

CHAPTER 1: GENERAL PROVISIONS

Article

1. GENERAL PROVISIONS

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§ 1-1 CODE CITATION AND DESIGNATION.

The ordinances contained in the following chapters, articles, divisions, and sections shall constitute and be designated as the “Hope Town Code”, and may be cited as the “town code” or, in the provisions which follow, as “this code”.

(1995 Code, § 1-1)

Statutory reference:

*Codification of ordinances by all units of government, except townships,
see I.C. 36-1-5-1 through 36-1-5-6*

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§ 1-2 EFFECTIVE DATE OF CODE; REPEAL OF GENERAL ORDINANCES IN CONFLICT; SAVINGS CLAUSE.

(A) All of the provisions of this code shall be in full force and effect from the date of passage and the filing of this code in the office of the Clerk-Treasurer, and all ordinances of a general and permanent nature in force at that time are hereby repealed from and after that date.

(B) The repeal shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or occurring before the effective date; nor shall it affect any ordinance accepting gifts and dedications of real estate; nor any ordinance or resolution promising or guaranteeing the payment of money by the town or authorizing the issue of bonds of the town; or other evidence of the town's indebtedness, or any contract or obligation assumed by the town; nor shall the repeal affect the administration ordinances or resolutions of this code; nor shall it affect transfer and appropriation ordinances; nor shall it affect any ordinance concerning annexation or dis-annexation of territories to or from the town, or any ordinances changing or concerning names of streets, or opening and closing streets, or ordinances commonly known as zoning map amendments; nor shall it affect any ordinance accepting, releasing, or abandoning easements; nor shall it affect any right, easement, or franchise, conferred by any person or corporation; nor shall it affect any prosecution, suit or proceeding pending on that date, except that the proceeding thereof shall conform as far as possible to the provisions of this code.

(1995 Code, § 1-2)

Statutory reference:

*Adoption of ordinances and resolutions and publication of a town code,
see I.C. 36-5-2-10 and 36-5-2-10.2*

§ 1-3 DEFINITIONS.

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

AND/OR. Either conjunction “and” or “or” shall include the other, as if written “and/or”.

CLERK-TREASURER. The Clerk and Fiscal Officer of the Town of Hope.

CODE. The Hope Town Code.

COMPUTATION OF TIME. Except written otherwise, means the time within which an act is required to be done, and shall be computed by excluding the first day and including the last, unless the last day is Sunday or a holiday, in which case it shall be excluded.

COUNCIL. The Town Council, formerly known as the Board of Trustees.

COUNTY. The County of Bartholomew.

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

GENDER. Each gender includes masculine, feminine, and neuter genders.

I.C. State law found in the Indiana Code.

LAW. Applicable federal law, the Constitution and statutes of the state, the ordinances of the town, and, when appropriate, any and all rules and regulations which may be promulgated thereunder.

MAY. Permissive.

MONTH. A calendar month.

MUST and **SHALL.** Each are mandatory.

OATH. Includes an affirmation of declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in those cases, the words swear and sworn shall be equivalent to the words affirm and affirmed.

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

PERSON. Includes a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer, or employee of any of them.

PERSONAL PROPERTY. Includes money, goods, clothes, things in action and evidences of debt.

PRECEDING AND FOLLOWING. Next before and next after, respectively.

PROPERTY. Includes real and personal property.

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

REAL PROPERTY. Includes lands, tenements, and hereditaments.

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

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SIDEWALK. The portion of the street between the curblin and the adjacent property line intended for the use of pedestrians.

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

SINGULAR AND PLURAL. Words in the singular shall include, the plural and words in the plural shall include the singular.

STATE. The State of Indiana.

STREET. Includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in the town which have been or may hereafter be dedicated and open to public use, or other public property so designated in any law of this state.

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

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

TENSES. Words used in the present tense include the past and the future tenses and vice versa, unless manifestly inapplicable.

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

TOWN COUNCIL. Includes all former references to the Board of Trustees.

WRITTEN. Includes printed, typewritten, mimeographed, multi-graphed, or otherwise reproduced in permanent visible form.

YEAR. A calendar year.

(1995 Code, § 1-3)

Statutory reference:

*Changing of terms from "Board of Trustees" to "Town Council",
see House Enrolled Act No. 1042, effective March 30, 1989*

Definitions of general applicability, see I.C. 36-1-2-1 through 36-1-2-24

Definition of substantial property interest, see I.C. 36-7-9-2

§ 1-4 CODE APPLICATION AND APPLICATION TO FUTURE LEGISLATION.

(A) This code shall refer only to the omission or commission of acts within the territorial limits of the town and to that territory outside this town, if any, over which the town has jurisdiction or control by virtue of any constitutional provision or law.

(B) All provisions of Chapter 1 not incompatible with future legislation shall apply to ordinances hereafter adopted amending or supplementing this code, unless otherwise specifically provided.
(1995 Code, § 1-4)

§ 1-5 INTERPRETATION OF SECTION NUMBERS AND CAPTIONS.

(A) Each chapter is comprised of articles which address subject matter classifications within the chapter. Articles may then be divided into divisions, and each section of this code shall be numbered consecutively by chapter. The number shall consist of two component parts separated by a dash, the figure before the dash referring to the chapter number and the figure after the dash referring to the position of the section within the chapter.

(B) The decimal system shall be used for all additions or amendments to this code. When a chapter or section is to be added, the new chapter or section shall be given a decimal character.

(C) Headings and captions used in this code, other than the title, are employed for reference purposes only and shall not be deemed a part of the text of this code.

(D) All words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to a peculiar and appropriate meaning.
(1995 Code, § 1-5)

§ 1-6 REPEAL SHALL NOT REVIVE ORDINANCES.

The repeal of an ordinance shall not repeal the repealing clause of an ordinance or revive any ordinances which have been repealed thereby.
(1995 Code, § 1-6)

§ 1-7 EFFECTIVE DATE OF ORDINANCES.

Unless otherwise expressly provided, an ordinance shall take effect when passed according to I.C. 36-4-6-14.
(1995 Code, § 1-7)

§ 1-8 SEVERABILITY OF CODE.

If any chapter, article, division, section, subsection, sentence, clause, or phrase of this code is for any reason declared to be unconstitutional or otherwise invalid, the decision shall not affect the validity of the remaining portions of this code.

(1995 Code, § 1-8)

§ 1-9 GENERAL PENALTIES.

(A) Any person violating any of the provisions or failing to comply with any of the mandatory requirements of the ordinances of the town, shall be guilty of an offense. Except in cases where different punishment is prescribed by any ordinance of the town, any person convicted of an offense shall be punished by a fine of not more than \$2,500.

(B) Each day a violation of this code is committed or permitted to continue shall constitute a separate offense.

(C) Except in cases where a different penalty is prescribed by a specific section of this code, any person convicted of an ordinance violation shall be punished by a fine of not less than \$25 more than \$2,500 for each offense.

(D) The town may bring a civil action to enjoin any person from:

(1) Violating any ordinance regulating or prohibiting a condition or use of property; or

(2) Engaging in conduct without license if an ordinance require a license to engage in the conduct.

(E) The court may suspend all or any part of a penalty imposed for an ordinance violation and may require as a condition of the suspension that the defendant shall perform uncompensated work that benefits the community.

(1995 Code, § 1-9)

Statutory reference:

Authorization of a maximum fine of \$2,500 for an ordinance violation, see I.C. 36-1-3-8

Class C infractions, see I.C. 9-4-1-127.1

Injunctions, see I.C. 36-1-6-4

Ordinance violations, see I.C. 34-4-32-4

§ 1-10 TOWN SEAL.

(A) The Clerk-Treasurer shall be the custodian of the town's seal and affix it to documents and instruments as required.

(B) The town seal shall be the form and style as affixed to the certificate page of this code.
(1995 Code, § 1-10)

§ 1-11 ERRORS AND OMISSIONS.

If a manifest error be discovered consisting of the misspelling of any word or words, the omission of any word or words necessary to express the intention of the provisions affected, or the use of a word or words to which no meaning can be attached, or the use of a word or words when another word or words was clearly intended to express that intent, the spelling shall be corrected and the word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same affect as though the correct words were contained in the text as originally published No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.
(1995 Code, § 1-11)

§ 1-12 CODES; PROPERTY OF THE TOWN.

All copies of the town code except those sold by the town to private individuals or given or sold to the public library shall be the property of the town. Any town codes delivered to elected or appointed officials shall not be retained by those individuals after the expiration of their term(s) of office or appointment.
(1995 Code, § 1-12)

§ 1-13 MATERIAL INCORPORATED BY REFERENCE.

Two copies of all material incorporated by reference into this code are on file and shall be kept on file for public inspection in the office of the Town Clerk-Treasurer.
(1995 Code, § 1-13)

§ 1-14 SUPPLEMENTATION OF THE CODE.

(A) By contract or by town personnel, supplements to this code shall be prepared and printed whenever authorized or directed by the Common Council. A supplement to the code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the code. The pages of a supplement shall be so numbered that they will fit properly into the code and will, where necessary, replace pages 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.

(B) 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.

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(C) When preparing a supplement of 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 the 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”, and the like, as the case may be, or to “sections _____ to _____ (inserting section numbers to indicate the sections of this 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.
- (1995 Code, § 1-14)

§ 1-15 CODIFICATION AND ITS EFFECT.

(A) The following codification and revision of ordinances consisting of Chapters 1 through 12, inclusive, entitled “Hope Town Code” two copies of which shall be kept on file in the office of the Clerk-Treasurer is adopted and enacted as the town code.

(B) The format of the town code is as follows:

- Cover Page
- Table of Contents Page
- Town Certification Page
- Town Officials Page
- Chapter 1 - General Provisions
- Chapter 2 - Town Administration
- Chapter 3 - Town Legislative Branch
- Chapter 4 - Fees, Licenses, and Permits
- Chapter 5 - Parks and Recreation
- Chapter 6 - Public Health and Safety

- Chapter 7 - Building and Construction Regulations
- Chapter 8 - Traffic and Parking Regulations
- Chapter 9 - Utilities
- Chapter 10 - Zoning and Subdivision Control
- Parallel References
- Index

(C) It shall be treated and considered as a new and original codification and revision of ordinances of the town which shall supersede all other general and permanent ordinances passed and adopted by the Town Council before December 18, 1995, the date when Ord. 1995-09 was passed, the last ordinance included therein, except those exceptionally saved from repeal or continued as restatements or reenactments or original ordinances and amendments thereto which are in force and effect for any purpose.

(D) All provisions of the town code shall be in full force and effect following publication of this article, and all ordinances of a general and permanent nature of the town enacted on final passage on or before December 18, 1995, are not incorporated in this code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of this article, except as herein provided.

(E) The repeal provided for in division (D) above shall not affect any offense or act committed or done or any penalty or forfeiture incurred or imposed before the effective date of this code; nor shall the repeal affect any ordinance or resolution 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; nor shall the repeal affect the administrative ordinances or resolutions of the Council, no in conflict or inconsistent with the provisions of the code; nor shall the repeal affect any right of franchise granted by any ordinance or resolution of the Council of any person, firm, or corporation; nor shall the repeal affect any ordinance dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening, or establishing grades of any street or public way in the town; nor shall the repeal affect any ordinance levying or imposing taxes not included herein; nor shall the repeal affect any ordinance or resolution relating to salaries of town employees; nor shall the repeal affect any ordinance providing for local improvements and levying special assessments therefor; nor shall the repeal affect any ordinance dedicating or accepting any plat or ordinance extending the boundaries of the town; nor shall the repeal affect any ordinance or resolution establishing, or modifying the boundaries or zoning districts, or changing the zoning classification of any lot or parcel of land. Each of the above-mentioned ordinances shall in no way be repealed by this code, except as the same may be in conflict with the provisions of the code.

(F) Any and all additions or amendments to the code, when passed in form as to indicate the intention of the Council to make the same a part thereof, shall be deemed to be incorporated in the code, so that reference to the town code shall be understood and intended to include those additions and amendments.

(1995 Code, § 1-15) (Ord. 1995-09, passed 12-18-1995)

§ 1-16 ROLE OF THE CLERK-TREASURER REGARDING THE TOWN CODE.

(A) (1) Two copies of the town code shall be kept of file in the office of the Clerk-Treasurer, or someone authorized by him or her, to insert in their designated places all amendments or ordinances which indicate the intention of the Council to make the same a part of the code when the same shall have been printed or reprinted in page form, and to extract from the code all provisions which may be from time to time repealed by the Council.

(2) These copies of the code shall be available to all persons desiring to examine the same and shall be considered the official code of the town.

(B) It shall be unlawful for any persons, firm, or corporation to change, by additions or deletions, any part or portion of the code, or to insert or delete pages or portions thereof, or to alter or tamper with the code, or to insert or delete pages or portions thereof, or to alter or tamper with the code in any manner whatsoever which will cause the code, any ordinance, or the law of the town, to be misrepresented thereby. Any person, firm, or corporation violating this section shall be punished as provided in § 1-9 of the code.

(1995 Code, § 1-16)

§ 1-17 TITLE OF OFFICE.

Use of the title of any officer, employee, department, board, or commission means that officer, employee, department, board, or commission of the town.

(1995 Code, § 1-17)

§ 1-18 ACTS BY AGENTS.

When an act is required by an ordinance, the same being such that it may be done as well by an agent as by the principal, the requirement shall be construed to include all acts performed by an authorized agent.

(1995 Code, § 1-18)

§ 1-19 PROHIBITED ACTS INCLUDE CAUSING AND PERMITTING.

Whenever in the ordinances of the town, any act or omission is made unlawful, it shall include causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of the act or omission.

(1995 Code, § 1-19)

§ 1-20 CONSTRUCTION.

The provisions of the ordinances of the town, and all proceedings under them are to be construed with a view to effect their objects and to promote justice.
(1995 Code, § 1-20)

