designed to aid in the braking, decompression or deceleration of any motor vehicle which results in the excessive, loud, unusual or explosive noise from such vehicle.
- (b) It is unlawful for any person to operate any motor vehicle with a Jake, engine, or dynamic braking device engaged within the Town limits.
- (c) The provisions of this section shall not apply to the application of unmuffled compression brakes where necessary for the protection of persons and/or property which cannot be avoided by application of an alternative braking system. Noise caused by the application of engine compression brakes, otherwise known as "engine-braking" and commonly known as "jake-braking," which is effectively muffled or if the application is necessary for the health, safety and welfare of the community is exempt from the provisions of this section. Sounds created by emergency equipment for emergency purposes are also exempt.
- (d) *Penalty*: Each violation shall, in addition to any other penalty that may be applicable, subject the operator of said vehicle to a fine of not less than one hundred fifty dollars (\$150.00) or more than one thousand dollars (\$1,000.00) for each such violation.
- (e) The Town street department is hereby authorized and directed to post, at reasonable locations within the Town, signs indicating the prohibition of "engine-braking" and/or "jake-braking." However, the absence of such signs shall not be a defense for a violation of this ordinance.

(Added by Ord. 2017-^^)

Sec. 23-47 –Handheld electronic device use prohibited

- (a) All motorists within the Town shall be prohibited from use of handheld electronic devices while operating a vehicle within the Town limits.
- (b) Handheld electronic devices include, but are not limited to, mobile phones, tablet computers, laptop computers, smart watches, music players (other than those built into the vehicle), handheld game systems, GPS units, e-readers, and any other handheld electronic devices.
 - (1) This shall not preclude use of GPS units and music devices that are programmed while the car is at a parked position, are mounted in such a manner that the driver does not have to take his/her eyes off of the road, and are not operated by the driver's hand while the car is in motion.
- (c) This ordinance encompasses making calls, texting, social networking, internet browsing, navigation, and any other use of a handheld electronic device.
- (d) The Police Department is authorized to post signs advising motorists of this ordinance, but the absence of such signs shall not be a defense to a violation of this ordinance.
- (e) Exclusions:
 - (1) This section does not prohibit the use of phone or GPS functionality on a mobile phone or GPS navigation through use of hands-free technology.
 - (2) This ordinance does not prohibit an individual from operating a phone, GPS, or other handheld electronic device while the car is at rest in a parked position. For purposes of this ordinance, waiting at a stop sign, stop light, or congested traffic does not qualify as a "parked position."
 - (3) This ordinance does not apply to police officers, emergency vehicle operators, drivers using a handheld cellular device to call 911, driver's using GPS functionality to drive to a medical facility for an emergency, and drivers using a handheld cellular phone in a parked motor vehicle. Waiting at a stop sign, stop light, or stalled traffic shall not be considered a "parked motor vehicle."
- (f) Any individual using a handheld electronic device while operating a motor vehicle shall be fined in the amount of one hundred fifty dollars (\$150.00).

(Added by Ord. 2017-^^)

Sec. 23-48 - Mufflers; exhaust

- (a) It shall be unlawful to operate or drive within the Town any motor vehicle without a muffler.
- (b) It shall be unlawful to operate or run any gasoline, oil, diesel, or other liquid fuel burning engine within the Town in any manner such that the noise, fumes, and/or noxious odors emitted thereby are unreasonably offensive or annoying to the public.
- (c) A violation of this section is punishable by a fine of one hundred fifty dollars (\$150.00).

(Added by Ord. 2017-^^)

Sec. 23-49 - Driving left of center

- (a) Upon all roadways of sufficient width, a vehicle shall be driven upon the right half of the roadway except as follows:
- (b) Exemptions.
 - (1) When overtaking and passing another vehicle proceeding in the same direction under the rules governing overtaking and passing;
 - (2) When the right half of a roadway is closed to traffic under construction or repair. In such an instance, motorists shall attempt to drive on the right portion of the available roadway.
 - (3) Upon a roadway divided into three marked lanes for traffic under the rules applicable to a roadway divided into three marked lanes;
 - (4) Upon a roadway designated and signposted for one-way traffic;
 - (5) Upon all roadways, a vehicle proceeding at less than the normal speed of traffic at the time and place under conditions then existing shall be driven:
 - i. In the right hand lane then available for traffic; or
 - ii. As close as practicable to the right hand curb or edge of the roadway; except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.
- (c) Penalty. One hundred fifty dollars (\$150.00) per occurrence.

(Added by Ord. 2017-^^)

Sec. 23-50 - Disregarding a traffic control device

- (a) A person who drives a vehicle shall stop at an intersection where a stop sign or stop light is erected at one or more entrances to a through highway that are not a part of the through highway and proceed cautiously, yielding to vehicles that are not required to stop.
- (b) A person who drives a vehicle shall cautiously approach an intersection where a Yield sign is placed and yield the right of way to any vehicles travelling along the roadway upon which the motorist is attempting to turn or merge.
- (c) *Penalty.* One hundred and seventy-five dollars (\$175.00) per occurrence.

(Added by Ord. 2017-^^)

Sec. 23-51 - Improper passing

- (a) A person who drives a vehicle must obey the markings or signs posted under this chapter regarding lawful passing.
- (b) A person must use reasonable care when passing another vehicle.
- (c) *Penalty.* One Hundred and seventy-five dollars (\$175.00) per occurrence.

(Added by Ord. 2017-^^)

Sec. 23-52 - Unsafe start

- (a) A person may not start a vehicle that is stopped, standing, or parked until the movement can be made with reasonable safety.
- (b) A person must properly signal at attempt to enter into traffic with the required turn signals or hand gestures.
- (c) *Penalty.* One hundred and seventy-five dollars (\$175.00) per occurrence.

(Added by Ord. 2017-^^)

Sec. 23-53 - Failure to yield right-of-way

- (a) Except when approaching through highways and areas in which signs are posted giving other instructions, when two (2) vehicles approach or enter an intersection from different highways at approximately the same time, the person who drives the vehicle on the left shall yield the right-of-way to the vehicle on the right.
- (b) *Penalty.* One hundred and seventy-five dollars (\$175.00) per occurrence.

(Added by Ord. 2017-^^)

Sec. 23-54 - Following too closely

- (a) A person who drives a motor vehicle may not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of both vehicles, the time interval between vehicles, and the condition of the highway.
- (b) *Penalty.* One hundred and seventy-five dollars (\$175.00) per occurrence.

(Added by Ord. 2017-^^)

Sec. 23-55 – Damaging streets

- (a) Any person who operates or causes to be operated any vehicle or other equipment which causes ascertainable damage to any street or improved alley of the Town, regardless of whether the vehicle or equipment causing said damage was properly permitted or otherwise being lawfully operated at the time the damage was sustained, shall be responsible for reimbursing to the Town the reasonable costs of repairing same.
- (b) In addition to the fine under section (a), persons or permittees violating the provisions of this section shall be subject to a fine of no less than five hundred dollars (\$500.00) or more than one thousand dollars (\$1,000.00). Each subsequent offense within a calendar year shall increase the minimum and maximum fines in five hundred dollar (\$500.00) increments. However, no single fine shall exceed seven thousand five hundred dollars (\$7,500.00).

(Added by Ord. 2017-^^)

Sec. 23-56 – Following emergency vehicle prohibited

- (a) The driver of any vehicle other than one on official business shall not follow any police car, fire department vehicle, ambulance, or other emergency vehicle traveling in response to an emergency closer than five-hundred (500) feet or drive into and park such vehicle within the block of where a fire truck has stopped to answer a fire alarm or other emergency call.
- (b) *Penalty.* One hundred and seventy-five dollars (\$175.00) per occurrence.

(Added by Ord. 2017-^^)

Sec. 23-57 – Driving over a fire hose

- (a) No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street or private driveway without the consent of the fire department official in command.
- (b) *Penalty.* One hundred and seventy-five dollars (\$175.00) per occurrence.

(Added by Ord. 2017-^^)

Sec. 23-58 – Obstruction to driver's view or driving mechanism

No person shall drive a vehicle when it is so loaded or when there are in the front seat such a number of persons as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

(Added by Ord. 2017-^^)

Sections 23-58 through 23-70 – Reserved.

Article 4 – Stopping, standing, and parking

Sec. 23-71 - Scope

The provisions of this chapter prohibiting the standing or parking of vehicle shall apply at all times or at those times herein specified and as indicated on official signs, except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer, construction worker, or an official traffic control device.

(Added by Ord. 2017-^^)

Sec. 23-72 - Regulations not exclusive

The provisions of this chapter imposing a time limit on parking shall not relieve any person from a duty to observe other and more restrictive provisions limiting the stopping, standing, or parking of vehicles in specified places or at specified times.

(Added by Ord. 2017-^^)

Sec. 23-73 – Reserved.**Sec. 23-74 - Presumption—generally**

In any prosecution charging a violation of any law or regulation governing the parking or standing of a vehicle, proof that the particular vehicle described in the notice to appear was parked in violation of any such law or regulation, together with proof that the defendant named in the complaint was, at the time of such violation, the registered owner of such vehicle will constitute prima facie evidence that such registered owner was the person who parked such vehicle at the time and place and for the time during which such violation occurred.

(Added by Ord. 2017-^^)

Sec. 23-75 - Same—exceptions

- (a) This section does not apply in any proceeding concerning a standing or parking citation issued by a police authority operating under the jurisdiction of an airport authority.
- (b) It is a defense in a proceeding to enforce an ordinance, or a statute defining an infraction, concerning the standing or parking of vehicles if the owner:
 - (1) Proves that at the time of the alleged violation he was engaged in the business of renting or leasing vehicles under written agreements;
 - (2) Proves that at the time of the alleged violation the vehicle was in the care, custody, or control of a person (other than the owner or an employee of the owner) pursuant to a written agreement for the rental or lease of the vehicle for a period of sixty (60) days or less; and
- (c) The owner of a vehicle may establish proof under paragraph (b)(2) by submitting, within thirty (30) days after he receives notice by mail of:
 - (1) The parking ticket; or
 - (2) The infraction violation;
 - (3) A copy of the rental or lease agreement to the traffic violations bureau or court that has jurisdiction.

(Added by Ord. 2017-^^)

Sec. 23-76 through 23-79 – Reserved.

Sec. 23-80 - Angle parking

- (a) Angle parking is hereby prohibited, except on the streets and places designated.
- (b) The streets department shall determine upon what street angle parking shall be permitted and shall mark or sign such streets, but such angle parking shall not be indicated upon any federal or state highway within the Town unless the state highway department has determined by resolution or order entered in its minutes that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.
- (c) Angle parking shall not be indicated or permitted at any place where passing traffic would thereby be caused or required to drive upon the left side of the street.
- (d) Upon those streets which have been signed or marked for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings. The vehicle must enter the parking space with a forward movement.
- (e) Violations of this section shall be punishable by a penalty one hundred fifty dollars (\$150.00). Each day shall constitute a separate violation.

(Added by Ord. 2017-^^)

Sec. 23-81 - Parking not to obstruct traffic

- (a) No person shall park any vehicle upon a street in such manner or under such conditions as to leave available less than twelve (12) feet of the width of the roadway for free movement of vehicular traffic.
- (b) Violations of this section shall be punishable by a penalty of one hundred fifty dollars (\$150.00). Each day shall constitute a separate violation.
- (c) If deemed necessary by the Police Department for public safety or free movement of vehicular traffic, the vehicle may be towed and will be subject to all applicable towing ordinances and fees.

(Added by Ord. 2017-^^)

Sec. 23-82 - Parking, etc., near entrances to industrial plants

- (a) No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic, or in compliance with the law, or the directions of a police officer, or traffic control device within fifty (50) feet of the driveway entrance to any industrial plant.
- (b) Violations of this section shall be punishable by a penalty of one hundred fifty dollars (\$150.00). Each day shall constitute a separate violation.
- (c) If deemed necessary by the Police Department for public safety or free movement of vehicular traffic, the vehicle may be towed and will be subject to all applicable towing ordinances and fees.

(Added by Ord. 2017-^^)

Sec. 23-83 - Obstructing fire lane or fire hydrant

- (a) *Designation of fire lanes.* The Town Council, with the approval of the fire department chief, or designee thereof, shall establish and designate emergency fire lanes as required within the Town.
- (b) *Obstructing fire lane.* The parking, stopping, or standing of any personal property, specifically including vehicles, or any other means of obstructing fire lanes, on public or private property, shall be prohibited at all times.
- (c) *Removal of property obstructing fire lane.* Any vehicle or other personal property found to be obstructing a fire lane shall be subject to removal by towing upon the request of any law enforcement officer or fire department officer. The owner of such property shall be responsible for the payment of all towing and storage charges incurred therefor.
- (d) *Obstruction or unauthorized use of fire hydrant.* The obstruction of, unauthorized use of, or interference with, any fire hydrant within the Town shall be unlawful. This shall include the parking of any vehicle or other personal property in front of, or within fifteen (15) feet of, a fire hydrant. Any vehicle or other personal property so obstructing a fire hydrant may be towed or otherwise removed for storage where necessary to permit the emergency use of such hydrant, at the request of any law enforcement officer or fire department personnel. The owner of such property shall be responsible for the payment of all towing and storage charges incurred therefor.
- (e) *Penalty for violation.* The violation of this section shall be punishable by a fine of one hundred fifty dollars (\$150.00) for a first offense and up to five hundred dollars (\$500.00) for each subsequent offense within a calendar year. Each day shall constitute a separate violation.
- (f) *Towing.* Any vehicle in violation of this section may be towed and will be subject to all applicable ordinances and fees.

(Added by Ord. 2017-^^)

Sec. 23-84 - Parking in alleys

- (a) No person shall park a vehicle within an alley in such manner or under such conditions as to leave available less than twelve (12) feet of space for vehicular travel, and no person shall stop, stand, or park a vehicle within an alley in such position as to block the driveway entrance to any abutting property.
- (b) Violations of this section shall be punishable by a penalty of one hundred fifty dollars (\$150.00). Each day shall constitute a separate violation.
- (c) Any vehicle in violation of this section may be towed and will be subject to all applicable towing ordinances and fees.

(Added by Ord. 2017-^^)

Sec. 23-85 - Parking on private property

- (a) No person shall drive, stop, stand or park a vehicle onto or upon privately owned property or an area developed as an off-street parking facility without the consent of the owner, lessee, or person in charge of such privately owned property or facility.
- (b) Violations of this section shall be punishable by a penalty of up to one hundred fifty dollars (\$150.00). Each day shall constitute a separate violation. This shall be in addition to other remedies.
- (c) Additionally, the vehicle may be towed and will be subject to all applicable towing ordinances and fees.

(Added by Ord. 2017-^^)

Sec. 23-86 - Parking prohibited at all times on certain streets

- (a) When signs are erected giving notice thereof, no person shall park a vehicle at any time upon any of the streets designated.
- (b) All parking shall be prohibited on the east side of River Street.
- (c) The fine for a violation of this section will be an amount no less than twenty-five dollars (\$25.00) and not to exceed one hundred fifty dollars (\$150.00). Each day shall constitute a separate violation.
- (d) Any vehicle parked in violation of this section may be towed and will be subject to all applicable towing ordinances and fees.

(Added by Ord. 2017-^^)

Sec. 23-87 - Parking prohibited during certain hours on certain streets

- (a) When signs are erected in each block giving notice thereof, no person shall park a vehicle between the hours specified of any day, except Sundays and legal holidays, within the district or upon any of the streets designated by such signs.
- (b) A restricted parking ban is established on the East side of Indiana Street. There will be no parking permitted on the East side of Indiana Street between the hours of 7:00 A.M. to 4:00 p.m. Monday through Friday. This restriction will be from Lincoln Street North to Tyler Street.
- (c) The fine for a violation of this section will be an amount no less than twenty-five dollars (\$25.00) and not to exceed one hundred fifty dollars (\$150.00). Each day shall constitute a separate violation.
- (d) Any vehicle parked in violation of this section may be towed and will be subject to all applicable ordinances and fees.

(Added by Ord. 2017-^^)

Sec. 23-88 - Special regulations for street work and snow removal work

- (a) The streets department and is hereby given the power to post temporary signs reading "No Parking-Street Work" along any street which it intends to sweep, clear or work within the succeeding twenty-four (24) hours.
- (b) In the event of two (2) or more inches of snowfall, all vehicles shall be removed from the street.
- (c) In the event of freezing rain and/or ice, no street parking will be permitted until the snow and/or ice control is completed.
- (d) In the event any person should violate this section and park when the temporary no parking signs are posted or in the event a person should park in the street during freezing rain or ice or snow, it shall be punishable by a fine of one hundred fifty (\$150.00) dollars.
- (e) Furthermore, if removal of the automobile is necessary in order to complete the work on the street, the Street Department or Police Department is authorized to have the vehicle towed. The owner of the vehicle is responsible for paying for towing, storage, and administrative costs.

Sec. 23-89 - Parking for over seventy-two (72) hours

- (a) It shall be unlawful for any person to park or cause to be parked any motor vehicle upon any street or public highway in the Town for a period longer than seventy-two (72) hours except as hereinafter provided.
- (b) Any person who desires to park a motor vehicle upon any street in the Town for a period of more than seventy-two (72) consecutive hours shall apply to the Chief of Police for a permit to do so. The Chief of Police shall grant such permit only after determining that:
 - (1) The safety of the persons traveling on the street upon which it is desired to park such motor vehicle will not be endangered; and
 - (2) The reason stated for parking a motor vehicle for more than seventy-two (72) consecutive hours is such that the granting of such permit is necessary and reasonable.
- (c) A permit granted by the Chief of Police shall state the name of the person seeking the permit, his/her address, the address at which the motor vehicle shall be parked, the model, kind and registration place of the motor vehicle to be parked, and the expiration date of the permit and the reason therefor.
- (d) The fine for a violation of this section will be one hundred fifty dollars (\$150.000). Each day shall constitute a separate violation.
- (e) Any vehicle parked in violation of this section may be towed and will be subject to all applicable ordinances and fees.

(Added by Ord. 2017-^^)

Sec. 23-90 - Parking in yards

- (a) No vehicle may be parked in a front yard, side yard, rear yard, or courtyard other than on a designated or paved driveway in a residential district except for parking to load or unload vehicles for a time period not to exceed four (4) hours.
- (b) The fine for a violation of this section will be an amount of one hundred fifty dollars (\$150.00). Each day and each vehicle shall constitute a separate violation.

- (c) Any vehicle parked in violation of this section may be towed and will be subject to all applicable towing expenses, ordinances, and fees.

(Added by Ord. 2017-^^)

Sec. 23-91 - Parking in handicapped parking space

- (a) Parking in areas limited by signs, colored lines, pavement caricature, or in any other manner designated as parking for the handicapped shall be restricted to motor vehicles displaying either a handicapped license issued by the State of Indiana or any other state authorized to issue such a license.
- (b) Any person who parks a vehicle in a parking space marked and designated as a handicapped parking space, whether on public or private property, shall be subject to a fine and towing as stated below.
- (c) In the event the person parking the vehicle in violation of this section cannot be ascertained, the registered owner thereof shall be subject to the civil penalty and towing costs and fees.
- (d) The fine for a violation of this section will be an amount of one hundred fifty dollars (\$150.00) for a first offense. A second violation shall be punishable by a fine of two hundred fifty dollars (\$250.00). Subsequent violations may be punished by a fine of up to five hundred dollars (\$500.00). Each day shall constitute a separate violation.
- (e) Any vehicle parked in violation of this section may be towed and will be subject to all applicable ordinances and fees.

(Added by Ord. 2017-^^)

Sec. 23-92 - Parking where prohibited

- (a) It shall be unlawful for any person to park or abandon any vehicle within the Town in any location where, through markings or signs, it has been posted as a no parking zone, or in such other manner as to:
 - (1) Create or constitute a traffic hazard;
 - (2) Block or otherwise interfere with the entrance or exit from an alley or private driveway;
 - (3) Block or otherwise interfere with the use of a sidewalk;
 - (4) Obstruct or constitute a potential obstruction to the movement of any emergency vehicle;
 - (5) Constitute double parking; or
 - (6) Be parked facing traffic on the side of the road on which it is parked.
 - (7) Be parked within fifteen (15) feet of a fire hydrant.
 - (8) Block or otherwise interfere with a crosswalk or be within 20 feet of a crosswalk at an intersection.
 - (9) Within an intersection.
 - (10) Be within twenty (20) feet of the driveway entrance to any fire station or within seventy-five (75) feet on the street opposite the fire station.
 - (11) Within thirty (30) feet upon the approach to any flashing beacon, stop sign, or traffic control signal located at the side of the building.

- (12) Within fifty (50) feet of the nearest rail of a railway crossing.
- (13) Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic.
- (14) On the traveled portion of any roadway which does not have a curb or gutter when such stopping, standing, or parking would obstruct traffic.
- (b) This section, and any references herein to public streets or public property, shall include public parking lots owned, leased and/or maintained by the Town.
- (c) The fine for a violation of this section will be an amount of one hundred fifty dollars (\$150.00). Each day shall constitute a separate violation.
- (d) Any vehicle parked in violation of this section may be towed and will be subject to all applicable ordinances and fees.

(Added by Ord. 2017-^^)

Sec. 23-93 - Trucks, buses, trailers and recreational vehicles

- (a) *Occupancy.* No person shall park, place or locate a recreational vehicle, motor home, travel trailer, boat, bus, mobile home, or trailer on any public or private property within the Town for use as temporary or permanent dwellings without an occupancy permit having been issued therefor.
- (b) *Overnight parking.* No person shall park, place, or locate any large (non-semi) trailer, boat, or boat trailer overnight in any location within the Town, whether on public or private property, which is not zoned for industrial purposes, or otherwise designated as "Truck Parking" unless a lawful permit is secured.
- (c) *Boats, trailers, and campers.* Any boats, trailers, or campers must be parked in an enclosed area or parked towards the rear of the property. Any boats, trailers, or campers parked outside must be properly registered and plated.
- (d) *Parking in residential zones.* No person shall park or cause to be parked on any roadway, alleyway, sidewalk, easement, or street within the Town, located in any area zoned primarily for residential purposes, and truck tractor, semi-trailer, commercial bus, or trailer, except for the purpose of making deliveries, loading or unloading, or otherwise conducting commercial activity, but in no event for a period of more than one hour.
- (e) *Penalty.* The fine for a violation of this section will be an amount of one hundred fifty dollars. (\$150.00). Each day shall constitute a separate violation.
- (f) *Towing.* Any vehicle parked in violation of this section may be towed and will be subject to all applicable ordinances and fees.

(Added by Ord. 2017-^^)

Sec. 23-94 - Parking permits for semi-trailer cabs

No person may park a semi-trailer cab in any place within the Town except for loading and loading.

(Added by Ord. 2017-^^)

Sec. 23-94 - Permits for trailers and motorhomes

- (a) It is unlawful for any person to park, place, or locate a camping trailer or motor home for the use as a dwelling in any location within the Town limits for a period exceeding forty-eight (48) hours.
- (b) Provided that one camping trailer or motor home may, by special permit secured from the New Chicago Town Clerk within two (2) days after arrival, be accommodated upon the premises of an occupied dwelling for a period not exceeding two (2) weeks.
- (c) Such permit shall be obtained by the owner or lessee of such occupied premises and no fee shall be charged for this permit when obtained at the clerk's office.
- (d) Violators shall be subject to a fine of one hundred fifty dollars (\$150.00). Each day on which the offense occurs shall be deemed a separate offense.
- (e) Any vehicle parked in violation of this section may be towed and will be subject to all applicable ordinances and fees.

(Added by Ord. 2017-^^)

Sec. 23-95 - Residential parking

- (a) Except as provided in subsection (c), all vehicles and trailers of any type that are required to be licensed and/or registered with the state Bureau of Motor Vehicles or similar entity and that are located within a residential zoning district must be parked on a hard surface.
- (b) For purposes of this section, "hard surface" is defined to mean a surface that is paved or composed of cement, blacktop, paving blocks, or crushed stone. If the hard surface is a driveway, the portion of the driveway that serves as a point of ingress and egress from the roadway shall not be more than twenty-four (24) feet wide. The term "hard surface" does not include a surface composed of grass or dirt.
- (c) The parking restriction contained in subsection (a) does not apply to the following:
 - (1) Vehicles and trailers that are parked on an owner's property for a social event or garage sale provided they do not remain impermissibly parked for longer than 24 hours;
 - (2) Vehicles and trailers that are parked on an owner's property for one (1) period of not more than two (2) hours on any one (1) day for the purpose of loading or unloading; and
 - (3) Operable and licensed vehicles and trailers that are parked within the area of open space behind a residence in the rear yard as defined in the Town master plan.
- (d) Nothing contained within this section shall be construed to relieve property owners of the need to obtain any applicable permits, licenses, or variances that may be required elsewhere in this Code.
- (e) The fine for violation of subsection (a) shall be one hundred fifty dollars (\$150.00) per day for each vehicle that is impermissibly parked. The vehicle's owner shall be responsible for the payment of all fines and applicable late fees.

(Added by Ord. 2017-^^)

Sec. 23-96 – Use of immobilizing traffic boots

- (a) The New Chicago Police Department is authorized, but not required, to utilize immobilizing boots to enforce any provision in which towing is permitted.
- (b) Towing boots may only be used in situations where the illegally parked vehicle does not pose a threat to the safety or free movement of pedestrians, motorists, or city equipment.
- (c) The use of immobilizing boots shall not preclude the New Chicago Police Department from towing the vehicle.
- (d) The New Chicago Police Department may charge a reasonable fee for the use of immobilizing boots.

(Added by Ord. 2017-^^)

Sec. 23-97 – Parking of Vehicles over 14,000 Pounds in residential zones

- (a) Vehicles exceeding fourteen thousand (14,000) pounds shall not be parked within any residential zone of the Town of New Chicago except for loading and unloading.
- (b) The violation of this Ordinance will be punishable as follows with each day counted as an additional offense:
 - (1) First offense – One hundred dollars (\$150.00).
 - (2) Second offense – Two hundred fifty dollars (\$250.00).
 - (3) All subsequent offenses – Five hundred dollars (\$500.00).

(Added by Ord. 2005-03. Amended by 2017-^^)

Sec. 23-98 – Lights on parked vehicles

- (a) Whenever a vehicle is lawfully parked at night time upon any street within a business or residential district, no lights need be displayed upon such parked vehicle.
- (b) Any lighted headlamps upon a parked vehicle shall be depressed or dimmed.

(Added by Ord. 2017-^^)

Sections 23-95 through 23-109 – Reserved.**Article 5 – Bicycles and other human-powered vehicles****Sec. 23-110 – Reserved.**

Sec. 23-111 - Traffic laws apply to persons riding bicycles

Every person riding a bicycle or other human-powered vehicle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of this state declaring rules of the road applicable to vehicles, or by this chapter except as to those provisions of laws and ordinances which by their nature can have no application.

(Added by Ord. 2017-^^)

Sec. 23-112 - Obedience to traffic control devices

- (a) Any person operating a bicycle or other human-powered vehicle shall obey the instructions of official traffic control signals, signs and other control devices applicable to vehicles, unless otherwise directed by a police officer.
- (b) Wherever authorized signs are erected indicating that no right, left or U-turn is permitted, no person operating a bicycle or other human-powered vehicle shall disobey the direction of any such sign, except where such person dismounts from the bicycle or other human-powered vehicle to make any such turn, in which event such person shall then obey the regulations applicable to pedestrians.

(Added by Ord. 2017-^^)

Sec. 23-113. – Parents and Guardians liable for fines for unemancipated minors

- (a) In the event that any section of this article is violated by an unemancipated minor, the parents or legal guardians of the child shall be jointly and severally liable for any fines under this section.
- (b) In the event that unemancipated child is ticketed under this section, a copy of the ticket shall be mailed or hand-delivered to a parent or legal guardian of the child.
- (c) This section shall not cause liability on the part of a parent whose parental rights have been terminated or a non-custodial parent who is not responsible for the child at the time of the violation.

(Added by Ord. 2017-^^)

Sec. 23-114 - Riding on roadways and bicycle paths

- (a) No person upon roller skates or using any coaster, toy vehicle, motorized vehicle, or other similar device shall go upon any roadway except while crossing a street or sidewalk at a crosswalk and when so crossing, such persons shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians.
- (b) Every person operating a bicycle or other permissible human-powered vehicle upon a roadway shall ride as near to the right-hand side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

- (c) Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.

(Added by Ord. 2017-^^)

Sec. 23-116 - Emerging from alley or driveway

The operator of a bicycle or other human-powered vehicle emerging from an alley, driveway or building shall upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right of way to any and all pedestrians approaching on such sidewalk or sidewalk area, and upon entering the roadway shall yield the right of way to all vehicles approaching on such roadway.

(Added by Ord. 2017-^^)

Sec. 23-117 - Riding on sidewalks

Whenever any person is riding a bicycle or other human-powered vehicle upon a sidewalk, such person shall yield the right of way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.

(Added by Ord. 2017-^^)

Sec. 23-118 - Parking

No person shall park a bicycle or other human-powered vehicle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the human-powered vehicle or against a building or at the curb, in such manner as to afford the least obstruction to pedestrian traffic.

(Added by Ord. 2017-^^)

Sec. 23-119 – Biking at night; lights required

- (a) No individual shall operate a bike, tricycle, or scooter after dusk or before dawn on any street within the Town without conspicuous lights, specially designed for the purpose, attached to the front and rear of the vehicle.
- (b) The lights shall be powered on, illuminated, clean from dust and dirt, and powered by batteries of sufficient strength to illuminate the pathway before the vehicle and give notice to motorists behind the vehicle.

(Added by Ord. 2017-^^)

Sections 23-119 through 23-130 – Reserved.

Article 6- Parades

Sec. 23-126 - Definition

As used in this article, the term "parade" shall mean any parade, march, ceremony, show, exhibition, pageant, or procession of any kind, or any similar display, in or upon any street or other public place.

(Added by Ord. 2017-^^)

Sec. 23-127 - Exemptions

This article shall not apply to:

- (a) Funeral processions;
- (b) Students going to and from school classes or participating in educational activities, providing such conduct is under the immediate direction and supervision of the proper school authorities;
- (c) A governmental agency acting within the scope of its functions.

(Added by Ord. 2017-^^)

Sec. 23-128 - Permit required

- (a) The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route.
- (b) A violation of this section is punishable by a fine of two hundred fifty dollars for a first offense (\$250.00). All subsequent offenses shall be punishable by a fine of no less than five hundred dollars (\$500.00) or more than seven thousand five hundred dollars (\$750.00).

(Added by Ord. 2017-^^)

Sec. 23-129 - Permit applications

- (a) A person desiring a parade permit shall file an application with the Chief of Police on forms provided by such officer or kept on file at the Town Hall.
- (b) Such application shall be filed not less than seven (7) days nor more than sixty (60) days before the date on which it is proposed to conduct the parade.
- (c) The application for a parade permit shall set forth the following information:
 - (1) The name, address and telephone number of the person seeking to conduct such parade;

- (2) If the parade is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization, and of the authorized and responsible heads of such organization;
 - (3) The name, address and telephone number of the person who will be the parade chairman and who will be responsible for its conduct;
 - (4) The date when the parade is to be conducted;
 - (5) The route to be traveled, the starting point and the termination point;
 - (6) The approximate number of persons who, and animals and vehicles which, will constitute such parade; the type of animals, and description of the vehicles;
 - (7) The hours when such parade will start and terminate;
 - (8) A statement as to whether the parade will occupy all or only a portion of the width of the streets proposed to be traversed;
 - (9) The location by streets of any assembly areas for such parade;
 - (10) The time at which units of the parade will begin to assemble at any such assembly area or areas;
 - (11) The interval of space to be maintained between units of such parade;
 - (12) If the parade is designed to be held by, and on behalf of or for, any person other than the applicant, the applicant for such permit shall file with the Chief of Police a communication in writing from the person proposing to hold the parade, authorizing the applicant to apply for the permit on his/her behalf;
 - (13) Any additional information which the Chief of Police shall find reasonably necessary to a fair determination as to whether a permit should be issued.
- (d) The Chief of Police, where good cause is shown therefor, shall have the authority to consider any application hereunder which is filed less than seven (7) days before the date such parade is proposed to be conducted.

(Added by Ord. 2017-^^)

Sec. 23-130 - Standards for permit issuance

The Chief of Police shall issue a parade permit when, from a consideration of the application and from such other information as may otherwise be obtained, he finds that:

- (a) The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route;
- (b) The conduct of the parade will not require the diversion of so great a number of police officers of this Town to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to this Town;
- (c) The conduct of such parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of this Town other than that to be occupied by the proposed line of march and areas contiguous thereto;
- (d) The concentration of persons, animals and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such assembly areas;

- (e) The conduct of such parade will not interfere with the movement of fire-fighting equipment en route to a fire;
- (f) The conduct of the parade is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or create a disturbance;
- (g) The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route;
- (h) The parade is not to be held for the sole purpose of advertising any product, cause, goods or events and is not designed to be held purely for private profit.

(Added by Ord. 2017-^^)

Sec. 23-131 - Notice of permit denial

If the Chief of Police disapproves the application for a parade permit, he shall mail to the applicant within three (3) days after the date upon which the application was filed, a notice of his/her action.

(Added by Ord. 2017-^^)

Sec. 23-132 - Alternative permit

- (a) The Chief of Police, in denying an application for a parade permit, shall be empowered to authorize the conduct of the parade on a date, at a time, or over a route different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within five (5) days after notice of the action of the Chief of Police, file a written notice of acceptance with the Chief of Police.
- (b) An alternate parade permit shall conform to the requirements of, and shall have the effect of a parade permit under this article.

(Added by Ord. 2017-^^)

Sec. 23-133 - Contents of permit

Each parade permit shall state the following information:

- (a) Starting time;
- (b) Minimum speed;
- (c) Maximum speed;
- (d) Maximum interval of space to be maintained between the units of the parade;
- (e) The portions of the streets to be traversed that may be occupied by the parade;
- (f) The maximum length of the parade in miles or fractions thereof;
- (g) Such other information as the Chief of Police shall find necessary to the enforcement of this article.

(Added by Ord. 2017-^^)

Sec. 23-134 - Revocation of permit

The Chief of Police shall have the authority, after a hearing affording due process, to revoke a parade permit issued hereunder upon application of the standards for issuance as set forth in this article.

(Added by Ord. 2017-^^)

Sec. 23-135 - Compliance with laws and regulations

- (a) A person holding a parade permit shall comply with all permit directions and conditions and with all applicable laws and ordinances.
- (b) A violation of this section is punishable by a fine of two hundred fifty dollars for a first offense (\$250.00). All subsequent offenses shall be punishable by a fine of no less than five hundred dollars (\$500.00) or more than seven thousand five hundred dollars (\$750.00).

(Added by Ord. 2017-^^)

Sections 23-136 through 23-150 – Reserved.

Article 7 – Miscellaneous rules**Sec. 23-151 - Pedestrians crossing roadway**

- (a) No pedestrian shall cross a roadway other than in a crosswalk in in any business district.
- (b) The fine for a violation of this section will be an amount no less than twenty-five dollars (\$25.00) and not to exceed one hundred dollars (\$100.00).

(Added by Ord. 2017-^^)

Sec. 23-152 - Boarding or alighting from vehicles

- (a) No person shall board or alight from any vehicle while such vehicle is in motion.
- (b) The fine for a violation of this section will be an amount of one hundred fifty dollars (\$150.00) Any subsequent offenses within a calendar shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.00).

(Added by Ord. 2017-^^)

Sec. 23-153 - Riding on portions of vehicles not intended for vehicular use

- (a) No person shall ride on any vehicle upon any portion thereof not designated or intended for the use of passengers.
- (b) This section shall not apply to an employee engaged in the necessary discharge of a duty.
- (c) The fine for a violation of this section will be an amount of one hundred fifty dollars (\$150.00). Any subsequent offenses shall be punishable by a fine of up to two hundred fifty dollars (\$250.00).

(Added by Ord. 2017-^^)

Sec. 23-154 - Reserved.

Sec. 23-156 - Attaching to vehicles

- (a) No person riding upon any bicycle, scooter, skateboard, sled, or any other device intended for human-powered conveyance shall attach the same or himself to any vehicle upon a roadway or allow another person to attach such a device to his/her or her vehicle.
- (b) The fine for a first violation of this section will be an amount no less than one hundred fifty dollars (\$150.00).
- (c) Any subsequent offense within any calendar year shall be punishable by a fine of two hundred fifty dollars (\$250.00).

(Added by Ord. 2017-^^)

Sec. 24-157 - Funeral processions

- (a) A funeral procession composed of vehicles may be identified as such by the display upon the outside of each vehicle of a pennant of the type designated by the Chief of Police, and shall drive with the headlights turned on.
- (b) Each driver in a funeral procession shall drive as near to the right hand edge of the roadway as practicable and follow the vehicle ahead as close as practicable and safe.
- (c) Each mortician shall notify the Police Department of the day and the hour of each funeral procession to be held by him in the Town together with the proposed route thereof as far ahead of the proposed time as possible.

(Added by Ord. 2017-^^)

Sec. 23-158 – Passenger not to obstruct view

- (a) No passenger shall in a vehicle or bus shall ride in such a position as to interfere with the driver or motorman's view ahead or to the sides, or to interfere with his/her control over the driving mechanism of the vehicle.
- (b) *Penalty.* Any person, firm, or corporation violating any provision of this section shall be fined one hundred fifty dollars (\$150.00) for a first violation, two hundred fifty dollars (\$250.00) for any subsequent violation.

(Added by Ord. 2017-^^)

Sec. 23-159 - Discharge of water on street or other public place

- (a) *Prohibited.* It shall be unlawful for any person, firm or corporation owning, renting, or in any way using any property in the Town to discharge or cause to be discharged any water, from sump pumps, down spouts, hoses, etc., onto any public street, alley, or other public way or place in the Town.
- (b) *Notice of violation.* In the event of any such water discharge onto any public street, alley, or other public way or place in the Town, the person responsible therefor shall be notified to immediately cease and desist from discharging said water onto the streets, alleys, public ways or places in the Town and an ordinance violation ticket shall be issued to said person responsible.
- (c) *Penalty.* Any person, firm, or corporation violating any provision of this section shall be fined one hundred fifty dollars (\$150.00) for a first violation, two hundred fifty dollars (\$250.00) for a second violation, and an amount of up to seven thousand five hundred dollars for a third or subsequent violation in a calendar year.
- (d) A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(Added by Ord. 2017-^^)

Sec. 23-160 – Putting glass or other hazards on roadways – Prohibited

- (a) No person shall throw upon any highway any glass, glass bottle, nails, tacks, wire, cans, or any other substance likely to injure any person, animal, or vehicle.
- (b) Any person who drops or permits to be dropped or thrown upon any roadway any destructive or injurious material shall immediately remove the same or cause it to be removed.
- (c) Any person removing a wrecked or damaged vehicle from the roadway shall immediately remove any glass or other injurious substances dropped upon the roadway from such vehicle.
- (d) *Penalty.* Any person, firm, or corporation violating any provision of this section shall be fined one hundred fifty dollars (\$150.00) for a first violation, two hundred fifty dollars (\$250.00) for a second violation, and an amount of up to seven thousand five hundred dollars for a third or subsequent violation in a calendar year.

(Added by Ord. 2017-^^)

Sections 23-161 through 23-180 – Reserved.

Article 8 – Unregistered or abandoned vehicles

Sec. 23-181 - Definitions

(a) "Abandoned Vehicle" Is defined as follows:

- (1) A vehicle located on public property illegally;
- (2) A vehicle left on public property continuously without being moved for three (3) 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;
- (4) A vehicle which has remained on private property without the consent of the owner of the real property or his/her agent 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 inoperable and left on private property and/or public property;
- (6) A vehicle that has been removed by a towing service or a public agency upon request of an officer enforcing the statute or ordinance other than the state's abandoned vehicle act, if the vehicle once impounded is not claimed or redeemed by the owner or his/her agent within fifteen (15) days of its removal.

(b) *Junked vehicle*. This shall be a vehicle that is partially dismantled, mechanically inoperative or wrecked.

(c) *Owner*. Is defined as the last known record title holder of a vehicle according to the records of the Bureau of Motor Vehicles under Indiana Code 9-1-2 et. seq.

(d) *Parts*. This refers to all components of a vehicle that as assembled will not constitute a complete operable vehicle.

(e) *Private Property*. This constitutes real property other than public property.

(f) *Public Property*. This shall constitute a public right-of-way, street, highway, alley, park, or other state, county, or municipally owned real property.

(g) *Vehicle*. This shall include any automobile, motorcycle, truck, semi-trailer, tractor, bus, school bus, recreational vehicle, race vehicle, or motorized bicycle.

(Added by Ord. 2017-^^)

Sec. 23-182 - Outside storage prohibited

(a) It shall be an unlawful nuisance for any person to store or allow to be stored or remain in the open upon public property within the Town any junk, abandoned, or non-operable vehicle for a period of more than three (3) days, or upon private property for a period of more than seven (7) days.

(b) Vehicles stored on or in lawfully operated junk or salvage yards, and vehicles owned, held, or stored by persons, firms, or corporations in connection with lawfully operated automotive sales or repair businesses, shall be exempt from the provisions of this article, provided that any such vehicles are not parked, maintained, or stored on the public streets, roadways, alleyways, or other public property.

(Added by Ord. 2017-^^)

Sec. 23-183 - Antique vehicles

- (a) An exception to the abandoned vehicle law may be allowed if the vehicle may be considered an antique or collector's item. One such vehicle may be permitted per household.
- (b) The vehicle must be operable, in running condition, tires inflated, intact, and not disassembled.
- (c) The vehicle must be covered with a regular car storage cover (not a tarp or plastic sheeting)
- (d) Weeds shall not be allowed to grow up to 12 inches around this vehicle.
- (e) If any of the proceeding provisions are violated, the vehicle may be cited as an abandoned vehicle.

(Added by Ord. 2017-^^)

Sec. 23-184 - Notice of violation; removal of vehicle; penalty

- (a) Whenever the Code Enforcer of Police Department shall find a non-operable vehicle as defined in this article, a written notice shall be issued to the owner(s) of such vehicle, and/or the owner of the private property on which it is stored, requiring the removal thereof within three (3) days if on public property or another person's property, and five (5) days if on the car's owner's property.
- (b) In the event the owner(s) of the vehicle cannot be ascertained, it shall be considered adequate and sufficient for the written notice to be placed upon or attached to the vehicle. In the event the owner(s) of the private property on which the vehicle is stored cannot be ascertained, it shall be considered adequate and sufficient for the written notice to be placed upon or attached to the residence, or delivered to any occupant thereof.
- (c) In the event the vehicle is not removed as provided in this section, the owner(s) of the vehicle, and/or the owner(s) of the property on which it is stored, shall be issued a citation for an ordinance violation and subjected to the civil penalties provided herein. In addition, if the vehicle is not moved within the prescribed time under this Article, the Code Enforcer or Police Department may cause said vehicle to be towed or otherwise removed, and the costs and expenses of such removal and storage thereof shall be assumed by the owner(s) of the vehicle and/or the owner(s) of the private property from which it was removed, in addition to and separate from any civil penalties imposed.
- (d) The Code Enforcer and Police Department shall be specifically entitled to enter upon private property for the purpose of investigating and inspecting vehicles which are stored in plain sight thereon, and to issue the notices and orders provided for in this article.
- (e) Any person, firm, or corporation violating the provisions of this article, or who interferes in any way with the lawful enforcement of any of the provisions hereof, shall be subject to a civil penalty in the amount of one hundred dollars (\$100.00) for each vehicle in violation and for each day said violation continues after the date for removal specified in the written notice.

(Added by Ord. 2017-^^)

Sec. 23-185 - Impound release charge

- (a) The Town and the Town Police Department have determined that there is an actual average administrative cost to release vehicles which have been impounded by the Police Department. Such average costs include manpower, supplies, legal, and telephone.
- (b) An impound release charge of twenty-five dollars (\$25.00) per vehicle shall be paid by an automobile owner or his/her agent, to the Town.
- (c) This charge shall apply in addition to any storage costs.

(Added by Ord. 2017-^^)

Sec. 23-186 – Penalty and Collection of costs for disposal of abandoned vehicles

- (a) Any violation of the terms and provisions of this article shall subject the violator to a fine of one hundred dollars (\$100.00). Each day shall be deemed to be a separate violation.
- (b) Costs of removing abandoned property from real property shall be the responsibility of the owner of the real property and/or the owner of the abandoned property and shall constitute a lien in favor of the Town of New Chicago, Indiana for any charges incurred in regard to aforesaid removal and disposal.
- (c) The Town shall be entitled to collect its reasonable attorney fees in regard to the collection of any costs related to the removal and/or disposal of abandoned vehicles.

(Added by Ord. 2017-^^)

Sec. 23-187 - Disposal of unclaimed abandoned vehicles

- (a) If the owner or lienholder does not appear within fifteen (15) days after the mailing of notice to claim the vehicle or vehicle parts, the Town or the person designated by it if it so elects, shall sell the vehicle or parts to the highest bidder at a public sale conducted after notice under Indiana Code, Title 5, Article 3, Chapter 1 [IC § 5-3-1-1 et seq.], except only one (1) newspaper insertion one (1) week before the public sale shall be required.
- (b) The Town or the person designated by it may elect to sell the vehicle or parts as unclaimed property in accordance with Indiana Code, Title 36, Article 1, Chapter 11 [IC § 36-1-11-1 et seq.], except that the fifteen-day period for the property to remain unclaimed shall be sufficient.

(Added by Ord. 2017-^^)

Sections 23-188 through 23-200 – Reserved.

Article 9 – Public school property

Sec. 23-201 - Speed limits

- (a) It shall be unlawful for any person or persons to drive, operate, or propel any motor or other vehicle over or upon any roadway, parking area, or driveway located on public school property in excess of the speed limit posted thereon, or, where not posted, in excess of ten miles per hour.
- (b) Fines for speeding in school zones shall be doubled.

(Added by Ord. 2017-^^)

Sec. 23-202 - Parking

- (a) It shall be unlawful for any person to park or abandon any vehicle on any roadway, parking lot, driveway, or alley way located on public school property:
 - (1) On any area other than the parking lot as designated for parking;
 - (2) On the shoulder of any roadway or parking lot roadway;
 - (3) On any non-paved area;
 - (4) In any place designated as a no-parking area by sign or other markings;
 - (5) On any crosswalk or sidewalk;
 - (6) In any manner so as to obstruct or interfere with the orderly movement of traffic; or
 - (7) In any manner contrary to the direction of a police officer or school official.
- (b) The registered owner(s) of vehicles violating the provisions of this section shall be subject to a civil penalty in the amount of twenty-five dollars (\$25.00). Each vehicle shall constitute a separate violation, and each day a violation exists shall constitute a separate violation. This section shall be subject to the Town Ordinance Violations Bureau as set out in Chapter 6.

(Added by Ord. 2017-^^)

Sections 23-203 through 23-230 – Reserved.

Article 10 – Recreational motor vehicles

Sec. 23-231 - Purpose

- (a) The purpose of this chapter is to establish reasonable and responsible regulations for the use of recreational motor vehicles.
- (b) This chapter is not intended to allow what state law prohibits.
- (c) This chapter seeks to improve the safety of individuals living in residential areas, the safety of persons operating recreational motor vehicles, and to eliminate noise incident to the operation of recreational motor vehicles on property zoned residential and agricultural within the Town limits.
- (d) This chapter is desirable to achieve a decrease in the overall level of noise in such areas, and is intended to prevent a public nuisance.

(Added by Ord. 2017-^^)

Sec. 23-232 - Definitions

All-terrain vehicle, or *ATV*, for purposes of this chapter, means any motorized vehicle with three or more wheels designed for off roads use.

Motor scooter, for purposes of this chapter, means a vehicle that has motive power, a seat, but not a saddle, for the rider, two wheels, and a floor pad for the driver's feet.

Recreational motor vehicle is defined for purposes of this chapter as follows: any self-propelled motorized vehicle used for recreational purposes, including a trail bike or other all-terrain vehicle, motor scooter or moped being either designed for or used for off-road recreational purposes.

(Added by Ord. 2017-^^)

Sec. 23-233 - Operation

- (a) No person shall operate a recreational motor vehicle in any area that is zoned residential or agricultural within the Town limits, except as set forth in subsection (d).
- (b) No person shall operate a recreational motor vehicle carelessly or heedlessly in disregard of the rights or the safety of others or in any manner which endangers or is likely to endanger any person or property.
- (c) No person shall enter and operate a recreational motor vehicle on land not his/her own without the written permission of the owner, occupant, or lessee of the land, except where otherwise allowed by law. Written permission may be given by posted notice which specifies the kind of vehicles allowed, such as "recreational vehicles allowed," "trail bikes allowed," "all-terrain vehicles allowed," or other similar language.
- (d) No person shall operate a recreational motor vehicle on any public property, including public school grounds, park property, playgrounds and recreational areas, except in areas specifically designated and posted for use of such vehicles, and except as specifically set forth in section 23-324.
- (e) No person shall operate a recreational motor vehicle in a manner so as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of other persons.

(Added by Ord. 2017-^^)

Sec. 23-324 - Exclusions

Specifically excluded from this article are all off-road and recreational vehicles used by the Town Police Department for law enforcement purposes; used by the Town for carrying out the functions of Town government; and used by a farming operation in the normal course of its business.

(Added by Ord. 2017-^^)

Sec. 23-325 - Failure to comply with or destroying notice

No person, whether the recipient thereof or otherwise, shall willfully throw away, alter, mar, mutilate, destroy, or discard the written notice described in this chapter.

(Added by Ord. 2017-^^)

Sec. 23-326- Violations and penalty

- (a) A person who violates this chapter shall on the first offense be fined one hundred fifty dollars (\$100.00) for a first offense. A person who violates this chapter a second time within a calendar year of the first offense shall be fined the sum of up to two hundred fifty dollars (\$250.00). A person who violates this article a third time, or more, shall be fined a sum not to exceed seven thousand five hundred dollars (\$7,500.00). Each day of violating this article shall be a separate violation.
- (b) Any person found violating this article may in lieu of having a case filed in a court of competent jurisdiction may pay the applicable fine to the Bureau of Ordinance Violations.

(Added by Ord. 2017-^^)

Sec. 23-327 through 23-340 – Reserved.

Article 11 – Golf carts

Sec. 23-341 - Use permitted

The use of a golf cart is permitted on the streets and alleys of the Town. However, any such use must comply with this Article.

(Added by Ord. 2017-^^)

Sec. 23-342 - Slow moving vehicle emblem; display.

A golf cart operated on the streets and alleys of the Town shall at all times display either a slow moving vehicle emblem in accordance with IC § 9-21-9-3 or a red or amber flashing lamp in accordance with IC § 9-21-9-4.

(Added by Ord. 2017-^^)

Sec. 23-343 - License required

A golf cart operated on the streets and alleys of the Town shall at all times be operated by an individual who possesses a valid state issued driver's license.

(Added by Ord. 2017-^^)

Sec. 23-344 - Financial responsibility

- (a) A person shall not operate a golf cart on the streets or alleys of the Town if financial responsibility is not in effect with respect to the vehicle. Proof of financial responsibility shall be in accordance with IC § 9-25-4-4.
- (b) A person who operates a golf cart on the streets and alleys of the Town shall at all times maintain the state required minimum amount of financial responsibility for the operation of said vehicle in the following amounts:
 - (1) Subject to the limit set forth in subsection (2), twenty-five thousand dollars (\$25,000.00) for bodily injury to or the death of one (1) individual.
 - (2) Fifty thousand dollars (\$50,000.00) for bodily injury to or the death of two or more individuals in any one (1) accident.
 - (3) Ten thousand dollars (\$10,000.00) for damage to or the destruction of property in one (1) accident.

(Added by Ord. 2017-^^)

Sec. 23-345 - Penalty

A person who violates this article shall on the first offense be fined one hundred fifty dollars (\$150.00). A person who violates this article a second time within a calendar year shall be fined the sum of two hundred dollars (\$250.00).

(Added by Ord. 2017-^^)

Sections 23-346 through 23-350 – Reserved.

Article 12 - Towing of vehicles**Sec. 23-351 - Definitions**

- (a) “Fiscal Body” refers to the Town Council
- (b) “Officer” refers to:
 - (1) A regular member of the Indiana State Police
 - (2) A regular member of the Town of New Chicago Police Department

- (3) An individual of an agency designated by ordinance of the fiscal body

(Added by Ord. 2017-^^)

Sec. 23-352 Liability of the owner

- (a) The owner of a vehicle that is towed at the request of an officer shall be liable for all of the costs incidental to the removal, storage, and disposal of the vehicle.
- (b) If a vehicle shall be owned in the name of two (2) or more people, the owners shall be jointly and severally liable.

(Added by Ord. 2017-^^)

Sec. 23-353 - Personnel, Equipment, and Facilities

- (a) In order to facilitate the removal of vehicles or parts, the Town of New Chicago may employ personnel and acquire equipment, property, and facilitates and/or enter into towing contracts as necessary for the purpose of removal, storage, and disposition of a vehicle which was ordered towed by an officer.
- (b) The Town of New Chicago may contract with third parties to tow vehicles. Any such third party must meet the minimum requirements of this chapter.

(Added by Ord. 2017-^^)

Sec. 23-354 - Rate

The towing charge shall be contracted between the New Chicago Chief of Police and the individual towing companies.

(Added by Ord. 2017-^^)

Sec. 23-355 – Towing administrative fee

The Town of New Chicago shall receive the sum of forty dollars (\$40.00) per tow as an administrative fee. The owner shall pay said amount directly to the New Chicago Police Department prior to receiving a release for the towed vehicle, and said amount is in addition to any fees charged by the towing company.

(Added by Ord. 2017-^^)

Sec. 23-356 Liability insurance

All authorized towing companies shall carry liability insurance in the amount of at least one million dollars (\$1,000,000.00).

(Added by Ord. 2017-^^)

Sec. 23-357 – Storage area

- (a) The owner of the towing business shall have and maintain or have access to an adequate storage lot facility or garage to be used for the storage and safe keeping of impounded vehicles.
- (b) Lots shall be large enough in area to store the number of vehicles towed and impounded within its confines.
- (c) Vehicles towed must be stored properly. Storage facilities shall have fenced in areas to store and protect vehicles to protect the liability of the Town of New Chicago, Indiana.
- (d) Towing facility must maintain cleanliness and neatness within their perimeter with no junk cars in public view at all times.

(Added by Ord. 2017-^^)

Sec. 23-358 - Severability:

The provisions of this chapter are hereby considered to be severable. Should any provision of this chapter be declared unconstitutional or in conflict with some other provision of the law, the remaining provisions shall continue to be the law of the Town of New Chicago.

(Added by Ord. 2017-^^)

Sec. 23- 359 - Reports

The Police Department shall submit a monthly report to the Town Clerk-Treasurer's office for all tows during the previous month.

(Added by Ord. 2017-^^)

Sec. 23-360 - Violations

Should any towing company violate any provisions of this chapter, it shall be subject to suspension and/or termination of its contract with the Town of New Chicago subject to notice and hearing before the New Chicago Town Council.

(Added by Ord. 2017-^^)

Sections 23-361 through 23-370 – Reserved.

Article 13 – Administration and enforcement

Sec. 23-371 - Enforcement officers generally

- (a) It shall be the duty of the officers of the Police Department of this Town to enforce the provisions of this chapter and all state laws applicable to street traffic in this Town.
- (b) Officers of the Police Department are hereby authorized to direct all traffic either in person or by means of visible or audible signal in conformance with all traffic laws and ordinances; provided that in the event of a fire or other emergency or to expedite traffic or safeguard pedestrians, officers of the police or fire department may direct traffic, as conditions may require, notwithstanding any other provisions of this chapter.

(Added by Ord. 2017-^^)

Sec. 23-372 - Accident investigations

It shall be the duty of the Police Department to investigate traffic accidents, to arrest and to assist in the prosecution of those persons charged with violations of law causing or contributing to such accidents.

(Added by Ord. 2017-^^)

Sec. 23-373 - Accident reports and fees

- (a) The Police Department shall maintain a suitable system of filing traffic accident reports.
- (b) The Police Department shall promptly on demand therefor furnish to any person who has sustained any loss or damage, be reason of the injury or death of any person or damage to property caused by or resulting from the operation, maintenance or use of any vehicle upon any public street or highway of the state, the information contained in the accident report.
- (c) Any person so entitled to such information may obtain the same from the Police Department whether in person or through his/her duly authorized agent or attorney. The agent or attorney shall first file with the department a verified written authorization signed by the person so entitled to the information.
- (d) When the accident report is furnished by means of a duplicating machine copy, the Police Department shall be paid a fee of twenty-five dollars (\$25.00) for each such report.
- (e) If the prosecuting attorney of the county where such accident occurred shall advise the Police Department that in his/her opinion such information should not be released to any person, and shall assign as his/her reason therefor that criminal charges have been filed, or are in contemplation of being filed, against any person as a result of said accident, the Police Department shall thereupon withhold any such information until its release is approved by the prosecuting attorney.

(Added by Ord. 2017-^^)

Chapter 24 – Weapons and explosives

Article 1 - Generally

Sec. 24-1 - Discharge of firearms

- (a) It shall be unlawful for any person to discharge any rifle or solid pellet firearm.
- (b) The provisions of subsection (a) shall not apply to:
 - (1) Law enforcement officers while they are engaged in the performance of their official duties;
 - (2) Members of the armed forces of the United States or the National Guard while they are engaged in the performance of their official duties;
 - (3) Persons while they are exercising their lawful rights of defense of self or property;
 - (4) To persons at rifle ranges or skeet ranges which comply with the applicable provisions of this chapter or which are exempt from such provisions;
 - (5) Discharges of weapons otherwise permitted by this chapter.

(Added by Ord. 2017-^^)

Sec. 24-2 - Rifle ranges

- (a) Outdoor rifle ranges shall be constructed so as to afford maximum safety. Each range lot must be at least one hundred fifty (150) feet in length and twenty-five (25) feet on each side. The range's length shall face north, northeast or east so as to avoid the sun's glare. All ranges shall be level from firing point to target.
- (b) Rifle ranges shall have backstops. Backstops shall consist of a steep hill behind the target range with the minimum height of twenty (20) feet above the target. An artificial backstop crib may be used so long as said backstop extends six (6) feet above the line of target and six (6) feet on each side of the target. An artificial backstop crib shall be constructed of soft wood to permit bullet slugs to penetrate and shall be three (3) feet thick and filled with sand. The crib backstop may be protected by a steel plate no less than one-quarter of an inch in thickness so long as the steel plate is installed at a forty-five-degree angle directly behind the target so as to deflect bullets downward.
- (c) The construction of a rifle range shall be inspected by the Chief of Police.

(Added by Ord. 2017-^^)

Sec. 24-3 – Indoor firing ranges

- (a) The Town of New Chicago adopts the Design Considerations for Indoor firing ranges published by the National Institute for Occupational Safety and Health and makes the same the rules and regulations for the design of indoor firing ranges for New Chicago.
- (b) That the following guidelines are to be complied with by any party constructing an indoor firing range within the Town limits of the Town of New Chicago, Indiana.
- (c) That in addition to the Design Guidelines set forth heretofore any party constructing the indoor firing range shall further comply with any and all additional state and federal regulations pertaining to such a facility.

(d) (Added by Ord. 2017-^^)

Sec. 24-4 - Skeet ranges

- (a) Discharge of weapons at an established skeet range having a launching site and a line of fire, within land boundaries of the skeet range owner, shall be permissible so long as the shotgun gauge shall not discharge a pellet or shot larger than a #7½ shot and provided further that shot fired upon the skeet range shall not fall upon any property not owned by the skeet range operators.
- (b) The construction of a skeet range shall be inspected by the Chief of Police.

Sec. 24-5 - Reserved.

Sec. 24-6 - Air rifles and BB guns

No person under the age of 16 years who is not accompanied by an adult or whose firing on a regular adult supervised firing range shall carry, use, or fire any BB guns, pellet guns, or high-powered rifles in the Town.

(Added by Ord. 2017-^^)

Sec. 24-7 - Violations and penalty

- (a) Any person against whom a judgment is taken for violating any of the provisions of this chapter shall be fined one hundred dollars (\$100.00) for a first offense.
- (b) Each shot fired or attempt to hunt shall constitute a separate offense.
- (c) Any person served with a citation for violating the provisions of this chapter may appear before the violations clerk pursuant to Chapter 6 of the New Chicago Town Code, admit the violation and pay the civil penalty. If a person does not so appear within seven (7) days of issuance of the citation, it will be filed with a court of competent jurisdiction and processed accordingly.
- (d) It shall be the duty of the Police Department to furnish copies of the citation to the Clerk-Treasurer's office within seventy-two (72) hours after issuance of the citation.

(Added by Ord. 2017-^^)

Sections 24-8 through 24-20 – Reserved.

Article 2 – Sale and possession of knives to minors

Sec. 24-21 - Definitions

As used in this article, "knife" shall mean a cutting or stabbing instrument, including a dagger, sword, pocket knife, hunting knife, filet knife, or other instrument apparently capable of producing bodily harm by means of cutting or stabbing, exceeding in length by two (2) inches, which may constitute a threat to the safety of other person. Except a "knife" shall not include those items typically used as kitchen utensils such as but not limited to shears, utility knife, paring knife, or steak knife(s).

(Added by Ord. 2017-^^)

Sec. 24-22 - Knife restrictions

No wholesale or retail merchant, pawn broker, or other knife dealers shall sell or offer for sale a knife as defined Section 24-21 of this chapter to any person under the age of eighteen (18) years.

(Added by Ord. 2017-^^)

Sec. 24-22 - Display

- (a) No person, under the age of eighteen (18) shall display carry or conceal a knife, as described in section 24-21 of this chapter, in any place of general public admittance.
- (b) Places of general public admittance includes areas such as, but not limited to, restaurants, retail stores, indoor amusement establishments, outdoor amusement establishments, theaters, parks, and schools. Except, this provision shall not apply to established reputable instructional and educational course(s) where a knife is required and a qualified instructor is present.

(Added by Ord. 2017-^^)

Sec. 24-23 - Violations; penalties

- (a) Any person, parent, legal guardian, firm or corporation violating any provision of this chapter shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.
- (b) Any person, parent, legal guardian, firm or corporation served with a citation for violating the provisions of this chapter may appear before the violations clerk pursuant to Chapter 6 of the New Chicago Town Code, admit the violation and pay the civil penalty. If such person, parent, legal guardian, firm or corporation does not appear within seven (7) days of issuance of the citation, same will be filed with a court of competent jurisdiction and processed accordingly.
- (c) It shall be the duty of the Police Department to furnish copies of the citation to the Clerk-Treasurer's office within seventy-two (72) working hours after issuance of the citation.

(Added by Ord. 2017-^^)

Sections 24-24 through 24-30 - Reserved.

Article 3- Possession of knives and weapons within publicly owned municipal facilities

Sec. 24-31 - Generally

- (a) The Town of New Chicago hereby establishes a prohibition against the possession of weapons by any person visiting any municipally owned building. That this public safety article is adopted and pursuant to the Home Rule powers of Towns in the State of Indiana.
- (b) The provisions of this article are enacted for the purpose of creating and maintaining a safe environment within all municipally owned buildings of the Town of New Chicago not only for the public coming into the facilities, but also for the municipal employees.

(Added by Ord. 2017-^^)

Sec. 24-32 - Weapons and firearms defined

- (a) *Weapon* shall be defined as is provided in 511 Indiana Administrative Code (IAC) 7-17-48. "Weapon" has the meaning given:
 - (1) *Dangerous weapon* under 18 U.S.C. 930(g) (2) is defined as meaning a weapon, device, instrument, material, or substance, animate or inanimate, that is used for or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than two and one-half (2.5) inches in length; and
 - (2) *Deadly weapon* under IC § 35-41-1-8 is defined as:
 - i. A loaded or unloaded firearm.
 - ii. A destructive device, weapon, device, Taser (as defined in IC § 35-47-8-3) or electronic stun weapon (as defined in IC § 35-47-8-1), equipment, chemical substance, or other material that in the manner it is used, or could be ordinarily used, or is intended to be used, is readily capable of causing serious bodily injury.
 - (3) *Firearm* under IC § 35-47-1-5 is defined as "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) *Firearm* means any weapon which is capable of, designed to, or that may readily be converted to expel a projectile by means of an explosion or by other means to propel or expel a projectile.

(Added by Ord. 2017-^^)

Sec. 24-33 - Prohibition of weapons and firearms

- (a) A prohibition exists at all municipally owned buildings of the Town of New Chicago for the possession of any weapon as defined by this article. The intent is to control the possession of weapons while on Town property which can readily be concealed.
- (b) The Town does not intend to interfere with any constitutional right of its citizens to possess weapons, but has determined that there is a serious public safety and welfare issue with the presence of weapons in municipally owned buildings, and that prohibiting weapons will advance the interest of public safety and welfare.

(Added by Ord. 2017-^^)

Sec. 24-34 - Exempted persons

- (a) The State of Indiana has a requirement for handguns to be registered. See IC § 35-47-2-1, et seq. In IC § 35-37-2-2, the state has exempted a number of persons from the requirement of having a handgun permit.
- (b) The persons exempted from handgun registration requirements under IC § 35-37-2-2 are also exempted from the prohibition in this article. Any type of law enforcement person, whether Town, county, state or federal, is exempted from the provisions of this article.
- (c) Law enforcement officers as the same as defined in IC § 35-41-1-17.

(Added by Ord. 2017-^^)

Sec. 24-35 - Penalties, fines, and notices

- (a) Any person or persons in violation of this article shall be subject to a fine of up to five hundred dollars (\$500.00) per violation and confiscation of any weapon or weapons.
- (b) Any person or persons who violate this article more than twice may be subject to permanent expulsion for the use of or attendance to any municipally held functions and/or events held within the municipally owned facilities.
- (c) Signs shall be posted at the main entrances of all municipally owned buildings notifying entrants of the weapons prohibition, even if the person has a permit to carry a firearm.

(Added by Ord. 2017-^^)

Sections 24-36 through 24-40 - Reserved.

Article 4 - Sale and possession of gun-shaped cellphone cases

Sec. 24-41 - Definitions

As used in this article, "gun-shaped cellphone case" and "gun-shaped mobile phone case" shall mean a case or cover designed to attach to, support, or otherwise hold a cellphone or mobile phone which has the appearance of a handgun including a barrel, trigger and handle.

(Added by Ord. 2017-^^)

Sec. 24-42 - Violations; penalties

Any person who sells or uses a gun-shaped cellphone case or gun-shaped mobile phone case commits an infraction and shall be fined one hundred dollars (\$100.00) for a first offense violation. A person who commits a second violation within a calendar year shall be fined two hundred fifty dollars (\$250.00). A person who commits a third violation shall be fined not more than seven thousand five hundred dollars (\$7,500.00). Each day of a continuing violation shall be considered a separate infraction.

(Added by Ord. 2017-^^)

Sections 24-44 through 24-70 - Reserved.

Article 5 – Fireworks

Sec. 24-71 Definitions

The Town of New Chicago hereby incorporates by reference all of the firework definitions found within I.C. 22-11-14-1 along with any amendments thereto.

(Added by Ord. 2017-^^)

Sec. 24-72 - Use of consumer fireworks

- (a) The use of consumer fireworks within the corporate limits of the Town of New Chicago shall be limited to the following times and dates:
- (1) Between the hours of 5:00 p.m. and two (2) 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;
 - (2) Between the hours of 10:00 a.m. and 12:00 Midnight on July 4; and
 - (3) Between the hours of 10:00 a.m. on December 31 and 1:00 a.m. on January 1.
- (b) The use of consumer fireworks within the corporate limits of the Town of New Chicago shall be limited to the following locations:
- (1) Special discharge location;
 - (2) The property of the person; or

- (3) The property of another who has given permission to use consumer fireworks;
- (4) Consumer fireworks shall not be used, ignited, or discharged in any of the New Chicago parks.
- (c) A violation of the times, dates or location as provided in this section shall be an ordinance violation, subject to a minimum fine of two hundred dollars (\$200.00) and maximum fine of three hundred fifty dollars (\$350.00). These amounts shall be doubled for offenders with an offense under this section in the calendar year.

(Added by Ord. 2017-^^)

Sec. 24-73 – Public display of fireworks; permit required

No individual or business shall conduct a public display of fireworks unless said display receives a permit from the State Fire Marshall in accordance with I.C. 22-11-14-2.

(Added by Ord. 2017-^^)

Sec. 24-74 – Public displays; certificate of insurance; violations

- (a) As required by I.C. 22-11-14-13, any permit holder for a public display of fireworks must hold a certificate of Insurance in an amount of not less than ten thousand dollars (\$10,000) for damages caused to a persons or property by the permit holder's agents, employees, or subcontractors.
- (b) If deemed necessary by the Chief of Police or Chief of the Fire Department of the Town of New Chicago due to the type of fireworks, quantity of fireworks, or the neighborhood surroundings, the Town of New Chicago may require up to one hundred thousand dollars (\$100,000.00) of insurance coverage for damage to persons and property.

(Added by Ord. 2017-^^)

Chapter 25 – Miscellaneous provisions and offenses

Article 1 – In general

Sec. 25-1 – Reserved.

Sec. 25-2 - Loitering

- (a) *Definitions.* For the purposes of this section, the word "loitering" is hereby defined as remaining idle in essentially one location and shall include the concepts of spending time idly, loafing, or walking about aimlessly, and shall also include the colloquial expression "hanging around."
- (b) *Certain types of loitering prohibited.* No person shall loiter in a public place in such manner as to:
- (1) Create or cause to be created a danger of a breach of the peace;
 - (2) Create or cause to be created any disturbance or annoyance to the comfort and repose of any persons;
 - (3) Create or cause to be created any disturbance or annoyance to the conducting of business on business premises and parking lots thereof;
 - (4) Obstruct the free passage of pedestrians, vehicles or business patrons; and
 - (5) Obstruct, molest, or interfere with any person lawfully in any public place, including making unsolicited remarks of an offensive nature or which are calculated to annoy or disturb persons in whose hearing they are made.
- (c) *Request to leave.* Whenever the presence of any person in any public place is causing any of the conditions enumerated in subsection (b), a police officer may order that person to leave that place. Any person who shall refuse to leave after being ordered to do so by a police officer shall be deemed to have violated this section.
- (d) *Violations and penalty.*
- (1) Any person against whom a judgment is taken for a violation of any provision of this section shall be fined in the amount of one hundred dollars (\$100.00).

(Added by Ord. 2017-^^)

Sec. 25-3 - Targeted picketing in residential areas

In order to protect and preserve the home through assurances that all members of the community can enjoy their homes and dwellings with a feeling of well-being, tranquility and privacy, it is unlawful for any person to engage in picketing solely in front of a particular residence or dwelling of an individual who has been targeted for such activities in the Town of New Chicago.

A violation of this section shall be punishable by a fine of one hundred dollars (\$100.00) for a first offense, two hundred fifty dollars (\$250.00) for a second offense, and up to seven thousand five hundred dollars (\$7,500.00) for any subsequent offense.

(Added by Ord. 2017-^^)

Sec. 25-4 – False alarms (non-fire)

- (a) If the Police Department serving the Town of New Chicago dispatches police officers due to any of the following:
 - (1) The activation of any alarm system when no emergency exists.
 - (2) The activation of any alarm system, which results is a response by the police department, caused by mechanical failure, malfunction, improper installation, or lack of proper maintenance
 - (3) A drill or test provided that the police department is not previously notified of the drill or test.
- (b) Then in the following above instances, the Town of New Chicago shall impose a fine upon the owner of the property.
 - (1) The first offense shall not be punishable by a fine.
 - (2) The amount of the service charge imposed under subsection shall be: A charge of one hundred fifty dollars (\$150.00) for a second and any subsequent false alarm in any ninety (90) day period);
- (c) For purposes of determining the number of false alarms in any time period (a), a false alarm that occurs within an apartment or industrial complex, regardless of the building, is considered a false alarm by the complex as a whole.

(Added by Ord. 2017-^^)

Sec. 25-5 – Working on motor vehicles

- (a) The owner, occupant, or agent of any owner or occupant of real property in the Town of New Chicago, Indiana, shall be prohibited from performing any type of mechanical work on vehicles on their real property unless same is zoned for said specific purposes except as provided hereafter.
- (b) An owner, occupant, or agent of an owner and/or occupant shall be permitted to work on their personal vehicle on their real property provided that said vehicle does not remain in a partially dismantled, wrecked, junked, or otherwise non-operable position in excess of three (3) days on said property
- (c) In order for a vehicle to be deemed a personal vehicle of the owner, occupant, or agent, said person must establish that title is held in their name to said subject vehicle and for the purposes of this ordinance a property owner and/or occupant may not be working on more than three (3) personal vehicles at any given time.
- (d) A violation of this section shall be punishable by a fine of one hundred dollars (\$100.00).

(Added by Ord. ordinance 96-12. Amended by 2017-^^)

Sections 25-6 through 26-100 – Reserved.

Article 2 – Collection boxes

Sec. 25-101 – Intent and definitions

- (a) Intent

- (1) The Collection Boxes Article is intended to be a regulatory ordinance for the public's health, safety, and welfare of the protection of all citizens who use collection boxes and may be affected by their placement.
- (2) The intent of this Article is to impose restrictions and conditions on all collection boxes in the City so that they are ad remain, claim, safe, and do not create hazards to pedestrians and to vehicular traffic.

(b) Definitions

- (1) "Operator" shall mean a person who owns, operates, or otherwise is in control of collection boxes to solicit collections of salvageable personal property.
- (2) "Permitee" means a person over eighteen (18) years of age or an entity who is issued a permit authorizing placement of collection box(es) on real property.
- (3) "Real Property," "property," or "land" means a lot of record located in the Town of New Chicago.
- (4) "Property owner" means the person who is an owner of real property where the collection box(es) are located.
- (5) Collection box means any container, receptacle, or smaller device that is located on any parcel or lot of record within the Town and that is used for soliciting and collecting the receipt of clothing, household items, or other salvageable personal property. This term does not include recycle bins for the collection of recyclable material, any rubbish or garbage receptacle, or any collection box located within an enclosed building.

(Added by Ord. 2017-^^)

Sec. 25-102 – Collection Box Permit

No later than ninety (90) days from the effective date of this Article; no person shall place, operate, maintain, or allow any collection box on any real property without first obtaining an annual permit issued by the City to locate a collection box

(Added by Ord. 2017-^^)

Sec. 25-103 – Application for permit and fee

- (a) Any person desiring to establish a collection box shall make an application for a permit to the Town of New Chicago.
- (b) A permit shall be obtained for each collection box(es) proposed. The license fee for donation boxes shall be one hundred dollars (\$100.00) per year per box. This fee is nonrefundable.
- (c) The application for a permit shall be upon a form provided by the Clerk-Treasurer and signed by an individual who is an officer, director, member, or manager of the applicant entity. The applicant shall furnish:
 - (1) Name, address, and email of all partners or limited partners of a partnership applicant, all members of an LLC applicant, all officers and directors of a non-publicly traded corporation

applicant, all stockholders owning more than five percent of the stock of a non-publicly traded corporate applicant, and any other person who is financially interest in the ownership or operation of the business, including all aliases.

- (2) Whether the applicant has previously received a permit for a collection box in the city or operates a collection box or similar type receptacle without a permit in the Town.
 - (3) The name, address, and telephone number of a contact person for all matters related to a collection box located in the Town.
 - (4) The physical address of the real property where the collection box is proposed to be located.
 - (5) A scaled drawing sufficient to illustrate the proposed location of the collection box on the real property, the dimensions of the proposed collection box and that the location complies with the requirements of this Ordinance and the City code.
 - (6) If the applicant is not the owner of the real property, an affidavit from the property owner providing written permission to place the collection box(es) on the property, as well as an acknowledgement from the property owner of receipt of a copy of this Article shall be provided on a form provided by the City. For purposes of this subsection, the affidavit and acknowledgement may be executed by an individual who is an officer, director, member, manager, or agent of an entity owning the property.
- (d) Within fourteen (14) days of receiving an application for a permit, the City shall notify the applicant whether the permit is granted or denied. If the City denies an application, the City shall state in writing the specific reasons for denial. If the fourteen day deadline falls on a weekend or legal holiday, the deadline shall be extended to the next business day.
- (e) No Person to whom a permit has been issued shall transfer, assign, or convey such permit to another person or legal entity.

(Added by Ord. 2017-^^)

Sec. 25-104 – Permit Requirements

- (a) A Permittee shall operate and maintain, or cause to be operated and maintained, all collection boxes located within the Town for with the Permittee has been granted a permit as follows:
- (1) Collection boxes shall be metal and maintained in good condition and appearance with no structural damage, holes, visible rust, or graffiti.
 - (2) Collection boxes shall be locked or otherwise secured in such a manner that the contents cannot be accessed by anyone other than those responsible for the retrieval of the contents.
 - (3) Collection boxes shall have, at minimum, ½ inch type visible from the front of each collection box the name, address, email, website (if applicable, and phone number of the operator, as well as whether the collection box is owned and operated by a for profit company or a non-profit organization. The collection box shall not have information or advertising of logos other than those relating to the operator.
 - (4) Collection boxes shall be serviced and emptied as needed, but at least no less than every fifteen (15) days.

- (5) The permittee and property owner shall maintain, or cause to be maintained, the area surrounding the collection boxes, free from any junk, debris, overflow donations, or other material.
- (6) The Property owner shall be responsible to the extent provided by law for the Town's cost to abate any nuisance.
- (7) Collection boxes shall:
 - i. Not be permitted on any land used for residential purposes.
 - ii. Not be permitted on any unimproved parcel, nor where the principal use of the land has been closed or unoccupied for more than thirty (30) days.
 - iii. Not be less than one thousand (1000) feet from another collection box as measured along a straight line from one box to the other. Notwithstanding, this separation requirement, up to two (2) collection boxes on a single lot of record are permitted if the two (2) collection boxes are side by side, no more than two (2) feet apart, and operated by the same organization.
 - iv. Not cause a visual obstruction to vehicular or pedestrian traffic.
 - v. Not be placed closer than fifteen (15) feet from: 1) A public or private sidewalk except that this provision does not apply to a private sidewalk as long as the private sidewalk maintains a five (5) foot clearance; 2). A Public right-of-way; 3) a driveway; or 4) a side or rear property line of an adjacent property used for residential purposes.
 - vi. Not cause safety hazards with the regard to a designated fire lane or building exit.
 - vii. Not 1) Interfere with an access drive, off-street parking lot maneuvering lane and/or required off-street parking space to an extent which would cause safety hazards and/or unnecessary inconvenience to vehicular or pedestrian traffic; 2) encroach upon an access drive, off-street parking lot maneuvering lane and/or required off-street parking space, and
 - viii. Be placed on a level, hard (asphalt or concrete) paved, dust-free surface
 - ix. If placed on a parking lot servicing a business, the box shall not reduce the minimum number of parking spaces needed for the business pursuant to the Town code.

(Added by Ord. 2017-^^)

Sec. 25-105 – Type of Permit and Renewal of Permit

- (a) The Permit year shall begin on January 1 in each year and shall terminate on December 31st of the same calendar year. An annual permit issued between December 1st and December 31st of any year shall expire on December 31st of the calendar year next following issuing thereof.
- (b) Following the enactment of the ordinance, any previously existing collection box which lawfully registers within sixty days of the enactment of this ordinance shall pay a reduced fee of fifty dollars (\$50.00) for the remainder of the 2017 calendar year.
- (c) The collection box permit shall be renewed annually. The application for renewal must be filed not later than thirty (30) days before the permit expires. The application for renewal shall be upon a form provided by the Clerk-Treasurer.

- (d) The City shall either approve or deny the renewal of a permit within ten (10) days of receipt of the complete renewal application and payment of the renewal fee. If the tenth day falls on a weekend or legal holiday, the deadline shall extend to the next business day. Failure of the Town to act before expiration of the permit shall constitute approval of the renewal.
- (e) A permit renewal fee shall be submitted with the application for renewal.
- (f) Prior to the expiration of the permit, the Permittee may voluntarily cancel the permit by notifying the Town in writing of the intent to cancel the permit. The permit shall become void upon the Town's receipt of a written notice of intent to cancel the permit.
- (g) The Town shall approve the renewal of a permit if the Town finds that no circumstances existed during the term of the permit which would cause a violation to exist and that the time of submission of the application for renewal, or at any time during the renewal of the application for renewal, there were not circumstances inconsistent with any finding revoked shall be denied renewal of the permit for the subsequent calendar year.
- (h) IF the permit expires and is not renewed, the collection boxes must be removed from the real property within a maximum of ten (10) days after the expiration of the permit.

(Added by Ord. 2017-^^)

Sec. 25-106 – Revocation of permit, removal of collection boxes and liability

- (a) The Town shall have the right to revoke any permit issued hereunder for a violation of this Article. Any of the grounds upon which the Town may refuse to issue an initial permit shall also constitute grounds for such revocation. In addition, the failure of the Permittee to comply with the provisions of this article or other laws shall provide a written notification to the Permittee and property owner stating the specific grounds for a revocation and a demand for correction and abatement. The notice shall allow a maximum of twenty (20) days from mailing of the notice to correct or abate the violation. Upon failure to make the correction or abatement, the permit shall be revoked by the City and, thereafter, the Permittee shall not be eligible for a permit on the property for the subsequent calendar year.
- (b) Upon revocation, the collection box shall be removed from the real property within ten (10) days and, if not so removed within the time period, the City may remove, store, or dispose of the collection box at the expense of the Permittee and/or real property owner. All costs associated with the removal of the collection box incurred by the Town, or if the Town's contractor shall be the responsibility of the property owner. If such obligation is not paid within thirty (30) days after mailing of a billing of costs to the property owner, the City may place a lien upon such real property enforceable as a tax lien in the manner prescribed by the general laws of this State against the property and collected as in the case of general property tax. If the same is not paid prior to the preparation of the next assessment roll of the Town, the amount shall be assessed as a special tax against such premises on the next assessment roll and collected thereunder.
- (c) A permit for a collection box may be revoked in any government authority or agency determines that the collection box or the collection box operator has violated the Indiana Consumer Protection Act and/or the Charitable Organizations and Solicitations Act.

(Added by Ord. 2017-^^)

Sec. 25-107 – Appeal to Planning Commission

Any person aggrieved by the decision rendered by the Town in granting or denying an application for a permit under this article or in revoking a permit issued under this Article may appeal the decision to the Planning Commission. The appeal shall be made by filing a written notice thereof with the City setting forth the grounds for the appeal not later than ten (10) days after receiving notice of the decision. The Planning Commission may grant relief if the applicant presents clear and convincing evidence that there was an error in the decision of the City.

(Added by Ord. 2017-^^)

Sec. 20-108 – Penalty and Remedies

- (a) Any person, entity, or organization violating the provisions of this Article is guilty of a civil infraction. Such infractions are punishable by a fine of one hundred dollars (\$100.00). Each day on which the offense continues shall be deemed a separate offense.
- (b) Nothing in this article shall prevent the Town from pursuing any other remedy provided by the law in conjunction with or in lieu of prosecuting persons under the sections in violation of this article.
- (c) Penalties within this Article, including but not limited to fines, abatement, and permit revocations, are cumulative.
- (d) The real property owner and the Permittee shall be jointly and severally liable for each violation and for payment of any fine and costs of abatement.
- (e) No fines shall be imposed for a violation of this article until ninety (90) days after its effective date. All collection boxes existing at the effective date of this ordinance shall apply for a permit as required herein within thirty (30) days of the effective date. Any collection boxes not in compliance with this Article after ninety (90) days of the effective date shall be subject to all remedies for violation as provided herein.

(Added by Ord. 2017-^^)