

Montezuma Municipal Code



Western Gateway to the Parks County Covered Bridge Festival

Effective July 18, 2024

MONTEZUMA MUNICIPAL CODE

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ARTICLE 1: IMPLEMENTARY AND GENERAL PROVISIONS

CHAPTER 1:	IMPLEMENTARY PROVISIONS
CHAPTER 2:	GENERAL PROVISIONS
CHAPTER 3:	CODE ENFORCEMENT PROCEDURE
CHAPTER 4:	GENERAL ADMINISTRATIVE POLICY

ARTICLE, 1, CHAPTER 1: IMPLEMENTARY PROVISIONS

SECTION 1:	SHORT TITLES AND GENERAL CITATION
SECTION 2:	LEGISLATIVE INTENT TO EXERCISE GENERAL POWERS
SECTION 3:	CONTINUITY OF EFFECT OF PROVISIONS
SECTION 4:	PUBLICATION OF MUNICIPAL CODE
SECTION 5:	GENERAL REPEAL OF PRIOR ORDINANCES
SECTION 6:	ORDINANCES OR PARTS SAVED FROM GENERAL REPEAL
SECTION 7:	EFFECTIVE DATE

MMC 1-1-1: SHORT TITLES AND GENERAL CITATION

Sec. 1: This code shall be known and may be cited as the “Montezuma Municipal Code” or “MMC”, and any such citation or reference shall mean and include all supplements, supplementary ordinances, and amendments thereto.

MMC 1-1-2: LEGISLATIVE INTENT TO EXERCISE GENERAL POWERS

Sec. 2: It is declared to be the legislative intent of the Montezuma Town Council to invoke and exercise all lawful powers vested in or incumbent on the Town Council to enact ordinances and to provide through legislation for the governance of the municipal corporation and its governmental jurisdiction, including but not necessarily limited to the following powers:

- a. All powers vested expressly by the Constitution and laws of Indiana;
- b. All general or residual powers conferred on the governing body of a town by the Indiana Code or by any other law;
- c. All implied powers incumbent on a municipality through the operation of common law, such as are necessary or dispensable to the purposes for which a municipal corporation is created.

MMC 1-1-3: CONTINUITY OF EFFECT OF PROVISIONS

Sec 3: It is the legislative intent of the Town Council in adopting this code to preserve the continuity of effect of all re-enacted or restated provisions included herein; and nothing in the re-enactment or restatement, reallocation of content, or codification of any such provisions, nor in the repeal of any original ordinance or ordinances per se in which the provision was originally incorporated as provided by Section 7 of this chapter, shall be construed to nullify, terminate or render unlawful any official action performed, proceeding begun, governmental or corporate entity created, transaction made, or any contractual obligation, indebtedness, or other legal obligation or liability incurred by or to the

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town under proper authority or operation of any such re-enacted or restated provision prior to its inclusion in and the taking effect of this code.

MMC 1-1-4: PUBLICATION OF MUNICIPAL CODE

Sec. 4: This code is declared to be a public document, and the Clerk-Treasurer shall provide for the making of printed copies thereof in booklet form, and for the publication of such copies by the town or by a private publisher so that any person who desires to obtain a copy for his own use and information may do so. The production of the printed code in booklet form and publication thereof by making copies available for public acquisitions and distribution to fulfill all printing and publication requirements are provided by IC 36-1-5-5 and IC 36-5-2-10 (b) (1). If the printed code is published and made available by and through the town, the Clerk-Treasurer shall establish and collect a charge for each copy, which charge shall be sufficient to recoup the costs to the town incurred for the printing of the code volume and the administrative costs of publication. If the printed code ordered by a member of the public. In addition to such publication as provided above, at least one copy of the printed code shall be filed and kept in the office of the Clerk-Treasurer, and the Clerk-Treasurer shall permit any person wishing to do so to examine the code or make copies of any part thereof as provided by IC5-14-3-3 and IC 5-12-3-8.

MMC 1-1-5: GENERAL REPEAL OF PRIOR ORDINANCES

Sec. 5: All Ordinances or parts thereof, excepting those set forth and expressly saved in Section 6 of this chapter, having been enacted prior to the adoption of this code are hereby repealed, such repeals being effective upon the taking effect of this code.

MMC 1-1-6: ORDINANCES OR PARTS SAVED FROM GENERAL REPEAL

Sec. 6: The following enumerated or described ordinances or parts of ordinances are not repealed by Section 7, and shall remain in full force and effect until their natural expiration or until they are expressly repealed by another ordinance:

- a. The ordinance for appropriations and tax levies for the current year, including any additional appropriations made subsequent to the original adoption thereof;
- b. The ordinance for appropriation and tax levies for the ensuing year, if the same has already been adopted at the time this code takes effect;
- c. The ordinance or other act, including any amendments thereto, fixing the salaries and wages of the officers and employees of the municipal corporation or of any subsidiary corporation or agency for the current or ensuing fiscal year;
- d. Any ordinance or portion thereof governing the administration and repayment of any unretired bonds or other debt obligations of the municipal corporation or of any subsidiary corporation or agency;
- e. Any ordinance or other act establishing any cumulative fund and tax rate, except as expressly repealed or amended by another ordinance or act;
- f. Any ordinance or portion thereof expressly enumerated or described and incorporated by reference or saved by a provision of this code.

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MMC 1-1-7: EFFECTIVE DATE

Sec. 7: This code shall take effect on the 1st day of January, 2013.

ARTICLE 1, CHAPTER 2: GENERAL PROVISIONS

SECTION 1:	DEFINITIONS
SECTION 2:	OTHER CONSTRUCTION OF TERMS
SECTION 3:	STATUS OF TITLES AND HEADINGS
SECTION 4:	STATUS OF DERIVATIONAL REFERENCES
SECTION 5:	INCORPORATION OF MATERIAL BY REFERENCE
SECTION 6:	CONFLICTING OR CONTRADICTORY PROVISIONS; RESOLUTION
SECTION 7:	CONFLICT OF CODE PROVISIONS WITH STATUTORY PROVISIONS
SECTION 8:	AMENDMENT AND REPEAL; LIMITATION OF EFFECT
SECTION 9:	CODE SUPPLEMENTS; PUBLICATION
SECTION 10:	EFFECTIVENESS OF SUPPLEMENTARY ORDINANCES
SECTION 11:	SEVERABILITY

MMC 1-2-1: DEFINITIONS

Sec. 1: The following terms are commonly used throughout this code, and shall uniformly have the indicated meaning unless the particular article or chapter in which they are used defines a different meaning, or unless the context clearly indicates a broader, narrower, or otherwise different meaning:

- a. The term “Town” (or similar terms such as “municipality” or “city”), when used in a governmental or corporate sense means and refers to the Civil Town of Montezuma, Indiana, a municipal corporation and body politic organized under the laws of Indiana; and included, with respect to any particular matter and by representation, its Town Council or such other officials, boards, commissions, departments, agencies, or other authorities which by act of Board of Trustees or by general law are empowered to exercise governmental or corporate authority on behalf of the Civil Town of Montezuma with respect to such particular matter.
- b. The term “Town” (or similar terms such as “municipality” or “city”) when used in a territorial or geographic sense, means or refers to that area included within the lawful municipal boundaries of the Civil Town of Montezuma at that time this code or any included provisions or amendment takes effect; but with respect to any particular matter over which the Civil Town of Montezuma exercises any governmental or corporate jurisdiction beyond such mutual cooperative agreement, the term shall so include the area within such extraterritorial jurisdiction.
- c. The term “Town Council” means and refers to the Town Council of the Civil Town of Montezuma, Indiana.
- d. The term “county” means and refers to Parke County, Indiana, in the sense analogous to those in which the term “town” is used as described in subsection (a) above.
- e. The term “state” means and refers to the State of Indiana in the senses analogous to those in which the term “town” is used as described in subsection (a) above.

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- f. The term “person” means and refers to any natural person, corporation, firm, partnership, company, institution, business organization, corporative, association, club, or similar organization.
- g. The term “law” when used in reference or respect to any matter means any provision of the United States or Indiana Constitutions, federal or state statute, any applicable and enforceable regulation, and the common law.

In general, and except as otherwise stipulated or made clear from the context, all words and phrases used in this code are intended to have their generally accepted and understood meanings; except that certain terms having gained a specialized or technical legal meaning; and when used in technical legal context, shall be construed to have their generally accepted and understood legal meaning to the extent that an such legal meaning differs from the common meaning.

MMC 1-2-2: OTHER CONSTRUCTION OF TERMS

Sec. 2: Other construction or interpretation of terms or usages of words shall be governed by the following rules, except where clearly inapplicable by virtue of the context:

- a. All words having a masculine, feminine, or neuter connotation shall be construed to mutually entail and include each other.
- b. The use of a singular form shall be construed to include the plural form, and vice versa.
- c. The use of past, present, or future tenses mutually entail and include each other.
- d. Wherever an official title (e.g., Clerk-Treasurer) is used, it means or refers to a person or body ex officio, and not to an individual personality or particular membership or constituency.
- e. “Shall” or “must” are mandatory, while “may” is permissive or conditional. The negation of all is prohibitory.

MMC 1-2-3: STATUS OF TITLES AND HEADINGS

Sec. 3: The titles and heading provided for any article, chapter, section, or subsection of this code are intended for guidance and reference purposes only, and are not substantive parts of the code or individual provisions to which they apply. A title or heading shall not be construed to limit, govern, or condition the scope or meaning of the substantive text include within the article, chapter, section, or subsection to which the title or heading applies.

MMC 1-2-4: STATUS OF DERIVATIONAL REFERENCES

Sec. 4: Derivational references included in brackets at the end of any provision of this code are for purposes of reference only and indicate that the provision is a re-enacted or restated provision of an ordinance previously adopted and in effect at the time the provision was incorporated into and adopted as part of this code, as described by IC 36-1-5-6. However, the inclusion of the provision and enactment thereof as part of this code is sufficient in itself, and any error in, omission from, or any other fault in a derivational reference shall not be construed to invalidate nor impair the operation of any substantive provision included in this code.

MMC 1-2-5: INCORPORATION OF MATERIAL BY REFERENCE

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Sec. 5: When the text of any materials are incorporated into and made a substantive part of any provision of this code or a supplementary ordinance by reference, rather than being directly set forth, such materials are declared to be and are made public documents, and two copies of each such complete document or of that portion thereof so incorporated by reference shall be kept on file in the office of the Clerk-Treasurer and made available for public inspection and copying in the same manner as other public document. However, this requirement does not apply to instance where a statute or similar law or written regulation, already being a promulgated document, is cited or referenced merely for the purpose of establishing legal basis or authority, legal procedure, or legal precedent incident to the implementation or administration of a provision of this code; nor to instances where some such document or portion thereof is not incorporated as an actual substantive part of the provision, but is cited or referred to merely for the purpose of establishing administrative guidelines, standards, or procedures incidental to the administration of the substantive parts of the provision.

MMC 1-2-6: CONFLICTING OR CONTRADICTION PROVISIONS; RESOLUTION

Sec. 6: In the event that two provisions of this code or any supplementary ordinance are conflicting, mutually contradictory, or cannot consistently stand together and be coherently applied, either in general or with respect to any particular matter, then the most recently enacted provision shall prevail and be applied. In the case of any two such conflicting provisions of this code which are re-enacted or restated provisions of any prior ordinances, the most recently enacted provision is that provision which was formerly part of the most recently adopted prior ordinance, notwithstanding the fact that such prior ordinance per se may have been repealed.

MMC 1-2-7: CONFLICT OF CODE PROVISIONS WITH STATUTORY PROVISIONS

Sec. 7: This code is in all respects subordinate to the laws of the State of Indiana, except to the extent that any law expressly makes a provision of this code superior; and except in such case, if any provision of this code is found to be prohibited by or in conflict with a provision of any state statute, whether the statute was enacted prior or subsequent to the enactment of the prohibited or conflicting code provision, then the provision of the statute shall prevail. However, nothing in this section shall be construed to prevent the Town Council from enacting any provision which is collateral or supplementary to a statute, and any such provision shall be valid only if and to the extent that it is overtly inconsistent with a prescriptive or proscriptive provision of the statute, pre-empts the actual field of operation of a statute, impairs or denies a right, privilege, or power conferred on any person by a statute, prevents or impairs any person from performing a duty or other act required to be performed by a statute, or contravenes the purpose for which a statute was enacted by the General Assembly; but provided further that no such collateral or supplementary provision shall fix or apply a penalty of fine or other forfeiture for any act or condition which is also violation of any statute.

MMC 1-2-8: AMENDMENT AND REPEAL; LIMITATION OF EFFECT

Sec. 8: The Town Council may add, amend, or repeal any article, chapter, section, or any other part of this code by adopting a supplementary ordinance setting forth the addition, amendment, or repeal applies. The repeal of any article, chapter, section, or any other part shall be specific and not generally phrased; and any supplementary provision enacted with the intent to replace any existing provision of the code shall include or be accompanied by a provision expressly identifying and repealing the provision intended to be replaced. The repeal of any current provision does not work to revive any prior provision which was repealed by the current provision being repealed; nor does the amendment or repeal of a provision serve to nullify, invalidate, terminate, or render unlawful any official act performed, proceeding begun, transaction made, contract or other legal obligation entered into, or liability incurred by or to the town by virtue of the proper operation of the amended or repealed

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provision prior the talking effect of the amendment or repeal. A supplementary ordinance adding, amending, or repealing a provision of this code shall be adopted in the same manner as other ordinances, except to the extent that an applicable special procedure for adoption is prescribed by this code or statute.

MMC 1-2-9: CODE SUPPLEMENTS; PUBLICATION

Sec. 9: The Town Council shall from time to time provide for the compilation of supplement volumes incorporating or reflecting any addition to, amendments, or repeals of the provisions of this code enacted to its original adoption. A code supplement volume shall be published in the same manner as the original code as provide by Chapter 1, Section 6 of this article.

MMC 1-2-10: EFFECTIVENESS OF SUPPLEMENTARY ORDINANCES

Sec. 10: Unless a supplementary ordinance includes a provision delaying its effectiveness to a specified date, or provides for or increases the penalty for violation of any provision of this code and is so required to be published or promulgated before taking effect pursuant to Indiana law, then the supplementary ordinance shall be effective and the code shall be considered as concurrently amended, upon the passage, signature, and recording of the supplementary ordinance as provided by the law. If a supplementary ordinance is required to be published or promulgated in accordance with Indiana law it shall be effective upon its publication or promulgation.

MMC 1-2-11: SEVERABILITY

Sec. 11: All articles, chapters, sections, subsections, paragraphs, sentences, phrases, or words contained in this code are severable from each other, and if and such article, chapter, section, subsection, paragraph, phrase, or word is found to be unconstitutional, legally invalid, inoperative, erroneous or faulty in any way, or is repealed or deleted, such as a statue or action shall not be construed to invalidate or affect any other portion of this code insofar as that other portion can be applied and sensibly operate in the absence of the unconstitutional, invalid, inoperative, erroneous, faulty, repealed, or deleted portion of the code.

ARTICLE 1, CHAPTER 3: CODE ENFORCEMENT PROCEDURE

SECTION 1:	GENERAL ENFORCEMENT POLICY
SECTION 2:	RESPONSIBILITY FOR ENFORCEMENT; DUTY OF TOWN MARSHAL
SECTION 3:	ENFORCEMENT BY OTHER OFFICIALS, BOARDS, OR COMMISSIONS
SECTION 4:	FORM OF CITATION AND SUMMONS
SECTION 5:	PROCEDURE FOR FIXING REQUESTED FINE
SECTION 6:	FURTHER RULES AND PROCEDURES FOR ENFORCEMENT
SECTION 6.5:	ESTABLISHING AN ORDINANCE VIOLATIONS BUREAU

MMC 1-3-1: GENERAL ENFORCEMENT POLICY

Sec. 1: Whenever any provision of this code requires or mandates any person to perform some act or bring about or maintain some circumstances or state of affairs; or prohibits, restrains, or regulates the behavior of any person or the commission of any act or the bringing about or maintaining of any circumstance or state affairs on the part of any person; and a penalty of fine or some other procedure to compel compliance with the provision is prescribed in this code, then such provision shall be considered an enforcement provision. Unless some different procedure is expressly set forth and prescribed by the particular article, chapter, or section of this code containing the enforcement

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provision, the enforcement of any such provision shall be administered in accordance with the provisions of this chapter.

MMC 1-3-2: RESPONSIBILITY FOR ENFORCEMENT; DUTY OF TOWN MARSHAL

Sec. 2: Unless some other official, board, commission, or similar entity is expressly designated as the primary enforcement officer or authority responsible for the administration and enforcement of a particular enforcement provision, it is the duty of the Town Marshal, acting himself or through his lawful deputies, to take all steps necessary for the effective enforcement and bringing about of compliance with all enforcement provisions. Whenever the Town Marshal, based upon his own vigilance or upon the information or complaint of any other official or any citizen, has probable cause to believe that a violation or failure to comply with any enforcement provision has occurred or is occurring, he shall with due diligence investigate the matter, ascertain the facts, and collect such testimony, information, or other evidence as in his judgment may be necessary to support the facts. If, incident upon such investigation, the Town Marshal determines with a degree of certainty sustained by a preponderance of evidence that some known person has violated or failed to comply with, or is violating or failing to comply with, any enforcement provision, he shall issue and serve upon the alleged offender, in person or by mail if so provided, a citation for the violation comprising a complaint and summons to appear and answer to the charge of the violation as hereafter prescribed in this chapter; or else he shall initiate or cause to be initiated such other enforcement procedures as may alternatively be prescribed in the event of a violation of the particular enforcement provision.

MMC 1-3-3: ENFORCEMENT BY OTHER OFFICIALS, BOARDS, OR COMMISSIONS

Sec. 3: Whenever in this code or by Indiana law any official, board, commission, or similar entity is given responsibility instead of or concurrent with that of the Town Marshal for the administration and enforcement of any provision, he or they shall perform the same duties and functions with the respect to the enforcement of the provision as are prescribed for the Town Marshal under Section 2 of this chapter, and the term "enforcement officer" shall mean and include such other officials, boards, commissions, or similar entities or their properly authorized agents.

MMC 1-3-4: FORM OF CITATION AND SUMMONS

Sec. 4: The form of citation and summons used for an ordinance violation shall be in accordance with this section, as appropriate to the nature of the violation:

- a. Traffic Offenses: In all cases where a citation is issued and served for the violation of an ordinance constituting a moving traffic offense or a nonmoving traffic offense required by law or regulation to complaint and summons prescribed by IC 9-30-3-6 shall be used for the purpose of issuing the citation; provided, however, that the enforcement officer shall clearly indicate in the space provided on such form that the violation of a town ordinance and not of state law.
- b. In all other cases where a citation is issued and served for violation of an enforcement provision of this code, and in accordance with IC 34-28-5-1(e), the form of complaint and summons prescribed by IC 9-30-3-6 may be used for the purpose of issuing the citation, subject to the same stipulations and modification as when the form is used for a traffic offense as described above. However, if the traffic citation form is not deemed suitable an convenient for the use with respect to any other enforcement provision, the chief officer of the

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department or other agency responsible for enforcement may prescribe an alternative form of complaint and summons to be used for issuing the citation.

MMC 1-3-5: PROCEDURE FOR FIXING REQUESTED FINE

Sec. 5: The amount of fine to be requested in the complaint or citation for the violation of any enforcement provision shall be determined in the following manner:

- a. If any provision of this code establishes a fixed penalty for the violation of the provision or of a related provision, then the amount of fine requested in the complaint shall be the fixed amount so specified; however, if no fixed amount is specified and/or a minimum and maximum penalty are provided, then;
- b. If the violation is a first offense against the provision, the fine requested in the complaint shall be the minimum penalty so established or \$25.00, whichever is greater;
- c. If the violation is a second offense in violation of the same provision, then the fine requested in the complaint shall be minimum penalty so established plus 50% of the difference between the maximum penalty provided for violation of the provision and the minimum penalty or \$50.00, whichever is greater;
- d. If the violation is a third or subsequent offense in violation of the same provision, then the fine requested in the complaint shall be the maximum penalty provided for violation of the provision or \$100.00, whichever is greater.

MMC 1-3-6: FURTHER RULES AND PROCEDURES FOR ENFORCEMENT

Sec. 6: The Clerk-Treasurer, the Town Attorney, the Town Marshal, and the chief officer of any other department, board, commission, or similar agency which has been given responsibility for the administration and enforcement of any enforcement provision of this code may stipulate or prescribe any other rules or procedures, not inconsistent with law, applicable state regulation, court procedures, or the expressed provisions of this chapter, as they may deem necessary or desirable to promote the orderly, efficient, and expeditious carrying out their respective enforcement duties; and the rules and procedures so stipulated and prescribed by such officers shall have the same effect and force as if they have been expressly adopted and made a part of the same provisions of this chapter.

MMC 1-3-6.5: ESTABLISHING AN ORDINANCE VIOLATIONS BUREAU

Sec. 6.5:

1. There is hereby established an Ordinance Violations Bureau (“OVB”). The Montezuma Clerk-Treasurer shall serve as the violations clerk and will preside over the bureau.
2. The Violations Clerk may accept written appearances, waivers of trial, admissions of violations, and payments of civil penalties up to two hundred and fifty dollars (\$250) for ordinance violation citations issued pursuant to this section, subject to the schedule set forth below. The violations and citations set forth in this ordinance do not pertain to moving violations or violations with fines in excess of two hundred and fifty dollars (\$250).

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MMC Section	Description of Violation	Penalty
3-2-13	Building Permits and Unsafe Buildings & Premises	\$100 - \$300 per day
3-6-9	Uniform Address Numbering System for Houses and Structures	\$50 - \$100
4-1-6	Sign Tampering	\$50 - \$100
4-6-4	No Parking/ Standing	\$50
4-6-4	Overtime Parking	\$50
4-7-5	Abandoned and Junk Vehicles	\$25- \$50 fine plus towing and storage fees
6-2-5	Junkyards and Junk Businesses	\$50 per day
6-3-10	Door-to-Door Solicitors	\$10 - \$25
6-4-3	Yard and Garage Sales	\$50
7-1-3	Cemetery After Sunset	\$15 - \$35
7-2-8	Park Regulations	Not to Exceed \$50
8-2-4	Solid Waste Disposal	\$25
8-3-8	Weeds and Rank Vegetation	\$25 - \$50
8-4-9	Animal Control	\$25 - \$50
8-5-3	Public Nuisances	\$50 - \$100 per day
9-1-7	Discharging a Firearm	\$50
9-2-6	Curfew	\$25 (first offense) \$50 (2 nd and subsequent)
9-3-4	Loitering and Unlawful Congregations	\$10- \$25 (first offense) \$25- \$50 (second offense)

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The enforcement officer may determine the amount of the penalty to charge within any ranges set forth above, based on his/her determination of the severity of the violation.

3. A person cited for a violation of a code provisions is entitled to a trial before the Court as provided by law, unless the person waives the right to trial and enters an admission of the violation. The Violations Clerk shall assess and receive from the violator the amount imposed as a civil penalty for the violation.

4. A person cited for a violation who wants to exercise the right to a trial shall appear before the Violations Clerk and deny the violation or enter a written denial with the Violations Clerk. Waivers, admissions, and denials must be filed with the Violations Clerk within ten (14) days of the date of the issuance of the code or ordinance violation notice or citation. The Town Attorney shall prepare or approve the forms the enforcement officers use for violation notices and citations and all forms deemed necessary by the Violations Clerk to process a code or ordinance violation through the procedures set forth in this section.

5. If a person:
 - a. Denies a code or ordinance violation before the Violations Clerk or enters a written denial with the Violations Clerk; or

 - b. Fails to satisfy a civil penalty assessed by the Violations Clerk after having entered an admission of violation;

 - c. Fails to deny or admit the violation within ten (14) days of the date of the issuance of the code or ordinance violation notice citation;

the Violations Clerk shall report this fact to the Town Attorney and the enforcement officer issuing the notice or citation.

6. All sums collected or received by the Violations Clerk as civil penalties for ordinance violations shall be accounted for by the Violations Clerk under the procedures provided for by the State Board of Accounts. Payments of civil penalties to the Violations Clerk may be made in person or by mail.

7. A code or ordinance violation admitted under this section does not constitute a judgment for the purposes of Indiana Code 33-37. An ordinance violation costs fee may not be collected from the person under Indiana Code 33-37-4.

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8. The Violations Clerk and the enforcement officer issuing the notice or citation shall be notified when the Town Attorney. Upon notification from the Town Attorney of a complaint being filed in Court, the Violations Clerk shall not accept an admission of a violation or voluntary payment of a civil penalty for that violation without the consent of the Town Attorney,
9. The Town Attorney may amend or dismiss or replace any notice, citation or complaint issued pursuant to this section with the complaint brought under authority of other sections of the Town Code or the Indiana Statutes in order to seek a different civil penalty or remedy than that provided by this section.

ARTICLE 1, CHAPTER 4: GENERAL ADMINISTRATIVE POLICY

SECTION 1:	POWERS AND DUTIES OF TOWN OFFICIALS
SECTION 2:	DELEGATION OF AUTHORITY
SECTION 3:	GENERAL FUND AS PRESUMPTIVE DEPOSITORY
SECTION 4:	NON-INCLUDED OFFICIAL ENTITIES OR FUNDS

MMC 1-4-1: POWERS AND DUTIES OF TOWN OFFICIALS

Sec. 1: All officers, officials, boards, commissions, or other official entities of the Town government shall be construed to have:

- a. All the powers or duties prescribed for or conferred on any particular such officer, official, board, commission, or other official entity by statute;
- b. All the powers or duties expressly prescribed or conferred thereon by a provision of this code;
- c. All the powers or duties implied by the nature of the necessary or dispensable to the proper and efficient fulfillment of their governmental or corporate function or duties of office, including but not necessarily limited to the power to prescribe administrative rules or procedures for the governance of their respective offices, departments, agencies, or functions to the extent not inconsistent with nor pre-empted by a provision of this code or a statute, or by an applicable and mandatory state or federal administrative regulation.

To the extent provided by this section, the fact that a particular power or duty is not expressly set forth in this code and conferred on an officer, official, board, commission, or other official entity does not of itself imply that the power or duty does not exist or has been considerably denied or withheld.

MMC 1-4-2: DELEGATION OF AUTHORITY

Sec. 2: Any purely ministerial power or function vested in any officer, board, commission, or other entity by a provision of this code may be delegated to and exercised or performed by a deputy or other authorized agent or representative of the authority in whom the ministerial power or function is vested, except that no person shall be permitted to receive or handle public funds or other monies in the custody of the town unless they are properly bonded or expressly so authorized by law.

MMC 1-4-3: GENERAL FUND AS PRESUMPTIVE DEPOSITORY

Sec. 3: All monies received by the Town, irrespective of source or intended use, shall accrue to and be deposited in the General Fund of the town unless the nature, source, or intended use of such monies

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is such that a provision of this code, or of law, or of an applicable state or federal law or regulation specifies that they accrue to and be deposited in some other fund.

MMC 1-4-4: NON-INCLUDED OFFICIAL ENTITIES OR FUNDS

Sec. 4: This code is not necessarily comprehensive and all-inclusive with respect to existing governmental officers, officials, other official entities nor funds. The fact that any such existing officer, official, other official entity, or fund is not created by or set forth by an expressed provision of this code does not imply that the entity or fund does not lawfully exist or that it is intended to be terminated or abolished; and to the extent that any such entity or fund is lawfully in existence at the time of the adoption and taking effect of this code, the same shall continue in existence thereafter unless expressly terminated or abolished by subsequent action of the Town Council or other authority competently empowered.

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ARTICLE 2: TOWN BOUNDARIES AND ANNEXATION

- CHAPTER 1: GENERAL PROVISIONS
- CHAPTER 2: TERRITORY DISANNEXED FROM TOWN
- CHAPTER 3: TERRITORY ANNEXED TO TOWN

ARTICLE 2, CHAPTER 1: GENERAL PROVISIONS

- SECTION 1: PRIMAL TOWN BOUNDARIES
- SECTION 2: TEMPORAL ORDER AND PRIORITY OF RE-ENACTED PROVISIONS
- SECTION 3: OMITTED ANNEXATION OR DISANNEXATION PROVISIONS; SAVINGS

MMC 2-1-1: PRIMAL TOWN BOUNDARIES

Sec. 1: Subject to the provisions of Section 2 and 3 of this chapter, the boundaries of the Town of Montezuma shall be as originally shown or described on the plat of town as recorded and filed in the record books of the Board of Commissioners and County Recorder or Parke County, Indiana, at the time of the town's incorporation, excepting insofar as such boundaries have been subsequently altered and amended as provided in Chapter 2 and 3 of this article

MMC 2-1-2: TEMPORAL ORDER AND PRIORITY OF RE-ENACTED PROVISIONS

Sec. 2: The fact that any provisions disannexing territory from the Town or annexing territory to the town as provided under Chapters 2 and 3 of this article are part of this Code does not annul nor cloud any interactive effects between such provisions due to the temporal order in which the original ordinances or resolutions containing such provisions were first enacted. If any provisions under Chapter 2 disannexing territory were, in original form, followed by a later provision as reflected in Chapter 3 or referred to in Section 3 of this chapter have the effect of reannexing all or part of the territory previously disannexed, then such territory affected by such later provision shall be considered unequivocally as now part of the town. Conversely, if any provision under Chapter 3 annexing territory were, in original form, followed by a later provision as reflected in Chapter 2 or referred to in Section 3 of this chapter having the effect of disannexing and re-excluding from the Town all or part of the territory previously annexed, then such territory so affected by such later provision shall be considered unequivocally outside of the town.

MMC 2-1-3: OMITTED ANNEXATION OR DISANNEXATION PROVISIONS; SAVINGS

Sec. 3: In the event that any ordinances or resolutions annexing territory to or disannexing territory from the Town have theretofore been lawfully adopted and enacted, and remain in effect at the time this article becomes effective but are not expressly set forth under Chapter 2 or 3, all such provisions are hereby saved from any general repeal under MMC 1-1-7 and are incorporated herein by reference. Any such incorporated provisions are construable in accordance with Section 2 of this chapter in the same manner as those provisions which are expressly included and set forth under Chapter 2 or 3 hereinafter.

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ARTICLE 2, CHAPTER 2: TERRITORY DISANNEXED FROM TOWN

- SECTION 1: GENERAL RELEASE OF TOWN FROM RIGHTS AND DUTIES**
SECTION 2: CERTAIN DESCRIBED PARCELS DISANNEXED

MMC 2-2-1: RELEASE OF TOWN FROM RIGHTS AND DUTIES

Sec. 1: Subject to the provisions of MMC 2-1-2, territory described in MMC 2-2-2 is disannexed from the Town, and the town releases all rights to tax such property for civil town purposes, and the town is released from municipal duties toward such property.

MMC 2-2-2: CERTAIN DESCRIBED PARCELS DISANNEXED

Sec. 2: The following described lots, tracts, or parcels of land formerly being a part of the Town of Montezuma are disannexed and excluded from the corporation:

- a. Commencing at the northwest corner of the intersection of Popular and Washington Street, in the Town of Montezuma, Parke County, Indiana; thence north 326 feet to the corporation line; thence west 405 feet to the east bank of the Old Wabash and Erie Canal, thence south 367.42 feet north lines of said Popular Street; thence following said line east 309 feet more or less to the place of beginning, all in the Town of Montezuma, Parke County, Indiana.

[Subsection (a) of this section derives from an unnumbered resolution adopted and effective 1/12/42.]

ARTICLE 2, CHAPTER 3: TERRITORY ANNEXED INTO TOWN

- SECTION 1: CERTAIN DESCRIBED PARCELS ANNEXED**

MMC 2-3-1: CERTAIN DESCRIBED PARCELS ANNEXED

Sec. 1: Subject to the provisions of MMC 2-1-2, the following described lots, tracts, or parcels of land in Parke County, Indiana, formerly being outside of the Town of Montezuma, are annexed into and made part of the town:

- a. Part of County Highway Extending from Jefferson Street: Starting at a point at the intersection of the center line at the north end of Jefferson Street pavement and the present north corporation line, in the Town of Montezuma, Parke County, Indiana; running thence east 29 feet and 6 inches; thence north 5 degrees, 29 minutes east 1320 feet; thence east 30 feet and 6 inches to the place of beginning, all in Reserve Township, Parke County, Indiana.

[This subsection derives from a Town Board resolution and a petition to the Parke County Commissioners approved by the Commissioners 9/5/39.]

- b. Zion's Addition: All of Zion's Addition and lots in said addition shall hereafter from a part of the town and shall be under and within the jurisdiction thereof, said Zion's Addition being described and located upon the following real estate, in Parke County, Indiana: begin at the southeast corner of Brown's Addition to the Town of Montezuma in Parke County, Indiana, the same being 778 feet east and 20 feet north, more or less, from the southwest corner of the northwest quarter of Section 36, Town ship 16 North, Range 9 West, running east 267.5 feet;

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thence north 2642 feet more or less to the north line of said section; thence west 461.5 feet to the east side of Mile's Addition to said town; thence south 2108 feet more or less to the north line of Brown's Addition; thence south 534 feet to the place of beginning.

[Formerly an unnumbered resolution adopted 2/12/53.]

- c. Certain Lots in Cortez Subdivision: Lots 1 to 14, both numbers inclusive, in Cortez Subdivision to the Town of Montezuma, and all being located on the following described real estate in Parke County, Indiana: a part of the east half of the southwest quarter of Section 36, Township 16 North, Range 9 West of the Second Principal Meridian, more particularly described, to-wit: beginning at the point on the west line of the east half of the southwest quarter of Section 36, Township 16 North, Range 9 West, the said point being 325 feet south of the northwest corner of said east half; thence east 720.15 feet; thence south 685 parallel to the west line of said west half; thence west 720.15 feet to the west line; thence north 685 feet to the point of beginning, containing 11.32 acres, more or less.

[Formerly Ord. 69-1, 8/14/69.]

- d. Miscellaneous Parcel: A part of the west half of the southwest quarter of Section 36, Township 16 North, Range 9 West, more particularly described as follows, to-wit: commencing at the intersection of Jefferson Street and South Street in the Town of Montezuma, Indiana, running thence east along South Street 130 feet; thence south 165 feet; thence running west 130 feet to the center of Jefferson Street; running thence north along Jefferson Street 165 feet to place of beginning.

[Formerly Ord. 69-2, 8/14/69.]

- e. Terrace Acres Subdivision: Part of the east half of the southwest quarter of Section 36, Township 16 North, Range 9 West, Parke County, Indiana, and described as follows: beginning at the northwest corner of the east half of the southwest quarter of Section 36, Township 16 North, Range 9 West; thence east along the half-section line 720.15 feet; thence south 325 feet; thence west 720.15 feet; thence north 324 feet to the place of beginning, and containing 5.39 acres, more or less. Said Terrace Acres Subdivision contains Lots 1 through 5 inclusive.

[Formerly Ord. 69-3, 8/14/69.]

- f. Miscellaneous Parcel: Part of the northwest quarter of Section 1, Township 15 North, Range 9 West, and more particularly described as follows: Commencing 196 feet east of the northwest corner of the northwest quarter of Section 1, Township 15 North, Range 9 West; thence running in a southeasterly direction with the Montezuma and Coloma Gravel Road 180 feet for a place of beginning; thence following the aforementioned Montezuma and Coloma Gravel Road in a southeasterly direction 362 feet to Tomas Blue Land on the Montezuma and Armiesburg Road; thence following the meanderings of the said road in a southeasterly direction 202 feet more or less to the C. I. & W. Railway; thence in a southeasterly direction 390 feet more or less; thence north 250 feet more or less to the place of beginning.

[Formerly Ord. 69-4, 8/28/69.]

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- g. Cortez Subdivision, 1st Addition: A part of the east half of the southwest quarter of Section 36, Township 16 North, Range 9 West of the Second Principal Meridian, and particularly described as follows: beginning at a point in the fence line used as the west line of the east half of the southwest quarter of Section 36, Township 16 North, Range 9 West, which point is South 00°, 17' east, 325 feet, and south 00°39' east, 740.02 feet, from an iron pin marking the northwest corner of said east half. The said point of beginning is also the southwest corner of the Cortez Subdivision, a subdivision of record. From said point of beginning go east 251.61 feet; thence north 60.0 feet; thence east 200.0 feet to the southeast corner of Cortez Subdivision, also bring the northeast corner of the 1st addition to the said Cortez Subdivision; thence south 01°, 26', 12" west 195.06 feet; thence south 00°, 28' east, 599.98 feet; thence, west, 445.62 feet, to the fence used as the west line said east half; thence north 00°, 28' west, 734.98 feet, along said west line to the point of beginning, and containing 7.80 acres.

[Formerly Ord. 72-3, 9/14/72.]

- h. Terrace Acres Subdivision, 1st Addition: Whereas Curtis Branson and Lulu Branson have heretofore filed their petition for the annexation of real estate owned by them to the Town of Montezuma, Indiana, as the Terrace Acres Subdivision, 1st Addition, to the Town of Montezuma, Indiana; and with said petition the said petitioners files a plat of said real estate into lots numbered from 1 through 8, and in to the streets and utility easements; the plat of said real estate into lots numbered from 1 through 8, and into streets and utility easements is now and hereby approved, and said real estate is hereby annexed as the Terrace Acres Subdivision, 1st Addition, to the Town of Montezuma, Indiana.

[Formerly Ord. 74-8, 9/11/74.]

- i. Certain Town-Owned Property Annexed: Whereas the Town of Montezuma is the owner in fee simple of the following real estate in Parke County, Indiana: The following property owned by the Town of Montezuma:
1. Part of the northwest quarter of Section 36, Township 16 North, Range 9 West, more particularly described as follows, to-wit: Lots 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36, in Zion's Subdivision to the Town of Montezuma, Indiana; and
 2. Beginning at the northwest corner of Lot 36 in Zion's Subdivision, an addition to the Town of Montezuma, Indiana; thence east 425.0 feet following the south right-of-way of Bloomington Street to an iron pipe; thence south 850.8 feet to an iron pipe; thence west 225.0 feet to an iron pipe and the southwest corner of Lot 26 (Zion's Subdivision); thence north 527.5 feet along the east side of said lots to an iron pipe and the northeast corner of Lot 32; thence west 200.0 feet along the north side of Lot 32 to an iron pipe; thence north along the east right-of-way of Jackson Street 323.6 feet to the pace of beginning; and
 3. Beginning at the southwest corner of Lot 26, (Zion's Subdivision); thence east 225 feet to a point; thence south 691 feet to an iron pin; thence west 225 feet to the

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southeast corner of Lot 16 (Zion's Subdivision); thence north 691 feet along the east side of Zion's Subdivision to the place of beginning.

[Formerly Ord. 79-1, 2/22/79.]

- j. A part of the North half of Section 36, Township 16 North, Range 9 West of the Second Principal Meridian, more particularly described to-wit: Beginning at the Southeast corner of the North half of Section 36, Township 16 North, Range 9 West; thence West (bearing assumed from which all subsequent bearing were computed) 4231.4 feet with the South line of said North half; thence North 0 degrees 7 minutes West 1101.2 feet with the East line of the Zion Subdivision and the extension thereof to an iron pin, and said pin is the point of beginning for the following described tract to be severed from the 250.54 acre tract of the whole. From said point of beginning go South 89 degrees 54 minutes East 217.5 feet to an iron pin; thence South 0 degrees 7 minutes East 180 feet, more or less, to the North right-of-way line of U.S. Highway 36; thence Northwesterly along the said North right-of-way line to the East line of said Zion Subdivision; thence North 0 degrees 7 minutes West 150 feet, more or less. to the iron pin at the point of beginning; the above-described tract contains 0.8 of an acre, more or less.

[Formerly Ord. 89-3, 4/13/89.]

- k. Commencing 50 feet south of a point even with the present west face of the east abutment of the Indianapolis, Decatur and Springfield Railroad Company's bridge across the Wabash River, in Section 2, Township 15 North, Range 9 West, Parke County, Indiana, running thence east on a line parallel with the center of the track of said Railway 250 feet; thence south at right angle with said line 163 feet; thence west to a point 163 feet south of the place of beginning, to the Wabash River; thence north to the place of beginning

Also

A part of Tract II as described in Instrument Number 20013915 also being in the Northeast Quarter of Fractional Section 2, Township 15 North, Range 9 West lying East of the Wabash River described as follows:

Commencing at the intersection of the West face of the East abutment of the Indianapolis, Decatur and Springfield Railroad Company's bridge across the Wabash River with the centerline of the main tracks; thence, on an assumed bearing, South 03 degrees 19 minutes 01 seconds East along the face of said abutment extended, a distance of 90.00 feet to a Spires pin hereinafter called a monument, set at the South right of way of said railroad company; thence North 86 degrees 36 minutes 49 seconds East along said right of way being parallel with the centerline of the main tracks a distance of 254.83 feet to a monument set at a right of way width change and the Northeast corner of property in the name of Steve Hart (Instrument #20081260); thence south 03 degrees 23 minutes 11 seconds East along the East line of said Hart property said line being perpendicular to the centerline of the main tracks a distance of 40.00 to a monument set at the South right of way of said railroad company and the Point of Beginning; thence North 86 degrees 36 minutes 49 seconds East along said South right of way a distance of 189.79 feet to a monument set; thence South 00 degrees 00 minutes 00 seconds East a distance of 368.33 feet to a monument set; thence North 90 degrees 00 minutes 00 seconds West a distance of 457.1 feet, more or less, to the East bank of the Wabash River said

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line passing through a monument set 20.00 feet East of said bank; thence following the meanderings of said East bank approximately North 01 degree 28 minutes 17 seconds East a distance of 142.1 feet; thence continue along said East bank approximately North 02 degrees 24 minutes 42 seconds East a distance of 52.8 feet; thence continue along said East bank approximately North 05 degrees 32 minutes 23 seconds West a distance of 23.6 feet to the South line of said Hart property; thence North 86 degrees 36 minutes 49 seconds along the South line of said Hart property being parallel with the centerline of the main tracks a distance of 271.8 feet, more or less to the Southeast corner of said Hart property; thence North 03 degrees 23 minutes 11 seconds West along the East side of said Hart property being perpendicular to the centerline of the main tracks a distance of 123.00 feet to the Point of Beginning containing 2.94 acres, more or less, and all situated in Wabash Township, Parke County, Indiana.

Also

A part of the Northeast Quarter of Fractional Section 2, Township 15 North, Range 9 West of the Second Principal Meridian lying East of the Wabash River described as follows:

Beginning at the intersection of the West face of the East abutment of the Indianapolis, Decatur and Springfield Railroad Company's bridge across the Wabash River with the centerline of the abandoned main tracks; thence North 86 degrees 36 minutes 49 seconds East along the centerline of said main tracks a distance of 178.46 feet to an extension of the West right of way line of Water Street as now occupied; thence North 01 degree 00 minutes 37 seconds East along said extension a distance of 70.21 feet to the intersection of the North right of way line of the railroad with the West right of way line of Water Street; thence North 86 degrees 36 minutes 49 seconds East along the North right of way line of the railroad a distance of 40.12 feet to the intersection of the North right of way line of the railroad with the East right of way line of Water Street; thence South 01 degree 00 minutes 37 seconds West along an extension of the East right of way line of Water Street a distance of 70.21 feet to the centerline of the main tracks of the railroad; thence North 86 degrees 36 minutes 49 seconds East along said main tracks a distance of 177.74 feet to an extension of the West right of way line of First Street as now monumented and occupied; thence North 04 degrees 41 minutes 59 seconds East along said extension a distance of 70.70 feet to the intersection of the North right of way line of the railroad with the West right of way line of First Street; thence North 86 degrees 36 minutes 49 seconds East along the North right of way line of the railroad a distance of 66.66 feet to the intersection of the North right of way line of the railroad with the East right of way line of First Street; thence South 04 degrees 41 minutes 59 seconds West along an extension of the East right of way line of First Street a distance of 70.70 feet to the centerline of the main tracks of the railroad; thence continue along the previously described course a distance of 131.31 feet to the South right of way line of the railroad; thence South 86 degrees 36 minutes 49 seconds West along said South line a distance of 189.79 feet to a right of way width change; thence North 03 degrees 23 minutes 11 seconds West perpendicular to the centerline of the main tracks a distance of 40.00 feet to the South right of way line of the railroad; thence South 86 degrees 36 minutes 49 seconds West along said South right of way

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line a distance of 254.80 feet, more or less, to the East bank of the Wabash River; thence for the next two courses approximating the meanderings of said East bank; North 06 degrees 31 minutes 58 seconds West a distance of 18.2 feet; thence North 01 degrees 06 minutes 19 seconds West a distance of 26.8 feet to the Southwest corner of the river bridge abutment wing wall; thence North 03 degrees 19 minutes 56 seconds West along the West face of said wing wall a distance of 45 feet to the POINT OF BEGINNING containing 1.29 acres, more or less, and all situated in Wabash Township, Montezuma, Indiana.

Also

A part of the Northeast Quarter of Fractional Section 2, Township 15 North, Range 9 West of the Second Principal Meridian lying East of the Wabash River described as follows:

Commencing at the intersection of the West face of the East abutment of the Indianapolis, Decatur and Springfield Railroad Company's bridge across the Wabash River with the centerline of the abandoned main tracks; thence North 86 degrees 36 minutes 49 seconds East along the centerline of said main tracks a distance of 462.98 feet to an extension of the East right of way line of First Street as now occupied; thence South 04 degrees 41 minutes 59 seconds West along said extension a distance of 131.31 feet to the South right of way line of the railroad; thence North 86 degrees 36 minutes 49 seconds East along said South line a distance of 37.77 feet; thence North 11 degrees 49 minutes 43 seconds West a distance of 131.43 feet to the POINT OF BEGINNING containing 0.06 acres, more or less, and all situated in Wabash Township, Montezuma, Indiana.

[Formerly Ord. 2011-3-1, 5/19/2011.]

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ARTICLE 3: PLANNING, LAND USE AND BUILDINGS

CHAPTER 1:	ABATEMENT OF PROPERTY NUISANCES GENERALLY
CHAPTER 2:	BUILDING CODE AND ABATEMENT OF UNSAFE BUILDINGS AND PREMISES
CHAPTER 3:	FLOOD PLAIN MANAGEMENT AND REGULATION OF FLOOD HAZARD AREAS
CHAPTER 4:	COMPREHENSIVE PLANNING, ZONING, AND SUBDIVISION CONTROL
CHAPTER 5:	REGULATION OF SINGLE FAMILY DWELLINGS, MANUFACTURED AND MOBILE HOMES
CHAPTER 6:	UNIFORM NUMBERING SYSTEM FOR HOUSES AND STRUCTURES

ARTICLE 3, CHAPTER 1: ABATEMENT OF PROPERTY NUISANCES GENERALLY

SECTION 1:	PROPERTY NUISANCE DEFINED AND DESCRIBED
SECTION 2:	ENFORCEMENT; FORM OF NOTICE
SECTION 3:	SERVICE OF ORDER
SECTION 4:	APPEAL TO TOWN COUNCIL; APPEALS FROM TOWN COUNCIL
SECTION 5:	NONCOMPLIANCE BY OWNER; ABATEMENT BY TOWN
SECTION 6:	COSTS AND EXPENSES OF ABATEMENT
SECTION 7:	COSTS TO CONSTITUTE SPECIAL ASSESSMENT AND LIEN ON PROPERTY
SECTION 8:	NOTICE TO OWNER UPON COMPLIANCE WITH ORDER

MMC 3-1-1: PROPERTY NUISANCE DEFINED AND DESCRIBED

Sec. 1: It is hereby declared a public nuisance for any person owning, leasing, occupying, or having charge of any premises in the Town of Montezuma to maintain such premises in such a manner that any of the following conditions are found to exist thereon:

- a. Overgrown vegetation likely to harbor rats, mice, vermin, and other nuisances, or causing detriment to the neighboring properties or property values;
- b. Yards or lawns with grass or weeds in excess of twelve inches in height (excluding ornamental grasses, flowers, gardens and other landscaping);
- c. Dead, decayed, deceased, or hazardous trees, weeds, or other vegetation which is unsightly in appearance, dangerous to public welfare and safety or detrimental to nearby property or property values;
- d. Accumulations of trash, rubbish, junk or refuse including, but not limited to, glass bottles and containers, broken glass, rubber products, plastic products, metals, rags, paper products, broken, or abandoned equipment or vehicle parts and discarded furniture or appliances.

MMC 3-1-2: ENFORCEMENT; FORM OF NOTICE

Sec. 2: Whenever the Town Marshall, Fire Marshall, Building Inspector or other person designated by the Town Council, determines that any premises within the Town is being maintained contrary to one or more of the provisions of this ordinance, he or she shall serve a written order on the owner of the premises and the occupant of the premises (if the owner is not the occupant) requiring the owner to abate the nuisance in a form similar to the following:

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Dear [Property Owner(s)]

You are hereby notified that the Town of Montezuma has determined that your property located at [street address of property] is in violation of Montezuma's Ordinance Regulating Lawns and Yards in Montezuma (Ordinance 2004-0). The legal description of the property is as follows:

[Insert Legal Description from Auditor's Office]

Specifically, it has been determined that your property is in violation of the ordinance because [describe condition, i.e. grass is over 12 inches in height] constituting a hazard to public health and safety and a public nuisance.

You are hereby ORDERED to abate the nuisance and to bring the property into compliance with the ordinance by [describe the action necessary to bring the property into compliance, i.e. remove all trash and rubbish from the yard]. This must be completed within 10 days of the date this order was received by you.

If you fail to comply with this order within the 10 day time period stated above, the Town will take a citation to bring the property into compliance by [describe action to be taken, i.e. mowing the grass]. If the Town is forced to take this action, the costs incurred (including labor, equipment and materials) will be charged to you, the property owner. If you fail to reimburse the Town for the expenses within 30 days after you have been billed, the costs will be added to your annual property taxes as a special assessment.

You have 10 days from the date of your receipt of this order to file an appeal by requesting a hearing before the Montezuma Town Council. Your request to appeal this order must be in writing and filed with the Montezuma Town Clerk, along with the \$10 filing fee, no later than 10 days from the day you received this order. A request to appeal may be filed in person (1243 N. Jackson Street, Montezuma) or by mail (P.O. Box 26, Montezuma, IN 47862). If your request to appeal is filed by mail, it must be received by the Town Clerk no later than 10 days from the date you received this order. If you do not request an appeal within this time period, this order shall become final.

If you have any questions concerning this matter, you may contact me at [phone number of official sending order].

Signature of official issuing order

MMC 3-1-3: SERVICE OF ORDER

Sec. 3: The foregoing order shall be personally served upon the owner and occupant (if the owner is not the occupant) by the official enforcing the ordinance. In the alternative, the order may be served by depositing a copy in the United States mail, enclosed in a sealed envelope, and with postage thereon fully prepaid, registered or certified and addressed to said owner at the owner's last known address. In the event that the premises in violation of this ordinance is also unoccupied or vacant, a copy of the order shall be conspicuously posted at the affected premises. The name(s) and address of the owner

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of a premises in violation of this ordinance and others having a substantial interest in the property shall be determined by the records maintained by the Parke County Auditor and Recorder's office.

MMC 3-1-4: APPEAL TO TOWN COUNCIL; APPEALS FROM TOWN COUNCIL'S DECISION

Sec. 4: The owner of a premise determined to be in violation of this ordinance shall have a right to appeal that determination to the Montezuma Town Council.

- a. An owner must exercise their right to appeal by filing a written notice of appeal with the Town Clerk no later than ten days after they have been served with an order to abate a nuisance under this ordinance. Any person or entity filing an appeal shall pay a filing fee of ten dollars to the Town Clerk
- b. At its next regular meeting, the Town Council shall hear and consider all relevant evidence, objections or protests, and shall receive testimony from owners, witnesses, town personnel or other interested persons relating to the alleged violations of this ordinance. Any person having any objections or evidence concerning the alleged violations shall have the right to be heard during said meeting.
- c. At the conclusion of the hearing, the Town Council shall make findings and take action to affirm the order, resend the order, or modify the order.
- d. Any decision made by the Town Council under this ordinance is subject to review by the Parke Circuit Court on the request of any person who has a substantial interest in the property or any person to whom the order was issued.
- e. A person requesting judicial review of a decision of the Town Council must file a verified complaint, including the findings of fact and action taken by the Town Council, with the Parke Circuit Court within ten days after the Town Council's decision.
- f. If the owner of a premises determined to be in violation of this ordinance does not file a notice of appeal with the Town Clerk within ten days after they have been served with the order to bring their property into compliance with this ordinance, the order becomes final and may not be appealed.

MMC 3-1-5: NONCOMPLIANCE BY OWNER; ABATEMENT BY TOWN

Sec. 5: If a property determined to be in violation of this ordinance is not completely abated and brought into compliance with this ordinance within ten days following the service of an order under this ordinance (or within ten days of an order of the Town Council if an appeal is taken) then the Town Marshal, Building Inspector, Fire Marshal or other designated town official is authorized and directed to cause the nuisance to be abated by either town personnel or private contractors. The Building Inspector, Town Marshal, Fire Marshall, or other designated town officials or employees are expressly authorized to enter upon such premises for the purpose of bringing the property into compliance with this ordinance.

MMC 3-1-6: COSTS AND EXPENSES OF ABATEMENT

Sec. 6: Said Town Marshal, Building Inspector, Fire Marshall, or other designated town official shall keep an account of costs incurred in abating the nuisance (including incidental expenses) and shall tender an itemized report, in writing, to the Town Clerk. Incidental expenses shall include all costs

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and out of pocket expenses, including the preparation of notices, mailing, and other costs. The costs incurred in abating the nuisance and bringing the property into compliance with this ordinance shall be billed to the owner of the property who shall have thirty days from the date of the mailing of the bill to pay said bill in full.

MMC 3-1-7: COSTS TO CONSTITUTE SPECIAL ASSESSMENT AND LIEN ON PROPERTY

Sec. 7: If all or any part of the cost of abating the nuisance and bringing the property into compliance with this ordinance remain unpaid for more than thirty days after the owner has been issued a bill for the work, the Town Clerk may certify the following information to the Parke County Auditor:

- a. The name of each person who held a fee interest, life estate interest, or equitable interest of a contract purchaser in the premises.
- b. The legal description of the premises as shown by the records of the Parke County Auditor.
- c. The amount of the delinquent payment, including all costs incurred in bringing the property into compliance with this ordinance.

The Parke County Auditor shall place the total amount certified under this subsection on the tax duplicate for the affected property as a special assessment. A total amount, including accrued interest, shall be collected as delinquent taxes are collected and paid to the Town of Montezuma.

MMC 3-1-8: NOTICE TO OWNER UPON COMPLIANCE WITH ORDER

Sec. 8: When a property owner complies with an order issued under the Ordinance, the official issuing the order shall issue a letter to the property owner confirming that the property has been brought into compliance and is no longer in violation.

ARTICLE 3, CHAPTER 2: BUILDING CODE & ABATEMENT OF UNSAFE BUILDINGS & PREMISES

SECTION 1:	DEFINITIONS
SECTION 2:	ADMINISTRATION; BUILDING AUTHORITY AND BUILDING INSPECTOR
SECTION 3:	GENERAL POWERS OF BUILDING INSPECTOR
SECTION 4:	UNSAFE BUILDING LAW ADOPTED
SECTION 5:	CRITERIA FOR ORDERING A BUILDING SEALED OR REMOVED
SECTION 6:	APPLICABILITY OF STATEWIDE BUILDING REGULATIONS
SECTION 7:	LOCAL ENFORCEMENT; APPLICABILITY OF UNSAFE BUILDING LAW
SECTION 8:	VARIANCES AND APPEALS
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SECTION 17:	AMENDMENTS; STATE APPROVAL; EXCEPTIONS

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MMC 3-2-1: DEFINITIONS

Sec. 1: As used hereinafter, the following words or terms have the meanings indicated:

- a. “Enforcement authority” as used herein and as used within the context of IC 36-7-9 as hereinafter adopted means the town Department of Buildings as established under Section 2, including the Building Authority and Building Inspector within the scope of their respective powers, but also includes (with respect to any law, ordinance, regulation, or condition concerning fire prevention or the fire safety of buildings) the Chief of the Fire Department having fire protection jurisdiction within the town.
- b. “Hearing authority” as used herein and within the context of IC 36-7-9 as herein adopted means the Building Authority as established pursuant to Section 2.
- c. “Substantial property interest” as used within the context of IC 36-7-9 as herein adopted has the same meaning as defined therefore under IC 36-7-9-2.
- d. “Accessory building” means a detached outbuilding or structure used in connection with a one or two family dwelling, including private garages, sheds, barns, and farm service buildings.
- e. “Existing building” means any building or structure, and any modifications or included installations made thereto, constructed, established, or made thereto prior to the taking effect of this act. The term does not apply to modifications or included installations made thereafter, nor to conversions from one occupancy class to another, notwithstanding the fact that the primary building or structure may be an existing building within the meaning of this subsection.
- f. “Included installation” means a part of the built-in or permanently installed electrical, plumbing, heating, cooling, ventilating, or mechanical systems appurtenant to a building as originally constructed or subsequently modified. The term does not include small portable or self-contained appliances such as window air conditioners, space heaters, electrical appliances, and so forth, which are not designed to be a permanent part of a building or structure, except to the extent that such appliances are specifically contemplated and controlled under any applicable regulations.
- g. “Occupancy class” refers to the primary use or proposed use of a building or part thereof. The principal occupancy classes of concern under this act are one and two family dwellings, related accessory buildings, multifamily dwellings, commercial buildings, industrial buildings, and public buildings. Some buildings may belong to more than one occupancy class. Occupancy classification is mainly of importance because different or stricter regulations and standards may apply to one occupancy class rather than another, or may have to be complied with when converting an existing building from one class to another.
- h. “Dwelling unit unfit for human habitation” means a dwelling which is described by IC 16-1-25-5.

In general, other terms of a technical character as used herein shall be construed to have the meanings ascribed to them under IC 22-11-1.

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MMC 3-2-2: ADMINISTRATION; BUILDING AUTHORITY AND BUILDING INSPECTOR

Sec. 2: The Town Council shall serve and act as the Building Authority, provided, however, that the Town Council may hereafter by ordinance or resolution create and provide for the appointment of a separate body, to serve as Building Authority and to have the powers and duties of the Building Authority as provided hereunder. A "Building Inspector", shall be appointed by and serve at the pleasure of the Building Authority (and who may be conferred some other title such as Building Commissioner, etc., but who shall have the powers and duties of the Building Inspectors provided herein); and such other representatives and personnel of the Department as the Building Authority shall from time to time authorize.

MMC 3-2-3: GENERAL POWERS OF BUILDING INSPECTOR

Sec. 3: Subject to the policies and directives of the Building Authority, the Building Inspector, or his authorized representatives shall have the following general powers:

- a. All powers and duties conferred on the enforcement authority under the provisions of IC 36-7-9 as hereinafter adopted and made applicable;
- b. All powers and duties as necessary to enforce other statutes, ordinances, or regulations as specifically conferred therein on a municipal Building Inspector, or which relate to the safety of building or physical conditions and premises except to the extent that such powers and duties are expressly conferred on another officer by statute or ordinance;
- c. All powers, in accordance with IC 16-1-25-2, et seq., as conferred on a county Board of Health respecting the alleviation and abatement of dwelling units for human habitation located within the town;
- d. The power to enter into or upon any building or premises at any reasonable hour for the purpose of making any inspections necessary or desirable in order to determine if the building or premises are unsafe or otherwise in noncompliance with any statutes, ordinances, or regulations relating to the condition of real property;
- e. The power to issue, serve, promulgate, and enforce orders in accordance with rules and procedures specified by statute, ordinance, or regulation, or as established by the Building Authority, to require compliance of buildings or premises with applicable statutes, ordinances, and regulations, or alleviate or prevent any unsafe conditions found to occur or to be likely to occur therein, including but not necessarily limited to:
 1. stop-work orders;
 2. orders to modify, correct, repair, or remove, any non-complying or unsafe structure, installation, or building;
 3. orders to seal an unsafe building against intrusion by unauthorized persons in accordance with uniform standards as hereinafter provided;
 4. orders to modify or abandon any use or condition of occupancy which by its nature, taken in conjunction with the character, type, or location of the building or premises, renders the building or premises unsafe;

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5. orders to vacate an unsafe building; or
6. orders to exterminate vermin in or about unsafe buildings and premises
- f. The power to issue all local permits as may be required by law or ordinance for the construction, alteration, remodeling, relocation, or demolition of a building or part thereof, or for association systems such as electrical, plumbing, heating, ventilating, air conditioning, and mechanical installations; and
- g. The power to issue and serve civil citations and summonses to persons believed to be violating a penal town ordinance, or committing an infraction under any statute, relating to the safety, condition, and maintenance of buildings.

MMC 3-2-4: UNSAFE BUILDING LAW ADOPTED

Sec. 4: Pursuant to IC 36-7-9-3, the Town of Montezuma hereby adopts the State of Indiana's Unsafe Building Law, IC 36-7-9, as a procedure for enforcing building standards and abating unsafe buildings and premises within the Town. Such adoption shall include by implication any amendments or additions to IC 36-7-9 hereafter enacted by the General Assembly of the State of Indiana. In accordance with IC 36-7-9 and subject to its provisions, the enforcement authority shall be construed to have all powers necessary to issue and enforce orders or take other actions as needed to require compliance of buildings or premises with applicable statutes, ordinances, and regulations, or to alleviate or prevent unsafe conditions found to occur or to be likely to occur therein. However, the procedures adopted herein are intended to be alternative or supplementary to, and do not supersede, any other lawful enforcement procedures as provided by other town ordinances or by statute whereby requirements, restrictions, and regulations related to the safety, condition, and maintenance of buildings and premises may be enforced and violations abated or penalized. Specifically, but not by limitation, this includes actions for enforcement as provided by:

- a. IC 16-1-25, providing procedures for alleviation, or requiring the vacation of dwelling units unfit for human habitation;
- b. IC 36-1-6-2, authorizing a municipal corporation to enter onto real property to correct any condition thereof in violation of an ordinance and assessing costs by a property lien; or
- c. IC 36-6-4(a), authorizing a municipal corporation to bring a civil action to enjoin any person from violating an ordinance regulating or prohibiting a condition or use property.

When more than one alternative is available, the appropriate Town authorities may pursue enforcement through whichever procedure or procedures appears to them most suitable, expeditious, and equitable in light of the particular case.

MMC 3-2-5: CRITERIA FOR ORDERING A BUILDING SEALED OR REMOVED

Sec. 5: This section applies to the administration and enforcement of an order of an enforcement authority to seal or remove an unsafe building. The enforcement authority may order a building sealed against intrusion by unauthorized persons or may order the building (or part thereof) to be removed if one or more of the following conditions is found to exist in the building:

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- a. Imminent or unusual danger of fire or explosion;
- b. Imminent danger of structural collapse, falling objects, or unsound floorings or stairways;
- c. Unguarded or uncontrolled presence of toxic or hazardous substances;
- d. The building is vacant and has become or is deemed likely to become a harborage for vagrants or for the conduct of criminal activities which may pose dangers or nuisances for others in the area; or
- e. There are found to exist in the building any other specific hazards which may endanger the life or health of children or other persons who may unwarily wander into the building.

When an order is made pursuant to this section, the Building Inspector shall cause a sign to be posted at each entrance to the affected building indicating that unauthorized entry is prohibited and subject to penalties as provided under Section 14.

MMC 3-2-6: APPLICABILITY OF STATEWIDE BUILDING REGULATIONS

Sec. 6: All persons proposing to construct, modify, repair, remodel, or convert from one occupancy class to another any building within the Town, or make included installations therein, are hereby apprised that there exist certain statewide building construction and safety standards with which they must comply, as applicable, pursuant to state law.

MMC 3-2-7: LOCAL ENFORCEMENT; APPLICABILITY OF UNSAFE BUILDING LAW

Sec. 7: Any building or structure which is found by the Building Authority to have been constructed, modified, repaired, remolded, relocated, or converted from one occupancy class to another without complying with the state regulations enumerated or referred to in Section 6, as applicable, or with a variance granted as provided under Section 8, may be declared by the Building Authority to be prima facie an unsafe building or premises subject to corrective measures and abatement in accordance with procedures as provided under Section 4. This section may not be construed to require the modification of any existing building, excepting only insofar as any state regulation or standards referred to above is expressly applicable to existing buildings pursuant to state administrative law or insofar as it is shown upon inspection that any non-complying condition of a building or premises is such as to engender a clear and present hazard to the safety of persons or property so as to render the building or premises unsafe within the general meaning of that term as defined by IC 36-7-9-4.

MMC 3-2-8: VARIANCES AND APPEALS

Sec. 8: The regulations referred to above in Section 6 and the applicability these regulations are not controlled by any local authorities. Variances from any such regulations must be applied for to, and may only be granted by, the appropriate state agency.

MMC 3-2-9: BUILDING PERMITS; APPLICATION PROCEDURE; EXEMPTIONS; FEES

Sec. 9: Except as provided under Section 12 or subsection (a) through (c) of this section, no person shall erect, construct, enlarge, alter, repair, move, locate, relocate, convert, or demolish any Building or Structure (including a mobile or manufactured home) in the Town in such a way as to either decrease or increase the assessed valuation of the property without first obtaining a Building Permit. Specific acts requiring a Building Permit are set forth in Schedule "B" of this Section along with the fees for each such permit. All permit applicants shall contact the Building Inspector prior to work to

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determine the necessity of a permit and, if the Inspector determines a permit must be obtained, the same will be issued through the office of the Clerk-Treasurer and the applicable fee paid at that time. Such permit shall be void unless the permitted work is begun within 120 days, or if work is suspended for a continuous period of more than 120 days. The Building Authority shall prescribe a form of written application containing such information as it deems necessary to determine that the proposed work conforms to the applicable building regulations. A copy of the permit shall be posted in a conspicuous location at the worksite. However, the Building Authority may adopt a general rule waiving the permit requirement in any of the following instances:

- a. Erection or demolition (other than by fire or explosion) of small accessory structures nor exceeding 144 square feet in area and not intended for human occupancy;
- b. Work the cost of which (exclusive of the purchase price of manufactured equipment to be installed) does not exceed \$500.00 and does not involve installation or modification of a structural member of the building; or
- c. Minor repairs and unimportant work as defined in the Uniform Building Code.

A building permit fee shall be paid at the time of application based on the type of proposed construction or work, as set forth in "Schedule B" hereto attached and incorporated. In the case of any work requiring a building permit which is not described in the fee schedule, the Building Authority shall have the power to fix a reasonable permit fee in the particular instance based on the type, scale, and complexity of the proposed work. Permit fees are intended to cover all normal costs of administering the building regulations, examining plans and specifications, issuing permits, and making regular required inspections of the work in progress, and are nonrefundable once a formal permit application and plans have been submitted. However, if a permit is denied by reason of some correctable deficiency in plans and specifications, the applicant may resubmit amended plans and specifications upon payment of the supplemental fee specified above. The local building permit fees shown in "Schedule B" do not include state examination fees which may be applicable under state law.

SCHEDULE B BUILDING PERMIT AND SUPPLEMENTARY FEES

SINGLE FAMILY DWELLINGS

New Construction (principal bldg.)	\$25.00
Placement or Relocation of Mobile Home	\$25.00
Placement or Relocation of Manufactured Home	\$25.00
Placement or Relocation of Modular Home	\$25.00

COMMERCIAL

All New Construction (including multi-family dwellings)	\$50.00
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ADDITIONS/IMPROVEMENTS TO RESIDENTIAL OR COMMERCIAL

Bath Addition	\$15.00
Porch Addition	\$15.00

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Patio Addition	\$15.00
Balcony Addition	\$15.00
Sun Deck Addition	\$15.00
Bay Window Addition (walking space beneath)	\$15.00
Masonry Stoop Addition	\$15.00
Attached Garage	\$15.00
Central Air Installation	\$15.00
Fireplace Addition	\$15.00
Exterior of Home from Frame or Aluminum to Brick	\$15.00
Finished Attic	\$15.00
Basement	\$15.00

ACCESSORY STRUCTURES

Car Shed	\$10.00
Detached Garage	\$10.00
Gazebo	\$10.00
Greenhouse	\$10.00
Lean-To	\$10.00
Storage Shed (includes shed on skids)	\$10.00
Storage Barn	\$10.00
Swimming Pool (above or in-ground)	\$10.00
Swimming Pool Concrete Apron or Deck	\$10.00

DEMOLITIONS

All Demolitions	\$15.00
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The Town Council reserves the power to waive all or any portion of permit fees in the case of governmental buildings, public schools, charitable institutions, or other instances where the public interest would be served in the determination of the Council. The Waiver of the fee is not a waiver of the permit requirement.

MMC 3-2-10: EXAMINATION AND APPROVAL OF PLANS AND SPECIFICATIONS

Sec. 10: No building permit shall be issued until detailed plans and specifications have been examined and approved by the appropriate authorities, as follows:

- a. Single Family Dwellings and Accessory Buildings: Plan and specifications shall be submitted to, examined, and approved by the Town Building Inspector, who shall determine that they show compliance with applicable requirements as referred to under Section 8 before the building permit is issued.
- b. Other Building: In the case of commercial, industrial, and public buildings, or any other occupancy classes not described in subsection (a) above, plans and specifications must be submitted to and approved by the State Building Commissioner in accordance with IC 22-11-1-12 and 13 before the local building permit may be granted. In addition, if the proposed building or work is subject to any further or stricter standards as referred to under Section 8,

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the town Building Inspector must also determine compliance therewith before granting the building permit.

Any amendments to plans and specifications made after the permit is granted and before final inspection shall also be subject to examination and approval in accordance with subsection (a) and (b), as applicable. However, notwithstanding any other provision of this section, examination of detailed plans and specifications will not be required in the case of the location or erection of an industrialized building system which bears a state insignia of acceptance as provided by IC 22-11-1-9 nor in the case of a manufactured home which bears a seal of compliance with the federal Manufactured Housing and Safety Standards Act of 1974 but plans and specifications of permanent foundations or other appurtenant structures which are substantially constructed on-site shall be subject to examination and approval as with other buildings.

MMC 3-2-11: BUILDING INSPECTIONS; OPTION TO EMPLOY SPECIAL INSPECTORS

Sec. 12: The Building Inspector or his authorized representative shall have a right of entry at all reasonable hours to inspect any building, construction work, or premises as he shall deem necessary to carry out the provisions of this act and ensure compliance with the regulations applicable under Sections 6 or 8. In all events, the holder of any building permit issued pursuant to Section 9 shall notify the Building Inspector within 48 hours of the completion of any work under the permit. The Building Inspector shall then cause a final inspection to be conducted or ensure that the work complies with all requirements and conditions of the permit, and if satisfactory, the Building Inspector or his agent shall endorse final approval on the permit; however, if the work does not comply, the Building Inspector may order any modification necessary to bring the work into compliance. The other inspections may be made, including inspection of construction at any specified stages of progress, in accordance with any rules or recommendations of the Fire Prevention and Building Safety Commission, any rules hereafter adopted by the Building Authority, or upon special order of the Building Authority. The Building Authority may require, as a condition of a building permit, that special inspectors be employed at the expenses of the permit holder if special expertise is deemed necessary to adequately carry out any required inspection. The Building Inspector may issue and enforce stop-work orders for any work found to be carried on in violation of this act or the regulations under Section 6 or 8, such order to be served on the owner of the premises and the person in charge of the work, and a copy conspicuously posted on the affected premises. The Building Inspector may also, by order issued and served on the affected party, deny or limit occupancy or use, or require vacation of, any building, structure, or portion thereof, found not to have been constructed or maintained in substantial compliance with the applicable building standards.

MMC 3-2-12: CHANGE OF OCCUPANCY CLASS WITHOUT STRUCTURAL MODIFICATION

Sec. 12: In some cases, a building may be converted from one occupancy class to another (e.g., from a single family dwelling to a business office, etc.) without the need to make structural modifications or modifications to the included systems within the existing building. In such cases, a building permit as such is not required. However, the person making the conversion shall apply to the Building Inspector to inspect the building and determine that it would comply, as it then exists, with all requirements and standards then applicable under the provision of Section 6 and 8 for a building intended to be used for the new occupancy class. For the purpose of such standards, the converted building shall be treated as a new construction and not as an existing building.

MMC 3-2-13: PENAL VIOLATIONS; PENALTIES

Sec. 13: This section applies to the enforcement of this act in lieu of IC 36-7-9-28. Any person who:

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- a. Willfully or negligently continues to maintain and fails or remove, remedy, or abate any unsafe condition of a building or premises as required by an order of the Building Inspector or Building Authority under this act;
- b. Remains in, uses, or enters a building in violation of an order made under authority of this act;
- c. Knowingly interferes with or delays the carrying out of an order made under this act;
- d. Knowingly obstructs, damage, or interferes with persons engaged or property used in performing any work or duty under this act;
- e. Refuses reasonable access at reasonable times to the Building Inspector or other authorized enforcement authority for the purpose of making inspection as required or authorized by this act or under IC 36-7-9 as herein adopted, or under any other ordinance, statute, or regulation sought to be enforced under the provisions of this act, or attempts to interfere with or obstruct such inspection;
- f. Fails to comply with applicable notification requirements under IC 36-7-9-27 as adopted under Section 4;
- g. Performs any building work without a permit when required under Section 10, or performs any work in violation of the expressed or implied conditions of such permit, including all applicable laws, ordinances, regulations, and covenants; or
- h. Converts a building from one occupancy class to another and occupies and uses such building, or permits same to be so occupied and used, without complying with any applicable inspection requirements under Section 12 or any directives of the Building Inspector made pursuant thereto;

Commits a penal town ordinance violation and may be cited therefore, and upon conviction shall be liable to a fine of not less than \$100.00 nor more than \$300.00, and each day a violation continues shall be separate offense. Such fine shall be in addition to any civil forfeiture imposed by a court under IC 36-7-9-19, or any other costs of enforcement or abatement assessed by or awarded to the town incident to any action for enforcement.

MMC 3-2-14: APPEALS FROM LOCAL ADMINISTRATIVE DECISIONS

Sec. 14: Subject to procedures as applicable under IC 36-7-9 as herein adopted, the Building Authority shall serve as an appeal board with respect to all questions or disputes regarding the interpretation or application of the building regulations, the granting of building permits, orders of the Building Inspector, or other administrative decisions and action of the town Department of Buildings pursuant to this act. The Building Authority may uphold, modify, or reverse any such local decisions and actions.

MMC 3-2-15: FURTHER RULES AND PROCEDURES

Sec. 15: The Building Authority may by resolution adopt and implement further rules and procedures for the administration of this act to the extent not in conflict with applicable rules and requirements of the State of Indiana. All such rules shall be considered incorporated by reference into and as part

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of this section, and two copies thereof shall be kept in the office of the Clerk-Treasurer for public inspection.

MMC 3-2-16: NONLIABILITY OF TOWN AND ITS OFFICERS AND EMPLOYEES

Sec. 16: The intent of this act is only to provide a means by which the appropriate town officials, in their discretion, may have and exercise such powers and functions as they deem necessary to ensure the reasonable safety of buildings and premises within the Town and to cooperate with the appropriate state officials as provided by IC 22-11-1-19. All such powers and functions are intended to be permissive and discretionary. The Town intends to assume no liability for failure to enforce any provision of this act or any statute or regulation referred to hereunder; nor respecting the issuance of or refusal to issue any permit; nor respecting the making of or failure to make any inspection; nor for the performance or non-performance of any other official action as provided or authorized under this act. The Town, for itself and on behalf of its several officers, employees, and agents operating pursuant to this act, hereby specifically claims all immunity from all such liability as provided under Indiana law.

MMC 3-2-17: AMENDMENTS; STATE APPROVAL; EXCEPTIONS

Sec. 17: Except as to the schedule of building permit fees set forth in Section 9, Schedule B hereinbefore, or the penalty amounts as set forth in Section 13, the Town Council shall make no amendments to the provisions of this act which become effective prior to their being submitted to and approved by the Indiana Department of Homeland Security.

ARTICLE 3, CHAPTER 3: FLOOD PLAIN MANAGEMENT AND REGULATION

SECTION 1:	STATUTORY AUTHORIZATION
SECTION 2:	FINDINGS OF FACT; STATEMENT OF PURPOSE
SECTION 3:	OBJECTIVES OF THE FLOOD HAZARD ORDINANCE
SECTION 4:	DEFINITIONS
SECTION 5:	LANDS TO WHICH THIS ORDINANCE APPLIES
SECTION 6:	BASIS FOR ESTABLISHING REGULATORY FLOOD DATA
SECTION 7:	ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT
SECTION 8:	COMPLIANCE
SECTION 9:	ABROGATION AND GREATER RESTRICTIONS
SECTION 10:	DISCREPANCY BETWEEN MAPPED AND ACTUAL GROUND ELEVATIONS
SECTION 11:	INTERPRETATION
SECTION 12:	WARNING AND DISCLAIMER OF LIABILITY
SECTION 13:	PENALTIES FOR VIOLATION
SECTION 14:	DESIGNATION OF ADMINISTRATOR
SECTION 15:	PERMIT PROCEDURES
SECTION 16:	DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR
SECTION 17:	GENERAL STANDARDS FOR FLOOD HAZARD REDUCTION
SECTION 18:	SPECIFIC STANDARDS
SECTION 19:	STANDARDS FOR SUBDIVISION PROPOSALS
SECTION 20:	CRITICAL FACILITY
SECTION 21:	STANDARDS FOR IDENTIFIED FLOODWAYS
SECTION 22:	STANDARDS FOR IDENTIFIED FRINGE
SECTION 23:	STANDARDS FOR SFHAs WITHOUT ESTABLISHED BFE

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SECTION 24:	STANDARDS FOR FLOOD PRONE AREAS
SECTION 25:	DESIGNATION OF VARIANCE AND APPEALS BOARD
SECTION 26:	DUTIES OF VARIANCE AND APPEALS BOARD
SECTION 27:	VARIANCES PROCEDURES
SECTION 28:	CONDITIONS FOR VARIANCES
SECTION 29:	VARIANCE NOTIFICATION
SECTION 30:	HISTORIC STRUCTURES
SECTION 31:	SPECIAL CONDITIONS
SECTION 32:	SEVERABILITY

MMC 3-3-1: STATUTORY AUTHORIZATION

Sec. 1: 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 Montezuma does hereby adopt the following floodplain management regulations.

MMC 3-3-2: FINDINGS OF FACT; STATEMENT OF PURPOSE

Sec. 2: The flood hazard areas of the Town of Montezuma 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.

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 damages.

It is the purpose of this ordinance 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:

- a. 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.
- b. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- c. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters.
- d. Control filling, grading, dredging, and other development which may increase erosion or flood damage.
- e. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
- f. Make federally subsidized flood insurance available for structures and their contents in the Town by fulfilling the requirements of the National Flood Insurance Program.

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MMC 3-3-3: OBJECTIVES OF THE FLOOD HAZARD ORDINANCE

Sec. 3: The objectives of this ordinance 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 flood prone areas in such a manner as to minimize flood blight areas.
- g. To ensure that potential homebuyers are notified that property is in a flood area.

MMC 3-3-4: DEFINITIONS

Sec. 4: Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance it's most reasonable application.

- a. A **zone** means portions of the SFHA 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 FHBM. The definitions are presented below:
 1. **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.
 2. **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.)
 3. **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.
 4. **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.

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Average flood depths derived from detailed hydraulic analyses are shown within this zone. Mandatory flood insurance purchase requirements apply.

5. **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.
 6. **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.
- b. **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.
 - c. **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.
 - d. **Appeal** means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance or a request for a variance.
 - e. **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.
 - f. **Base Flood Elevation (BFE)** means the elevation of the one-percent annual chance flood.
 - g. **Basement** means that portion of a structure having its floor sub-grade (below ground level) on all sides.
 - h. **Building** - see "Structure."
 - i. **Community** means a political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

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- j. **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.
- k. **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.
- l. **Development** means any man-made 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 a recreational vehicle on a site for more than 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, re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

- m. **Elevated structure** means a non-basement 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).
- n. **Elevation Certificate** is a certified statement that verifies a structure's elevation information.
- o. **Emergency Program** means the first phase under which a community participates in the NFIP. 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.

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- p. **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.
- q. **Existing Construction** means any structure for which the “start of construction” commenced before the effective date of the community’s first floodplain ordinance.
- r. **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.
- s. **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).
- t. **FEMA** means the Federal Emergency Management Agency.
- u. **Five-hundred year flood (500-year flood)** means the flood that has a 0.2 percent chance of being equaled or exceeded in any year.
- v. **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.
- w. **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.
- x. **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.
- y. **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.
- z. **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.
- aa. **Flood Prone Area** means any land area acknowledged by a community as being susceptible to inundation by water from any source. (See “Flood”)
- bb. **Flood Protection Grade (FPG)** is the elevation of the regulatory flood plus two feet at any given location in the SFHA. (see “Freeboard”)

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- cc. **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.
- dd. **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.
- ee. **Floodplain management regulations** means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone 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.
- ff. **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.
- gg. **Floodproofing certificate** is a form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be by a Registered Professional Engineer or Architect.
- hh. **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.
- ii. **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.
- jj. **Fringe** is those portions of the floodplain lying outside the floodway.
- kk. **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.
- ll. **Hardship** (as related to variances of this ordinance) means the exceptional hardship that would result from a failure to grant the requested variance. The Town Council requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or

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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.

- mm. **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.
- nn. **Historic structure** means any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.
- oo. **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 ICC coverage.
- pp. **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.
- qq. **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.
- rr. **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.
- ss. **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.
- tt. **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:

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- a.) 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 a minimum of two exterior walls having a total net area of 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,
 - b.) such enclosed space shall be usable solely for the parking of vehicles and building access.
- uu. **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."
- vv. **Manufactured home park or subdivision** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- ww. **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).
- xx. **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.)
- yy. **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.
- zz. **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.
- aaa. **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.
- bbb. **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.
- ccc. **New construction** means any structure for which the "start of construction" commenced after the effective date of the community's first floodplain ordinance.

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- ddd. **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.
- eee. **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.
- fff. **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.
- ggg. **One-hundred year flood (100-year flood)** is the flood that has a one percent (1%) 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".
- hhh. **One-percent annual chance flood** is the flood that has a one percent (1%) 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".
- iii. **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.
- jjj. **Physical Map Revision (PMR)** is an official republication of a community's FEMA map to effect changes to base (1-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.
- kkk. **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.
- lll. **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.
- mmm. **Probation** is a means of formally notifying participating communities of violations and deficiencies in the administration and enforcement of the local floodplain management regulations.
- nnn. **Public safety and nuisance** means anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or unlawfully

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obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

- ooo. **Recreational vehicle** means a vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.
- ppp. **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.
- qqq. **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 Article 3 (B) of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".
- rrr. **Repetitive loss** means flood-related damages sustained by a structure on two separate occasions during a 10-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 25% of the market value of the structure at the time of each such flood event.
- sss. **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 flood-prone areas.
- ttt. **Special Flood Hazard Area (SFHA)** means those lands within the jurisdictions of the Town of Montezuma subject to inundation by the regulatory flood. The SFHAs of the Town of Montezuma are generally identified as such on the Parke County, Indiana and Incorporated Areas Flood Insurance Rate Map prepared by the Federal Emergency Management Agency, dated October 16, 2012. (These areas are shown on a FHBM or FIRM as Zone A, AE, A1-A30, AH, AR, A99, or AO).
- uuu. **Start of construction** includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or

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sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

- vvv. **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 180 days.
- www. **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 50 percent of the market value of the structure before the damage occurred.
- xxx. **Substantial improvement** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 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 structures continued designation as a "historic structure".
- yyy. **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.
- zzz. **Variance** is a grant of relief from the requirements of this ordinance, which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.
- aaaa. **Violation** means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.
- bbbb. **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.
- cccc. **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.
- dddd. **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-

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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.

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

ffff. **Zone A** (see definition for A zone)

gggg. **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.)

MMC 3-3-5: LANDS TO WHICH THIS ORDINANCE APPLIES

Sec. 5: This ordinance shall apply to all SFHAs and known flood prone areas within the jurisdiction of the Town of Montezuma.

MMC 3-3-6: BASIS FOR ESTABLISHING REGULATORY FLOOD DATA

Sec. 6. This ordinance's protection standard is the regulatory flood. The best available regulatory flood data is listed below. Whenever a party disagrees with the best available data, the party submitting the detailed engineering study needs to replace existing data with better data and submit it to the Indiana Department of Natural Resources for review and approval.

- a. The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of the Town of Montezuma shall be as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of Parke County, Indiana and Incorporated Areas and the corresponding Flood Insurance Rate Map prepared by the Federal Emergency Management Agency and dated October 16, 2012.
- b. The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of the Town of Montezuma, delineated as an "A Zone" on the Parke County, Indiana and Incorporated Areas Flood Insurance Rate Map prepared by the Federal Emergency Management Agency and dated October 16, 2012, 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.
- 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 square mile.

MMC 3-3-7: ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT

Sec. 7: A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities in areas of special flood hazard.

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MMC 3-3-8: COMPLIANCE

Sec. 8: No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this ordinance and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this ordinance and other applicable regulations.

MMC 3-3-9: ABROGATION AND GREATER RESTRICTIONS

Sec. 9: This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

MMC 3-3-10: DISCREPANCY BETWEEN MAPPED AND ACTUAL GROUND ELEVATIONS

Sec. 10:

- 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.

MMC 3-3-11: INTERPRETATION

Sec. 11: In the interpretation and application of this ordinance all provisions shall be:

- a. Considered as minimum requirements.
- b. Liberally construed in favor of the governing body.
- c. Deemed neither to limit nor repeal any other powers granted under state statutes.

MMC 3-3-12: WARNING AND DISCLAIMER OF LIABILITY

Sec. 12: The degree of flood protection required by this ordinance 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 ordinance does not create any liability on the part of the Town of Montezuma, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this ordinance or any administrative decision made lawfully thereunder.

MMC 3-3-13: PENALTIES FOR VIOLATION

Sec. 13: 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 ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Code for the Town of Montezuma. All violations shall be punishable by a fine not exceeding \$300.00.

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- a. A separate offense shall be deemed to occur for each day the violation continues to exist.
- b. The Floodplain Administrator 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.
- c. 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.

MMC 3-3-14: DESIGNATION OF ADMINISTRATOR

Sec. 14: The Town Council of the Town of Montezuma hereby appoints the Town Superintendent to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.

MMC 3-3-15: PERMIT PROCEDURES

Sec. 15: 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. Specifically the following information is required:

- a. Application stage.
 1. A description of the proposed development.
 2. Location of the proposed development sufficient to accurately locate property and structure in relation to existing roads and streams.
 3. A legal description of the property site.
 4. A site development plan showing existing and proposed development locations and existing and proposed land grades.
 5. Elevation of the top of the lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD.
 6. Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed.
 7. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
 8. Construction stage.

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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.

MMC 3-3-16: DUTIES & RESPONSIBILITIES OF FLOODPLAIN ADMINISTRATOR

Sec. 16: The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this ordinance. The administrator is further authorized to render interpretations of this ordinance, 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 ordinance have been satisfied.
- b. Inspect and inventory damaged structures in the 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 Article 5, Section E and G (1) of this ordinance, 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. 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.
- f. 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 (letters of recommendation), federal permit documents, and "as-built" elevation and floodproofing data for all buildings constructed subject to this ordinance.
- g. Utilize and enforce all Letters of Map Revision (LOMR) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.

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- h. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- i. Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Article 4 Section B.
- j. Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with Article 4, Section B.
- k. Review certified plans and specifications for compliance.
- l. 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 ordinance shall immediately cease.
 - 2. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.
- m. Revocation of Permits
 - 1. The floodplain administrator may revoke a permit or approval, issued under the provisions of the ordinance, 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 ordinance.
- n. Inspect sites for compliance. For all new and/or substantially improved buildings constructed in the SFHA, inspect before, during and after construction. Authorized Town officials shall have the right to enter and inspect properties located in the SFHA.

MMC 3-3-17: GENERAL STANDARDS FOR FLOOD HAZARD REDUCTION

Sec. 17: In all SFHAs and known flood prone areas the following provisions are required:

- a. New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- b. 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

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to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.

- c. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.
- d. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.
- e. 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.
- f. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- g. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- h. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- i. Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this ordinance shall meet the requirements of “new construction” as contained in this ordinance.
- j. Any alteration, repair, reconstruction or improvement to a structure that is not in compliance with the provisions of this ordinance, shall be undertaken only if said non-conformity is not further extended, or replaced.

MMC 3-3-18: SPECIFIC STANDARDS FOR FLOOD HAZARD REDUCTION

Sec. 18: In all SFHAs, the following provisions are required:

- a. In addition to the requirements of Article 5, Section A, 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 400 square feet.
 - 2. Addition or improvement made to any existing structure:
 - a.) where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land).

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- b.) with a previous addition or improvement constructed since the community's first floodplain ordinance.
 3. Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred.
 4. Installing a travel trailer or recreational vehicle on a site for more than 180 days.
 5. Installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.
 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 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 Article 5, Section B (4).
- c. **Non-Residential Construction.** New construction or substantial improvement of any commercial, industrial, or non-residential 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 Article 5, Section B (4). 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 Article 4, Section C (10).
 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.

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

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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:

1. Provide a minimum of two openings located in a minimum of two exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).
 2. The bottom of all openings shall be no more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher.
 3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
 4. Openings are to be not less than 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.
 5. 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).
 6. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
 7. The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.
 8. Where elevation requirements exceed 6 feet above the highest adjacent grade, a copy of the legally recorded deed restriction prohibiting the conversion of the area below the lowest floor to a use or dimension contrary to the structure's originally approved design, shall be presented as a condition of issuance of the final Certificate of Occupancy.
- 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 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method.
 2. The fill should extend at least ten 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 3 horizontal to 1 vertical.

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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 180 days must meet one of the following requirements:
1. The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site;
 2. outside a manufactured home park or subdivision;
 3. in a new manufactured home park or subdivision;
 4. in an expansion to an existing manufactured home park or subdivision; or
 5. in an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as a result of a flood.
 6. 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 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies 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.
 7. Manufactured homes 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 as required for elevated structures in Article 5, Section B. 4.
 8. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.
 9. Recreational vehicles placed on a site shall either:
 - a.) be on site for less than 180 days; and,
 - b.) 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

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- c.) meet the requirements for “manufactured homes” as stated earlier in this section.

MMC 3-3-19: STANDARDS FOR SUBDIVISION PROPOSALS

Sec. 19:

- a. All subdivision proposals shall be consistent with the need to minimize flood damage.
- b. All subdivision 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 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 fifty lots or five acres.
- e. All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA.
- f. All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).

MMC 3-3-20: CRITICAL FACILITY

Sec. 20: 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.

MMC 3-3-21: STANDARDS FOR IDENTIFIED FLOODWAYS

Sec. 21: Located within SFHAs, established in Article 3, Section B, 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 non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (IC 14-28-1-26 allows construction of non-substantial additions/ improvements to residences in a non-boundary river floodway without obtaining a permit for construction in the floodway from the

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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.)

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 Article 5 of this ordinance 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.

No development shall be allowed which acting alone or in combination with existing or future development, will increase the regulatory flood more than 0.14 of one foot.

For all projects involving channel modifications or fill (including levees) the Town shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data.

MMC 3-3-22: STANDARDS FOR IDENTIFIED FRINGE

Sec. 22: 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 Article 5 of this ordinance 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.

MMC 3-3-23: STANDARDS FOR SFHAS WITHOUT BASE FLOOD ELEVATION

Sec. 23:

- 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.

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 one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

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 5 of this ordinance have been met.

- b. Drainage area upstream of the site is less than one square mile:

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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 one-percent annual chance flood elevation for the site.

Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Article 5 of this ordinance 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.

MMC 3-3-24: STANDARDS FOR FLOOD PRONE AREAS

Sec. 24: All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet applicable standards as required per Article 5.

MMC 3-3-25: DESIGNATION OF VARIANCE AND APPEALS BOARD

Sec. 25: The Town Council shall hear and decide appeals and requests for variances from requirements of this ordinance.

MMC 3-3-26: DUTIES OF VARIANCE AND APPEALS BOARD

Sec. 26: The 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 ordinance. Any person aggrieved by the decision of the board may appeal such decision to the Parke County Circuit Court.

MMC 3-3-27: VARIANCES PROCEDURES

Sec. 27: In passing upon such applications, the Town Council shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, 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,

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- 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.
- 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.

MMC 3-3-28: CONDITIONS FOR VARIANCES

Sec. 28:

- 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 subject to Article 5, Section E or Section G (1) of this ordinance may be granted.
- c. Any variance granted in a floodway subject to Article 5, Section E or Section G (1) of this ordinance will require a permit from the Indiana Department of Natural Resources.
- d. Variances to the Provisions for Flood Hazard Reduction of Article 5, Section B, 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 (See Article 6, Section E).

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- 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 (See Article 6, Section E).

MMC 3-3-29: VARIANCE NOTIFICATION

Sec. 29: Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

- a. 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 \$25 for \$100 of insurance coverage; and;
- b. 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.

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.

MMC 3-3-30: HISTORIC STRUCTURES

Sec. 30: 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.

MMC 3-3-31: SPECIAL CONDITIONS

Sec. 31: Upon the consideration of the factors listed in Article 6, and the purposes of this ordinance, the Town Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

MMC 3-3-32: SEVERABILITY

Sec. 32: If any section, clause, sentence, or phrase of the Ordinance 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 Ordinance.

ARTICLE 3, CHAPTER 4: COMPREHENSIVE PLANNING, ZONING, AND SUBDIVISION CONTROL	
SECTION 1:	COUNTY PLAN COMMISSION DESIGNATED AS MUNICIPAL PLAN COMMISSION
SECTION 2:	SUBDIVISION CONTROL
SECTION 3:	PRE-APPLICATION REVIEW AND APPROVAL BY TOWN COUNCIL

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SECTION 4:	EXTENSION AND SUPPLEMENTATION OF COUNTY MASTER PLAN TO MONTEZUMA
SECTION 5:	DEVELOPMENT OF ZONING DISTRICT PLAN AND REGULATIONS FOR TOWN
SECTION 6:	ADOPTION OF AMENDED COUNTY ZONING ORDINANCE BY TOWN
SECTION 7:	CERTAIN POWERS AND EXCLUSIVE JURISDICTION RESERVED TO TOWN
SECTION 8:	AMENDMENTS TO COUNTY ZONING ORDINANCE AFFECTING ZONING DISTRICTS
SECTION 9:	FEES AND SERVICE CHARGES
SECTION 10:	RATIFICATION BY COUNTY AUTHORITIES; TERMINATION AND ANNULMENT

MMC 3-4-1: COUNTY PLAN COMMISSION DESIGNATED AS MUNICIPAL PLAN COMMISSION

Sec. 1: Subject to the subsequent provisions of this act, the Plan Commission of Parke County, Indiana, is hereby designated as the municipal plan commission for the Town of Montezuma in accordance with IC 36-7-4-410(a), and shall have in and for said town all planning powers, duties, and jurisdiction as provided under IC 36-7-4 to the same extent that it now has in respect to the unincorporated areas of the county.

MMC 3-4-2: SUBDIVISION CONTROL

Sec. 2: Except for the addition procedures as prescribed by Section 3, when applicable, the Parke County Plan Commission from and after the taking effect of this act shall have all powers as provided by IC 36-7-3-3(d)(1) governing review and approval of proposals for the subdivision of lands and the platting thereof respecting addition to the town or the subdivision of lots and lands within the town. In the event that the Board of Commissioners of Parke County has adopted a subdivision control ordinance pursuant to IC 36-7-4-700 series, the Plan Commission may apply any more specific subdivision control standards and requirements as provided in such county ordinance when reviewing subdivision proposals, which standards and requirements shall be applicable within the town in the unincorporated area.

MMC 3-4-3: PRE-APPLICATION REVIEW AND APPROVAL BY TOWN COUNCIL

Sec. 3: The procedures prescribed by this section apply whenever the town is a participant in either the emergency or regular phase of the National Flood Insurance Program, and are necessary for the town to comply with and meet its administrative commitments under 44 CFR 603(a)(4) and 44 CFR 60.3(b)(3). When this section applies, any person proposing to subdivide and plat lands any part of which lie within the corporate limits of the town must, before applying and submitting the proposal to the county Plan Commission pursuant to Section 2, first submit the proposal to the Town Council for pre-application approval if it finds that:

- a. none of the lands within the boundaries of the town and proposed to be subdivided out of any existing parcel lie within a flood plain district as determined in accordance with the more current Flood Hazard Boundary Map or Flood Insurance Rate Map provided to the town by the Federal Insurance Administration; or
- b. some of such lands do lie within such flood plain district, but the subdivision proposal complies with all specifications, standards, and requirements as prescribed and applicable thereto under Floodplain Management ordinance including approval by the Indiana Natural Resources Commission if required.

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The Plan Commission may not grant final approval to the proposed subdivision and plat until the Town Council has approved same in accordance with this section, but notwithstanding such pre-application approval by the Town Council, the Plan Commission may nevertheless deny the proposal or impose further conditions thereon if it finds that such proposal as submitted does not conform with applicable provisions of the county master plan and/or subdivision control ordinance or is otherwise inadequate or substandard.

MMC 3-4-4: EXTENSION AND SUPPLEMENTATION OF COUNTY MASTER PLAN TO MONTEZUMA

Sec. 4: For the purpose of implementing the planning powers and jurisdiction accorded to the county Plan Commission by Section 1, the Plan Commission and Board of Commissioners of Parke County are hereby authorized to devise and enact such extensions, revisions, supplementations, or additions to any county master plan adopted pursuant to IC 36-7-4-500 series as may be necessary to incorporate into such plan the territory included in the corporate limits of the town, and to make into consideration in such plan those present and future matters and conditions respecting the territory of the town (including any and all such matters and conditions more particularly described by IC 36-7-4-503) as are deemed necessary to preserve existing desirable conditions within the town, to alleviate or prevent undesirable condition, to allow for and promote the orderly and beneficial growth and development of the town, and to coordinate the foregoing matters with the county master plan as it relates to unincorporated areas in the environs of the town. To carry out the purposes of this section, the Plan Commission shall publish notice and conduct a public hearing on any such proposed changes in the county master plan in the manner required by IC 36-7-4-511(a) and IC 36-7-4-507(a). However, before any such provisions of the county master plan (or any subsequent amendments thereto) which directly apply to or govern the town and the territory within the town are finally enacted by the Board of Commissioners, or before they shall have any legal effect within the town, they must be submitted to the Town Council and an ordinance ratifying such provisions duly adopted by the Town Council. When provisions of the county master plan affecting the territory within the town are enacted and properly ratified in accordance with this section, all municipal authorities having the power to make development decisions or administrative decisions concerning matters contemplated under such master plan shall be guided therein by the provisions of the plan and the compatibility of such matters with the plan, including in particular (but not by limitation) compliance with the provisions of IC 36-7-4-512.

MMC 3-4-5: DEVELOPMENT OF ZONING DISTRICT PLAN AND REGULATIONS FOR TOWN

Sec. 5: Whenever the Board of Commissioners of Parke County has adopted a zoning ordinance for the unincorporated area of the county pursuant to IC 36-7-4-600 series, the county Plan Commission may, for the purpose of implementing the planning powers and jurisdiction accorded to it by Section 1 and in lieu of developing and proposing an entirely separate and distinct zoning ordinance for the town, zoning district maps as incorporated therein to:

- a. extend the applicability of the county zoning ordinance and county zoning jurisdiction to include the territory within the corporate limits of the town; and
- b. define and establish within the town one or more zoning districts, and respective use regulations therein, governing the use of land and improvements, minimum lot areas, setbacks, etc., the height, area, bulk and use of buildings to be erected, and other appropriate matters as referred to in IC 36-7-4-601 and 604.

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For the purpose of subsection (b) above, zoning districts as defined within the town shall (except for temporary districts as provided in Section 8) be made nominally separate and distinct from all zoning districts in the unincorporated area of the county (the purpose of such distinction being to simplify administration and procedures and avoid the necessity of complying with Section 6 herein after should the county wish to make changes to zoning districts and respective use regulations which would otherwise affect only the unincorporated area of the county), but may in other respects have similar or identical purposes and employ similar or identical restrictions and requirements as zoning districts in the unincorporated area to the extent reasonable and appropriate in consideration of the more urban character of incorporated area. Proposals of the Plan Commission pursuant to this section shall first be submitted to the Town Council as a “tentative report” in accordance with IC 36-7-4-605(a), which shall be considered by the Town Council and returned to the Plan Commission with its further suggestions and recommendations (if any). The Plan Commission shall then may any modification in the proposal as are fitting by virtue of the Town Council’s recommendations and resubmit the final proposal to the Board. The Town Council and the Plan Commission shall then schedule a public hearing on the final proposal and publish notice thereof, all in accordance with IC 36-7-4-606(a), which public hearing shall also serve as the public hearing required to be held by the Plan Commission pursuant to IC 36-7-4-608(a). Following the hearing, the Town Council may approve the proposed amendments to the county zoning ordinance, Whereupon the Plan Commission shall submit the approved proposal to the Board of Commissioners for enactment in accordance with IC 36-7-4-607(a) and IC 36-7-4-609(a). However, the county zoning ordinance and amendments thereto affecting the town shall have no legal force within the town until finally ratified and adopted by the Town Council in accordance with Section 6.

MMC 3-4-6: ADOPTION OF AMENDED COUNTY ZONING ORDINANCE BY TOWN

Sec. 6: When the Board of Commissioners has finally enacted the amendments to the county zoning ordinance contemplated under Section 5 above, the Town Council may enact an ordinance ratifying such amendments and adopting the county zoning ordinance (as amended) as the zoning ordinance for the town. Thereafter, subject to the reservations as set forth in Section 7 (if applicable), the county zoning ordinance shall have full force, effect, and applicability within the corporate limits of Town as in the unincorporated area, and the county Plan Commission, Board of Zoning Appeals, and other county authorities as designated, shall have all powers to administer and enforce the provision of the zoning ordinance with in the Town (as it applies thereto) equally as they have in the unincorporated area in accordance with the provisions of the zoning ordinance and IC 36-7-4. These powers specifically include, but are not necessarily limited to, the power to issue or deny zoning (improvement location) permits; to inspect land and property under development or proposed to be developed; to hear and decide appeals from provisions of the zoning ordinance and grant special exemption or variances therefrom; to impose and collect permit fees, application fees, and other service charges and retain same for the benefit of the county the same as in respect to the unincorporated area; and to cite and prosecute in the name of the county violations of the zoning ordinance that may occur in the town, or to take other enforcement actions as permitted by law, and to collect and retain for the benefit of the county all fines, costs, or other awards made pursuant to such enforcement action.

MMC 3-4-7: CERTAIN POWERS AND EXCLUSIVE JURISDICTION RESERVED TO TOWN

Sec. 7: The Town Council, to the extent otherwise lawfully within its powers, reserves the right to maintain n effect or further enact, and enforce, such town ordinances as it deems necessary to protect order and the welfare and safety of the citizens of the town, separate from and in addition to any county zoning ordinance adopted and made applicable pursuant to Section 6. Such ordinances may have the effect of prohibiting or further regulating certain specific uses of land or buildings or related

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activities within the town, and such ordinances unless specifically provided therein are not intended to be superseded nor annulled by any provisions of the county zoning ordinance, but apply in addition thereto and notwithstanding the fact that such uses or activities may be expressly or presumptively permitted (either conditionally or unconditionally) under the provisions of the county ordinance. An improvement location permit, special exemption, or variance granted for any such use or activity within the town under the provisions of the county zoning ordinance does not exempt same from, nor be construable as permitting same in spite of, any such further specific prohibitions and requirements as provided by separate town ordinance. Furthermore, nothing in the zoning ordinance or an improvement location permit, special exception from any building permit as etc., granted thereunder is in lieu of nor an exemption from any building permit as required under the Town building code, nor a special flood plain development permit as required pursuant to the Town's participation in the National Flood Insurance Program, nor any sewage disposal system permit as required by Town ordinance, nor from full compliance with all regulations applicable and appurtenant to such permits as provided by town ordinance and state and federal laws and regulations. The Town retains full and exclusive jurisdiction over all of the foregoing may also be required and applicable thereto pursuant to provisions of the county zoning ordinance as adopted hereunder.

MMC 3-4-8: AMENDMENTS TO COUNTY ZONING ORDINANCE AFFECTING ZONING DISTRICTS

Sec. 8: After the county zoning ordinance is amended, adopted, and made applicable to the Town pursuant to Section 5 and 6, the Plan Commission may not finally propose to the Board of Commissioners, nor may the Board of Commissioners enact and put into effect, any amendments to the county zoning ordinance which would alter the zoning districts established in the Town nor the special regulations, requirements, standards, and restrictions applicable to development and uses in such town zoning districts unless such amendments are ratified and adopted by an ordinance of the Town Council. The Plan Commission and Board of Commissioners may propose, enact, and put in effect other amendments to the county zoning ordinance which affect only zoning districts or regulations outside the town, or which govern only the general administrative provisions in the zoning ordinance, in the usual manner and without ratification by the Town Board, and such latter amendments shall be deemed to apply within the town to the same extent as the original provisions. In the event that the town should annex any territory which, at the time such annexation becomes effective, is not included in a town zoning district pursuant to Section 5 and 6 or this section, such territory shall be construed to temporarily remain part of the zoning district or districts to which it belonged prior to annexation, and shall be governed by the zoning regulations so applicable, until such time as it is established within a Town zoning district by an amendment to the zoning ordinance adopted in accordance with this section.

MMC 3-4-9: FEES AND SERVICE CHARGES

Sec. 9: The county Plan Commission and other appropriate county authorities as provided by law may establish and collect, with respect to any planning services, administrative functions, or enforcement functions provided by the county in connection with the county master plan, zoning ordinance, and subdivision control functions as made applicable pursuant to this act, and retain for the county in compensation for such services and functions all normal fees, charges, fines, costs, etc., as collectible thereby from persons in the unincorporated area. However, if it is shown that any services and functions are provided hereunder with respect to the Town for which the county incurs additional costs and equivalent services and functions are not provided with respect to the incorporated area of the county, or the costs of which equivalent services and functions as provided with respect to the unincorporated area are not payable out of such service fees and charges or out of appropriations of general county taxes or other general county revenues which are payable equally be

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residents and owners of property in the Town as be residents or owners or property in the unincorporated area, then upon such finding the appropriate county authorities may impose such surcharges or additional service or user charges applicable to services and functions provided in respect to the town as are reasonable and necessary to make up any deficiencies in funding attributable costs. It is the intent if this section that the county not incur any planning and administrative costs an equitable share of which are not paid or recoverable through user charges, service fees, general taxes, or other general county revenues paid by Town residents or property owners.

MMC 3-4-10: RATIFICATION BY COUNTY AUTHORITIES; TERMINATION AND ANNULMENT

Sec. 10: The provisions of this act shall not have any effect unless concurrently approved and ratified by the Plan Commission and Board of Commissioners of Parke County. When duly adopted by the Town Council and so ratified by the Plan Commission and Board of Commissioners, the provisions of this act shall constitute an understanding and agreement between the town and the county as to provision of the service and functions, procedures, and other matters as contemplated herein. However, such understanding and agreement may be cancelled at any time by either part through written notice given to the other party, and when so cancelled this act and all provisions and procedures as set forth herein, all authority conferred hereby, and the applicability of all county plans and ordinances pursuant hereto, shall be absolutely null and void and of not further effect.

ARTICLE 3, CHAPTER 5: REGULATION OF SINGLE FAMILY DWELLINGS, MANUFACTURED AND MOBILE HOMES

SECTION 1:	DEFINITIONS
SECTION 2:	RULES OF GENERAL APPLICABILITY
SECTION 3:	RULES APPLICABLE TO MANUFACTURED AND MOBILE HOMES
SECTION 4:	RULES APPLICABLE TO RECREATIONAL VEHICLES
SECTION 5:	BUILDING PERMITS REQUIRED
SECTION 6:	APPEALS TO TOWN COUNCIL

MMC 3-5-1: DEFINITIONS

Sec. 1: The following definitions shall apply throughout this chapter:

- a. "Manufactured home" means a structure manufactured or fabricated on OT after June 15, 1976 at an off-site manufacturing facility for installation or assembly at the building site that is constructed to be transportable in one or more sections, built on a permanent chassis, and designed to be used as a dwelling unit when connected to the required utilities. A "manufactured home" must meet or exceed the standards established by the Federal Manufactured Housing Construction and Safety Standards Act (42 U.S.C. § 5401 et seq.) and must bear a seal certifying that it has been built in compliance with the Act. A "manufactured home" is not a "mobile home", a "site-built home" or a "modular home".
- b. "Mobile home" means a structure manufactured or fabricated prior to June 15, 1976 at an off-site manufacturing facility which is constructed to be transportable in one or more sections, built on a permanent chassis, and designed to be used as a permanent dwelling unit when connected to the required utilities. A "mobile home" was built before the enactment of the Federal Manufactured Housing Construction and Safety Standards Act (42 U.S.C. § 5401 et seq.) and does not bear a seal certifying that it has been built in compliance with the Act. A "mobile home" is not a "manufactured home", a "site-built home" or a "modular home".

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- c. "Modular home" means a factory-assembled structure built in sections at a off-site manufacturing facility designed for use as a dwelling when connected to the required utilities. A "modular home" is not built on a permanent chassis and must be transported to a building site on a trailer or similar device for final assembly and mounting on a permanent foundation. A "modular home" is not a "manufactured home", a "site-built home" or a "mobile home".
- d. "Site-built home" means a dwelling unit constructed on the site where it will be permanently located. A "site built home" is not a "manufactured home", a "mobile home" or a "modular home".
- e. "Recreational Vehicle" means a vehicular-type unit designed for recreational camping and travel that has its own motor or is mounted on or towed by another vehicle. Types of recreational vehicles include travel trailers, fifth-wheel trailers, truck campers, motor homes, horse trailers with living quarters, etc. A "recreational vehicle" may not be used as a residence within the Town of Montezuma.
- f. "Mobile home park" means an area of land which is licensed as a mobile home park or mobile home community by the Indiana Department of Health pursuant to IC 16-41-27.

MMC 3-5-2: RULES OF GENERAL APPLICABILITY

Sec. 2: The following standards apply to all single-family dwellings located with the Town of Montezuma:

- a. Utilities. All dwellings shall be connected to municipal utilities including the Town's sanitary sewer system.
- b. *Minimum Lot Size: A minimum of 4,800 square feet of real estate per dwelling shall be provided for each dwelling constructed, placed or located within Montezuma. Multiple dwellings may be placed on a single lot or on adjacent lots owned by the same owner, but only if at least 4,800 square feet of real estate per dwelling is available (i.e. at least 9,600 square feet of real estate is required for placement or construction of two dwellings). This rule does not apply to separate accessory buildings such as garages or sheds that are not used as living quarters. This rule also shall not apply within a licensed Mobile Home Park.*

MMC 3-5-3: RULES APPLICABLE TO MANUFACTURED AND MOBILE HOMES

Sec. 3: The following regulations apply to the placement of all manufactured or mobile homes within the Town of Montezuma:

- a. In addition to the requirements set forth under MMC 3-5-2, no manufactured home shall be located, installed, placed, relocated or replaced within the Town of Montezuma unless the manufactured home is less than ten (10) years old on the date it is placed, installed, relocated or replaced. The age of the manufactured home shall be determined by the title.
- b. A manufactured home that is more than ten (10) years old may be located, installed, placed, relocated or replaced in the Town of Montezuma only if the manufactured home is placed in a mobile home park located in Montezuma.
- c. In addition to the requirements set forth under Section II of this ordinance, a mobile home may only be located, installed, placed, relocated or replaced in the Town of Montezuma if the mobile home is placed in a mobile home park located in Montezuma.

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- d. Upon application and approval of the Montezuma Town Council, a mobile home or manufactured home more than ten (0) years old may be used for residential purposes outside a mobile home park on a temporary basis not to exceed ninety (90) days. An applicant seeking approval of the Montezuma Town Council to use a mobile home or . manufactured home more than ten (0) years old for residential purposes on a temporary basis must demonstrate a hardship (such as a person rebuilding a home destroyed by fire) to the Town Council and agree to comply with any and all conditions imposed by the Town Council At the end of the period allowed by the Town Council the temporary home shall be immediately removed.

MMC 3-5-4: RULES APPLICABLE TO RECREATIONAL VEHICLES

Sec. 4: The following rules apply to the use of Recreational Vehicles for residential purposes within the Town of Montezuma:

- a. Recreational vehicles may not be used for residential purposes within the Town of Montezuma. Provided, however, that recreational vehicles may be used for camping purposes with the approval of the Montezuma Town Council.
- b. Upon application and approval of the Montezuma Town Council, a recreational vehicle may be used for residential purposes on a temporary basis not to exceed ninety (90) days (which may be extended or renewed with the approval of the Town Council). An applicant seeking approval of the Montezuma Town Council to use a recreational vehicle for residential purposes on a temporary basis must demonstrate a hardship (such as a person rebuilding a home destroyed by fire) to the Town Council and agree to comply with any and all conditions imposed by the Town Council.

MMC 3-5-5: BUILDING PERMITS REQUIRED

Sec. 5: Any person(s) building, constructing, installing, locating, relocating, replacing or otherwise placing a single-family residence within the Town of Montezuma, including a site-built home, modular home, manufactured home or mobile home must obtain a Building Permit as required by MMC 3-2-9.

MMC 3-5-6: APPEALS TO TOWN COUNCIL

Sec. 6: A person who wishes to appeal any determination made under this ordinance, including the denial of a building permit, may appeal the decision by filing an appeal as set forth in MMC 3-2-14.

ARTICLE 3, CHAPTER 6: UNIFORM ADDRESS NUMBERING SYSTEM FOR HOUSES AND STRUCTURES

SECTION 1:	UNIFORM NUMBERING SYSTEM
SECTION 2:	RELATION TO HEALTH AND SAFETY
SECTION 3:	ALL STRUCTURES TO BE NUMBERED IN CONFORMITY WITH ORDINANCE
SECTION 4:	BASE LINE AND SEQUENCES
SECTION 5:	ESTABLISHMENT OF ADMINISTRATIVE OFFICE
SECTION 6:	NUMBERS OTHER THAN ON PUBLIC STREETS AND ROADS
SECTION 7:	STANDARDS FOR THE POSTING OF HOUSE NUMBERS

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SECTION 8: NOTIFICATION OF LOCAL AGENCIES
SECTION 9: ENFORCEMENT; PENALTIES

MMC 3-6-1: UNIFORM NUMBERING SYSTEM

Sec. 1: A plan for the orderly and systematic numbering of houses and structures located within the jurisdiction of the Town of Montezuma is hereby enacted (hereinafter "Uniform Numbering System"). Any and all ordinance previously adopted by the Montezuma Town Council regarding the numbering of houses and structures are hereby repealed and superseded by this Ordinance.

MMC 3-6-2: RELATION TO HEALTH AND SAFETY

Sec 2. The numbering of houses and other structures in an orderly and systematic manner will make locating those houses and structures more expeditious in the case of fire emergencies, in situations that involve an immediate need for medical attention for occupants of the house or structure, and in situations in which police protection or other emergency services are required. An orderly and systematic house numbering process will also enhance the delivery of goods and services, as well as increase the efficiency of operations such as postal delivery.

MMC 3-6-3: ALL STRUCTURES TO BE NUMBERED IN CONFORMITY WITH ORDINANCE

Sec. 3: From the effective date of this ordinance, the numbering of all houses and other structures located on lots or parcels of land abutting public streets or roads within the jurisdiction area of the Town of Montezuma, shall be accomplished in conformity within the Uniform Numbering System as herein described. At the time of issuance of any permit for construction of a house or structure, a number shall be assigned to the house or structure by the Montezuma Town Council office as set forth below. The number shall be included on the permit, and no permit authorizing the occupancy of a house or structure shall be issued and not final inspection of a building performed for the purpose of permitting its occupancy shall be deemed complete unless the house or structure displays at the time of inspection, the officially assigned number in full compliance with the standards of this ordinance.

MMC 3-6-4: BASE LINE AND SEQUENCES

Sec. 4: The general rule shall be 100 addresses per block; except in certain areas where irregular direction of the roadways makes variations necessary. Odd numbers shall be used on the North and West sides of the roads and Even numbers shall be used on the South and East sides of the roads.

The grid system to be used is to be constructed on a North, South, East, and West basis using the existing base roads in the Montezuma Street System, with the zero-zero point to be at the intersection of Main and Water Street.

MMC 3-6-5: ESTABLISHMENT OF ADMINISTRATIVE OFFICE

Sec. 5: The Montezuma Town Council shall act as the Administrative Office (hereinafter the "Administrative Office") in charge of issuing numbers to houses or structures in compliance with the provisions of this ordinance. The Administrative Office shall issue numbers to allow new houses or structures, renumber houses and structures whenever it becomes necessary to do so in the implementation of the Uniform System and cause the numbering of all existing homes or structures that are not numbered in accordance with the provisions of this ordinance. Barns, sheds and outbuildings not used for a habitation or business shall not be numbered unless there is a specific reason or need for doing so.

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The Administrative Office may establish written guidelines to use in implementing this Ordinance and may amend the guidelines from time to time, subject to the prior approval of the Town Council of the Town of Montezuma.

MMC 3-6-6: NUMBERS OTHER THAN ON PUBLIC STREETS AND ROADS

Sec. 6: The Administrative Office may, if it deems it proper and necessary for the implementation of the Uniform Numbering Systems, assign numbers to houses and structures that are situated on private streets or roads within the jurisdiction of the Town of Montezuma.

MMC 3-6-7: STANDARDS FOR THE POSTING OF HOUSE NUMBERS

Sec. 7: The owner or occupant of a house or structure located within the jurisdiction of the Town of Montezuma shall post officially assigned numbers in English, using Arabic (not Roman) numerals at a minimum of three (3) inches in height and made of durable, weatherproof material, of a color that stands out in high contrast against its background. The official number shall be placed on the house or business structure where it may easily be seen when approaching the house or business. It shall also be placed on both sides and the front of a mailbox, if a mailbox is used (sized and positioned according to postal regulations), or on a post adjacent to the roadway if the house or structure is not visible from a road or if the houses or building is more than 100 feet from the road. If mailboxes are placed closely side by side in such a way that numbers on the sides of the mailboxes cannot be seen, the number need be placed only on the front of each such mailbox, and the individual houses or other structures should be identified using house numbers or appropriately placed road posts.

Houses or structures that were numbered prior to the effective date of this ordinance shall be renumbered if necessary to comply with the Uniform Numbering System and so that numerical harmony throughout the area or areas is achieved. The Administrative Office shall authorize these changes.

MMC 3-6-8: NOTIFICATION OF LOCAL AGENCIES

Sec. 8: The Administrative Office shall provide a uniform system of notification of the issuance of numbers or the renumbering of houses and structures. When possible, notification shall be made reasonably ahead of impending changes so as to allow interested groups and agencies to plan and to prepare for the proposed changes. The Administrative Office shall keep accurate records and shall, from time to time, prepare and make available to the Montezuma Town Council a report of the status of the implementation of the Uniform Numbering System. In the assignment of house numbers, the Administrative Office shall use its best judgment and shall carefully consider and evaluate all contingencies and shall, with due regard to the sensitive nature of the job assigned to it, shall be considerate of the citizens of Montezuma, Indiana.

MMC 3-6-9: ENFORCEMENT; PENALTIES

Sec. 9: The Montezuma Town Council may institute a suit for injunction to refrain any person, firm or corporation who takes down, alters, defaces, destroys or conceals any number assigned to or placed upon any building in compliance with this ordinance, or who places or substitutes or permits to be placed or substituted upon any building an erroneous or improper number not in compliance with this Ordinance, or who allows to be retained upon any building an erroneous or improper number not in compliance with this Ordinance. The Montezuma Town Council may institute a suit for mandatory injunction directing a person, firm or corporation to correct any violation of the provisions of this Ordinance or to bring about compliance with the provision of this Ordinance. If the

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Montezuma Town Council is successful in any such suit, the defendant or respondent shall bear the costs of this action, including reasonable attorney's fees.

In addition to the above, any person, firm or business entity who fails to readdress within thirty (30) days from the date that notice of the new address is received from the United States Post Office shall be guilty of an ordinance violation and, upon conviction, be subject to a fine of not less than \$50.00, not more than \$100.00 for each offense. Each day that a violation occurs shall constitute and be considered a separate offense.

ARTICLE 4: VEHICLES, TRAFFIC AND PUBLIC WAYS

- CHAPTER 1: TOWN TRAFFIC REGULATIONS: GENERAL PROVISIONS AND ADMINISTRATION**
- CHAPTER 2: TOWN TRAFFIC REGULATIONS: SPEED LIMITS**
- CHAPTER 3: TOWN TRAFFIC REGULATIONS: INTERSECTION CONTROLS**
- CHAPTER 4: TOWN TRAFFIC REGULATIONS: USE RESTRICTIONS ON PUBLIC WAYS**

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CHAPTER 5:	TOWN TRAFFIC REGULATIONS: PARKING REGULATIONS AND RESTRICTIONS
CHAPTER 6:	TOWN TRAFFIC REGULATIONS: ENFORCEMENT PROCEDURES AND PENALTIES
CHAPTER 7:	ABANDONED AND JUNK VEHICLES
CHAPTER 8:	VEHICLE RECORDS AND REPORTS
CHAPTER 9:	SAVING OF STREET AND ALLEY VACATION ORDINANCES
CHAPTER 10:	OPERATION OF OFF-ROAD VEHICLES

ARTICLE 4, CHAPTER 1: TOWN TRAFFIC REGULATIONS: GENERAL PROVISIONS AND ADMINISTRATION

SECTION 1:	DEFINITIONS
SECTION 2:	APPLICABILITY AND LIMITATIONS OF TOWN TRAFFIC REGULATIONS
SECTION 3:	EXEMPTION FROM TOWN TRAFFIC REGULATIONS
SECTION 4:	TRAFFIC ENTERING TOWN STREETS FROM PRIVATE ENTRANCES
SECTION 5:	MAINTENANCE OF TRAFFIC CONTROL SIGNS OR MARKINGS
SECTION 6:	PROHIBITING SIGN TAMPERING

MMC 4-1-1: DEFINITIONS

Sec. 1: Unless otherwise indicated or defined, words and terms as used in respect to traffic regulations adopted by the Town Council shall be construed to have the same meaning as defined for such words and terms under the provisions of IC 9-13-2-1 et seq.

MMC 4-1-2: APPLICABILITY AND LIMITATIONS OF TOWN TRAFFIC REGULATIONS

Sec. 2: The provisions and requirements of traffic regulations adopted by the Town Council shall be deemed to apply to all vehicles unless otherwise expressly provided or unless clearly inapplicable by virtue of the character of a particular type of vehicle. Town traffic regulations, unless otherwise expressly limited as to area, apply to all publicly maintained streets, alleys, or other public ways and thoroughfares within the jurisdiction of the town, but not to any area within and under the right-of-way of a state highway or state maintained route wherein regulation of traffic is under the exclusive jurisdiction of the Indiana Department of Highways unless permitted by law and so provided. Other than in the relation to public right-of-way easements, town traffic regulations also do not apply upon private property except as provided under Section 5 and 6 of this chapter.

MMC 4-1-3: EXEMPTION FROM TOWN TRAFFIC REGULATIONS

Sec. 3: Publicly owned vehicles or authorized emergency vehicles shall be exempt from town traffic regulations to the same degree and under the same circumstances that they are exempt from equivalent state traffic regulations under the provisions of IC 9-21-1-8. In addition, any vehicle violating a town traffic regulation but doing so in obedience to the instruction of a police officer is exempt from the regulation.

MMC 4-1-4: TRAFFIC ENTERING TOWN STREETS FROM PRIVATE ENTRANCES

Sec. 4: All public streets in the town street shall be considered as preferential streets with respect to any privately owned, operated, and maintained conjoining roads, driveways, and other vehicular entrances. With the exception of driveways leading from one and two-family dwellings, but including roads or driveways from multifamily dwellings, privately operated common roads in residential subdivisions, commercial and industrial drives and roads, the Town Council, upon the recommendation of the town street supervisor or Town Marshal, may adopt and serve a written order requiring the operator and/or owner of such conjoining private entrance to erect and maintain thereon at the entrance to the town street system such stop or yield, turn restriction, or directional control

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signs or signals as may be deemed necessary to regulate traffic traveling on the private roadway, protect the safety and convenience of traffic on the public street, and enforce the preferentiality of the public street. When an order is issued in accordance with this section, such traffic regulations shall be considered to have been established under authority of this section and any further ordinance is not required. Traffic regulations established under this section shall be enforceable by the town authorities and subject to the same penalties for violation as in the case of other town traffic regulations.

MMC 4-1-5: MAINTENANCE OF TRAFFIC CONTROL SIGNS OR MARKINGS

Sec. 5: Whenever any traffic control regulation is imposed under this chapter with respect to any designated intersection, portion of street, or other area, and:

- a. designates a street to be one-way;
- b. regulates the speed of vehicles;
- c. designates a stop or yield intersection;
- d. restricts use of a street as to size, weight, or type of vehicle;
- e. regulates or prohibits the turning of vehicles;
- f. restricts the passing of vehicles;
- g. restricts the parking, stopping, or standing of vehicles; or
- h. in any other traffic regulation requiring the erection of signs;

it shall be the duty of the Town Marshal or other town officer so directed by the Town Council or the owner/operator of the affected private entrance to erect and maintain standard traffic control signs, signals, markings, or devices in accordance with the Uniform Traffic Control Manual of the State of Indiana. The owner/operator of the affected private entrance may himself erect and maintain the required sign or signal at his expense, or may elect to have the town do so upon payment of appropriate costs as determined by the Town Council. In addition, the Town Marshal with the approval of the Town Council may erect and maintain on town streets or other areas under town traffic jurisdiction such traffic control signs as he deems necessary to remind motorists of applicable traffic statutes and promote the observance and enforcement of traffic regulations provided by state law.

MMC 4-1-6: PROHIBITING SIGN TAMPERING

Sec. 8: All traffic control signs, signals, markings, or other devices erected and maintained in accordance with this chapter shall be deemed official traffic control devices for purposes of this section. It shall be unlawful for any person, without the authorization of the Town Marshal or Town Council, to intentionally move, remove, alter, deface, render inoperative, or obscure any official traffic control device. Any person who violates this section shall be liable to a fine of not less than \$50.00 nor more than \$100.00 for each violation, but in addition shall be liable to the town, the operator of a private entrance, or other person (as applicable) for all costs of replacing, restoring, or repairing the affected traffic control device.

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ARTICLE 4, CHAPTER 2: TOWN TRAFFIC REGULATIONS: SPEED LIMITS

- SECTION 1: SPECIAL TOWN SPEED LIMITS ESTABLISHED**
- SECTION 2: APPLICABILITY OF STATE PRESUMPTIVE URBAN SPEED LIMIT**

MMC 4-2-1: SPECIAL TOWN SPEED LIMITS ESTABLISHED

Sec. 1: Special town speed limits are established on portions of streets under town jurisdiction as indicated by Schedule A below.

SCHEDULE A SPECIAL TOWN SPEED LIMITS

Street	Speed Limit	Affected Portion
Monroe Street	20	Between Crawford Street and Strawberry Road
Jackson Street	20	Between Crawford Street and Strawberry Road
Jackson Street	20	Between Bloomingdale Road and Strawberry Road
Bloomingdale Road	20	Between east corporation line and Madison Street
Patterson Street	20	Between Jackson Street and Madison Street
Sylvester Street	20	Between Jackson Street and Madison Street
“C” Street	20	Between Water Street and Washington Street
Washington Street	20	Between “C” Street and Plum Street
Plum Street	20	Between Water Street and Washington Street
Jefferson Street	20	Between U.S. 36 and Sycamore Street
Miles Street	20	All
All Public Alleyways	10	All
Water Street	20	South of “C” Street

MMC 4-2-2: APPLICABILITY OF STATE PRESUMPTIVE URBAN SPEED LIMIT

Sec. 2: All areas within the corporate limits of the town are hereby determined and declared to constitute an “urban district” as defined by IC 9-13-2-192 and unless a higher or lower speed limit has been established under Section 1 of this chapter (or by the Indiana Department of Highways with respect to highways under state jurisdiction), the state presumptive urban speed limit of 30 mph as established by IC 9-21-5-2 shall be deemed to apply and shall be enforced on all public ways within the town whether or not specific signs have been erected.

ARTICLE 4, CHAPTER 3: TOWN TRAFFIC REGULATIONS: INTERSECTION CONTROLS

- SECTION 1: STATE-MAINTAINED ROUTES**
- SECTION 2: PREFERENTIALLY OF PUBLIC WAYS UNDER TOWN JURISDICTION**
- SECTION 3: ERECTION OF STOP OR YIELD SIGNS AT PARTICULAR INTERSECTIONS**
- SECTION 4: STOP INTERSECTIONS**

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MMC 4-3-1: STATE-MAINTAINED ROUTES

Sec. 1: Nothing in this chapter is intended to affect the powers of the Indiana Department of Highways to establish the preferentiality of a state highway or state-maintained route with respect to any public way under town jurisdiction, nor to erect and maintain traffic control devices at such intersections, nor to prevent the enforcement of such state-established regulations.

MMC 4-3-2: PREFERENTIALITY OF PUBLIC WAYS UNDER TOWN JURISDICTION

Sec. 2: In general, and unless otherwise expressly provided in this chapter, the preferentiality of public ways for vehicular traffic is established as follows:

- a. All public streets under town jurisdiction (exclusive of public alleys) which run north and south (more or less) shall be preferential or “though” streets with respect to intersecting town streets running more or less east or west.
- b. All public streets under town jurisdiction, irrespective of direction, shall be preferential streets with respect to all public alleys or other such minor vehicular entrances to the public streets.
- c. All vehicular traffic approaching a preferential street shall stop or yield to traffic on the preferential street when “stop” or “yield” signs or signal are erected at the intersection.

MMC 4-3-3: ERECTION OF STOP OR YIELD SIGNS AT PARTICULAR INTERSECTIONS

Sec. 3: As deemed necessary to enforce the preferentiality of public streets as determined by Section 2 and to protect the public safety, the Town Marshal at the direction of the Town Council or with their approval shall cause appropriate “stop” or “yield” signs or signals to be placed at such particular intersections with preferential streets where they are so deemed necessary. The Town Council shall determine whether the intersection should require a stop or merely a yield regulation.

MMC 4-3-4: STOP INTERSECTIONS

Sec. 4: In addition to the preferences stated above, the following stop signs shall be placed and enforced:

- a. At the North/South intersection of the Blue St. and Iva St. This intersection will now be a four-way stop.
- b. On the East Side of lots 60 and 61 in Zion’s Addition at the intersection with Jackson St.

ARTICLE 4, CHAPTER 4: TOWN TRAFFIC USE RESTRICTIONS ON PUBLIC WAYS

SECTION 1:	USE OF SIDEWALKS BY VEHICLES PROHIBITED
SECTION 2:	STRAWBERRY ROAD CLOSED TO VEHICULAR TRAFFIC AT CERTAIN TIMES
SECTION 3:	ONE-WAY STREETS
SECTION 4:	WEIGHT LIMITS ON TOWN STREETS
SECTION 5:	PROHIBITING VEHICULAR TRAFFIC FROM WATER STREET ONTO HIGHWAY 36
SECTION 6:	DESIGNATING PORTIONS OF CERTAIN ROADS AS PEDESTRIAN/BICYCLE TRAIL
SECTION 7:	DESIGNATING PORTIONS OF CERTAIN ROADS AS PEDESTRIAN/BICYCLE TRAIL

MMC 4-4-1: USE OF SIDEWALKS BY VEHICLES PROHIBITED

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Sec. 1: It shall be unlawful for anyone, with the exception of Town employees on Town business, to ride or drive any car, truck, golf cart, motorcycle, or other motorized vehicle upon any brick, stone, concrete, plank, or gravel public sidewalk or walking trail of the Town of Montezuma, unless in the necessary act of crossing the same. Provided, however, that nothing herein shall prohibit a disabled individual from operating an assistive mobility device or equipment on a sidewalk or walking trail. And further provided that, with respect to walking trails, this prohibition shall not apply to walking trails that are co-located on public streets.

MMC 4-4-2: STRAWBERRY ROAD CLOSED TO VEHICULAR TRAFFIC AT CERTAIN TIMES

Sec. 2: While school is in session at the Montezuma Elementary School, Strawberry Road between Jackson and Monroe Street, including the entrance of Brown Street into Strawberry Road, shall be closed to all public vehicular traffic daily from 2:50 p.m. to 3:05 p.m. and all of such traffic is hereby prohibited thereon during such period.

MMC 4-4-3: ONE-WAY STREETS

Sec. 3: It shall be unlawful to operate any vehicle on any street designated as a one-way street in any direction other than that so designated as one-way streets in the Town of Montezuma. The streets so designated as one-way street are as follows:

- a. Strawberry Road: one-way West from Jackson Street to Monroe Street
- b. Monroe Street: one-way North from Strawberry Road to U.S. Highway 36

MMC 4-4-4: WEIGHT LIMITS ON TOWN STREETS

Sec. 4: All streets in Montezuma shall have a 10,000 LB (5 ton) load limit except as provided below:

Street	Portion Excepted
Jackson Street	Between U.S. 36 and Bloomingdale Road
Bloomingdale Road	Between Town's east limit and Madison Street
North Street	Between Town's north limit and U.S. 36
Washington Street	Between U.S. 36 and Town's south limit
Main Street	Between Washington Street and Town's east limit

The above weight restrictions do not apply to:

- a. Deliveries to retail businesses;
- b. Deliveries of home furnishings;
- c. Deliveries of home heating or cooking fuel;
- d. Trash Pick-up;
- e. Emergency vehicles
- f. Special needs school busses

MMC 4-4-5: PROHIBITING VEHICULAR TRAFFIC FROM WATER STREET ONTO HIGHWAY 36

Sec. 1: It shall be unlawful for a vehicle to cross or enter onto Highway 36 from Water Street. However, vehicles may enter onto Water Street from Highway 36.

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MMC 4-4-6: DESIGNATING PORTIONS OF CERTAIN ROADS AS PEDESTRIAN/BICYCLE TRAIL

Sec. 6: Sections of the following streets, as indicated by a solid painted line, are designated as pedestrian and bicycle trail:

Street	Portion Designated
Wilkinson	Between Jackson and Monroe
Monroe	Between Wilkinson and Adams
Adams	Between Monroe and Water
Water	Between Adam and the B&O Walking Bridge

MMC 4-4-7: DESIGNATING PORTIONS OF CERTAIN ROADS AS PEDESTRIAN/BICYCLE TRAIL

- a. Priority for use of a designated pedestrian/bicycle trail is reserved for pedestrians, bicyclists, joggers, skaters, and others using non-electric or non-gas motorized means of transportation (excepting personal mobility devices operated by a disabled person).
- b. The operator of a motorized vehicle overtaking a pedestrian, bicycle, etc. utilizing the designated pedestrian/bicycle trail shall exercise due care, leaving a safe distance, but in no case less than 3 feet clearance when passing the pedestrian, bicycle, etc. and shall maintain clearance until safely past the overtaken pedestrian, bicycle, etc.

ARTICLE 4, CHAPTER 5: TOWN TRAFFIC AND PARKING REGULATIONS

SECTION 1: GENERAL NON-OBSTRUCTION OF PUBLIC WAYS

SECTION 2: SPECIFIC AREAS WHERE PARKING PROHIBITED OR RESTRICTED

MMC 4-5-1: GENERAL NON-OBSTRUCTION OF PUBLIC WAYS

Sec. 1: No person shall block streets or alleys with automobiles or other vehicles. Alleys and street shall be kept free for passage at all times.

MMC 4-5-2: SPECIFIC AREAS WHERE PARKING PROHIBITED OR RESTRICTED

Sec. 2: Parking of vehicles is prohibited or restricted along certain portions of town streets or other areas as indicated by Schedule "B" below, at such times as indicated in such schedule.

SCHEDULE B PARKING RESTRICTIONS

Street	Date/Time	Portion Affected	Restriction
Strawberry Rd.	Between 8:30 a.m. and 3:30 p.m. on school days	South side; 120 feet east from the corner of Brown St.	No Parking
Strawberry Rd.	Between 8:30 a.m. and 3:30 p.m. on school days	North side; 65 feet west from the corner of Jackson St.	No Parking

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Strawberry Rd.	Between 8:30 a.m. and 3:30 p.m. on school days	North side; 138 feet east from corner of Monroe St.	No Parking
Jackson St.	Between 8:30 a.m. and 3:30 p.m. on school days	West side; 140 feet north from the corner of Strawberry Rd.	No Parking
Jackson St.	All times	Along East side of school	No Parking
Monroe St.	Between 8:30 a.m. and 3:30 p.m. on school days	East side; 144 feet north from the corner of Strawberry Rd.	No Parking
Crawford St.	Between 8:00 a.m. and 10:00 p.m. Mon. thru Sat.	Both sides; between Washington St. and Water St.	2 hour limit; business patronage parking only
Crawford St.	All times	Both sides; between Washington St. and Water St.	2 hour limit for semi-tractor and trailer parking
Washington St.	Between 8:00 a.m. and 4:00 p.m. Mon. thru Sat.	Both sides; First 3 spaces south of Wilkison	15 minute parking
Washington St.	All times	East side of Washington St.; 1 space on each side of the ramp in front of the Post Office	Handicap parking only
Wilkison St.	Between 8:00 a.m. and 4:00 p.m. Mon. thru Sat.	South side; First 3 spaces west of Washington St.	15 minutes parking
Wilkison St.	Between 8:00 a.m. and 4:00 p.m. Mon. thru Sat.	North side; First 2 spaces west of Washington St.	15 minutes parking
Monroe St.	All times	East side; in front of elementary school door	Handicap parking only
Jefferson St.	All times	West side; 2 spaces south of intersection with Patterson St.	Handicap parking only

ARTICLE 4, CHAPTER 6: TOWN TRAFFIC REGULATIONS: ENFORCEMENT PROCEDURES AND PENALTIES

- SECTION 1: FORM FOR TOWN TRAFFIC VIOLATIONS**
- SECTION 2: LIABILITY FOR VIOLATION OF TRAFFIC REGULATIONS; SERVICE OF CITATION**
- SECTION 3: NO CITATION IF REQUIRED SIGNS, SIGNALS, OR MARKINGS ARE NOT PRESENT**
- SECTION 4: UNIFORM SCHEDULE OF TOWN TRAFFIC VIOLATION PENALTIES**
- SECTION 5: PAYMENT OF TOWN TRAFFIC FINES ON WAIVER OF TRIAL**
- SECTION 6: DISPOSITION OF TOWN TRAFFIC FINES**
- SECTION 7: TOWING OF UNATTENDED OR DISABLED VEHICLES**

MMC 4-6-1: FORM FOR TOWN TRAFFIC VIOLATIONS

Sec. 1: In general, whenever any person has been found in violation of any Town traffic regulation, the enforcement officer shall mark the Uniform Traffic Citation form as local ordinance violation complaint so that any fines assessed shall accrue to the Town in accordance with IC 9-4-1-27(b). However, this provision is intended as a general guideline only, and does not prohibit the enforcement officer from citing the violation as a violation of a state law under when applicable and when the enforcement officer believes that such citation and state prosecution is necessary for effective enforcement of the regulation.

MMC 4-6-2: LIABILITY FOR VIOLATION OF TRAFFIC REGULATIONS; SERVICE OF CITATION

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Sec. 2: In the case of any moving violation, the operator of a vehicle at the time the violation occurs shall be cited and held liable for the violation. In the case of a non-moving violation, the operator of the vehicle having caused the violation shall be cited and held liable if such person is present and can be identified; otherwise, the registered or acknowledged owner or lessee of the offending vehicle shall be presumed liable for the violation. If the owner or operator of a vehicle which is in non-moving violation is not present at the scene when the violation is discovered, the citation may be served by securely attaching the violator's copy of the same on a conspicuous location on the vehicle.

MMC 4-6-3: NO CITATION IF REQUIRED SIGNS, SIGNALS, OR MARKINGS ARE NOT PRESENT

Sec. 3: No person shall be cited or subject to penalties for the violation of any town traffic regulation whenever:

- a. Proper signs, signal, or markings are required to be maintained indicating the regulation pursuant to Chapter 1, Section 7 and in accordance with IC 9-4-1-28(c) or another statute; and
- b. Such sign, signal, or marking is not preset, or is not reasonably visible or decipherable.

This section does not affect enforcement of state prima facie speed limits, illegal parking areas which are generally defined by law and wherein parking is prohibited by statute, nor enforcement of other general statutory traffic regulations which are presumed to be known to drivers irrespective of the presence of signs.

MMC 4-6-4: UNIFORM SCHEDULE OF TOWN TRAFFIC VIOLATION PENALTIES

Sec. 4: Violations of Town traffic regulations, when established and when cited as town ordinance violations in accordance with Section 1 of this Chapter, shall be in accordance with the following Schedule C, unless a more specific fine is provided by this code:

SCHEDULE C FINES FOR TRAFFIC VIOLATIONS

Violation	Penalty
Speeding (1-10 MPH over limit)	\$50.00
Speeding (11-20 MPH over limit)	\$60.00
Speeding (more than 20 MPH over limit)	\$75.00
Stop-Yield	\$50.00
One-Way	\$50.00
Improper Turning	\$50.00
No Passing	\$50.00
Prohibited Use of Public Way	\$50.00
Weight Limit	\$50.00
No Parking/Standing	\$50.00
Overtime Parking	\$50.00

The above penalties apply only to violations cited as town ordinance violations, not to violations of state traffic laws or regulations which shall be subject to penalties as provided by state law. Penalties

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as provided in the above schedule are intended to be in addition to any court costs and fees which may apply and to any other damages which may be awarded.

MMC 4-6-5: PAYMENT OF TOWN TRAFFIC FINES ON WAIVER OF TRIAL

Sec. 5: Unless specifically ordered by the Judge of the Parke Circuit Court to make personal appearance, any person who has been cited for a Town traffic violation may waive trial and pay the applicable fine in accordance with this section. The applicable fine is set forth under Schedule C above. If the offense involves a moving violation and further involves a motor vehicle the operation of which must be licensed by the state, the offense is required by law to be reported to Indiana Bureau of Motor Vehicles in accordance with prescribed procedures; therefor, in such case, the citation will be immediately filed with the Clerk of the Parke Circuit Court and the waiver of a trial must be given and the applicable fine paid to and collected by the Clerk of the Parke Circuit Court, along with any applicable court costs and fees. In other cases, the waiver of trial may be given and the applicable fine paid directly to the town Clerk-Treasurer (either personally or by mail) within 15 business days of the date of the citation, without payment of further costs or fees. However, after such 15 days, the Clerk-Treasurer will file the complaint with the Clerk of the Parke Circuit Court and thereafter waiver of trial must be given and the applicable fine, costs, and fees paid to the Clerk of the Court in the same manner as for moving motor vehicle violation.

MMC 4-6-6: DISPOSITION OF TOWN TRAFFIC FINES

Sec. 6: All fines assessed for violation of town traffic regulations and paid pursuant to Sections 4 and 5 above, whether collected by the Clerk-Treasurer or the Clerk of the Parke Circuit Court on waiver of trial or paid under judgment upon trial and conviction, shall be paid over to the Town and deposited in the General Fund.

MMC 4-6-7: TOWING OF UNATTENDED OR DISABLED VEHICLES

Sec. 7: If any vehicle is found by an enforcement officer to be in violation of a town or state traffic regulation and the vehicle is not attended by a driver or is disabled so that the driver is unable to remove it under its own power, and

- a. The area is specifically marked as a tow zone by signs; or
- b. In the opinion of the enforcement officer, leaving the vehicle where it is would cause a significant hazard, obstruction, or inconvenience to the public or the owners of adjoining property;

The officer is authorized to impound the offending vehicle and cause same to be towed away and stored at the owner's expense.

ARTICLE 4, CHAPTER 7: ABANDONED AND JUNK VEHICLES

SECTION 1:	DEFINITIONS
SECTION 2:	LEAVING ABANDONED VEHICLE UNLAWFUL; PENALTIES
SECTION 3:	ENFORCEMENT; TOWING AND STORAGE OF ABANDONED VEHICLES
SECTION 4:	ABANDONED VEHICLES; TOWING COSTS
SECTION 5:	PENALTIES FOR VIOLATIONS
SECTION 6:	ABANDONED VEHICLE FUND

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MMC 4-7-1: DEFINITIONS

Sec. 1: As used hereinafter, the following words and terms shall have the meanings indicated:

- a. "Vehicle" means any motor vehicle or part or appurtenance thereof, designated for use as a conveyance on the public streets and highways, and which is required to be licensed for such use by the Indiana Bureau of Motor Vehicles.
- b. "Abandoned Vehicle" means any vehicle defined as being abandoned by IC 9-13-2-1, excepting those exempted under IC 9-22-1-1.

MMC 4-7-2: LEAVING ABANDONED VEHICLE UNLAWFUL; PENALTIES

Sec. 2: It shall be an unlawful act for any person to leave an abandoned vehicle anywhere the limits of the town for more than 72 hours after the time that such vehicle is first declared to be abandoned and tagged as hereinafter provided. Any person who leaves an abandoned vehicle in violation of this section shall be liable to a fine of not less than \$50.00 nor more than \$100.00 in addition to any costs for towing and storage of the vehicle.

MMC 4-7-3: ENFORCEMENT; TOWING AND STORAGE OF ABANDONED VEHICLES

Sec. 3: Any police officer who has cause to believe that a vehicle is abandoned shall attach a tag to such vehicle of a type and in the manner prescribed by IC 9-22-1-11. If the vehicle is not then removed within 72 hours, the officer shall prepare an abandoned vehicle report pursuant to IC 9-22-1-12 and cause the vehicle to be removed in accordance with IC 9-22-1-13. Upon removal, the officer shall make all necessary notifications to the Bureau of Motor Vehicles in accordance with IC 9-22-1-19. The officer shall cause the vehicle to be removed and stored by a towing service with which the town has a contract under Section 4. Provided, however, that if in the opinion of the officer the market value of an abandoned vehicle or parts is less than \$750.00, the officer shall immediately dispose of the vehicle to a storage yard.

MMC 4-7-4: ABANDONED VEHICLES; TOWING COSTS

Sec. 4: The Town Council may enter into a contract with one or more vehicle towing and storage services for the removal and storage of abandoned vehicles. The contract shall stipulate a schedule of costs and charges to apply under the contract. The owner of the vehicle shall be liable for paying all such costs to the vehicle.

MMC 4-7-5: PENALTIES FOR VIOLATIONS

Sec. 5: It shall be unlawful for any person to leave abandoned vehicle parked on any public property, except temporarily in an emergency and due to mechanical failure while driving such vehicle; or to leave such on private property other than in an enclosed building or other area screened from public view for any continuous period longer than 20 days. In addition to any towing and storage fees, a person violating this section shall be liable to a fine of not less than \$25.00 nor more than \$50.00.

MMC 4-7-6: ABANDONED VEHICLE FUND

Sec. 6: Pursuant to IC 9-22-1-27, the proceeds from the sale of abandoned vehicles or parts, including charges for bills of sale and money received from persons who own or hold liens on vehicles for the cost of removal or storage of vehicles; shall be deposited in the town's abandoned vehicle fund which is hereby established. The costs incurred by a town in administering this chapter shall be paid from the abandoned vehicle fund. The Town Council shall annually appropriate sufficient money to the

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fund to carry out this chapter. Money remaining in the fund at the end of a year remains in the fund and does not revert to the general fund.

ARTICLE 4, CHAPTER 8: VEHICLE RECORDS AND REPORTS

SECTION 1: ACCIDENT REPORT FEE

MMC 4-8-1: ACCIDENT REPORT FEE

Sec. 1: There is hereby established a service and copying fee of \$5.00 for each copy of a motor vehicle accident report requested by persons from the office of the Town Marshal. However, this fee shall not be charged for copies of reports requested by prosecuting attorneys or judges of courts in connection with criminal prosecution of violations of laws or ordinances involving a traffic accident.

ARTICLE 4, CHAPTER 9: SAVING OF STREET AND ALLEY VACATION ORDINANCES

SECTION 1: ORDINANCES VACATING STREETS AND ALLEYS SAVED FROM GENERAL REPEAL

MMC 4-9-1: ORDINANCES VACATING STREETS AND ALLEYS SAVED FROM GENERAL REPEAL

Sec. 1: The provisions of ordinances heretofore adopted by the Town Council for the vacation of former Town streets, alleys, other public ways and their right-of-way are not included as part of this code. However, any and all such ordinances heretofore adopted by the Town Council are hereby saved from any general repeal of prior ordinances under MMC 1-1-7, and no intent is implied to reopen any such public way or reassert right-of-way control by the town.

ARTICLE 4, CHAPTER 10: OPERATION OF OFF-ROAD VEHICLES

- SECTION 1: DEFINITIONS
- SECTION 2: PURPOSES
- SECTION 3: PERSONS AUTHORIZED TO OPERATE OFF-ROAD VEHICLES AND GOLF CARTS ON TOWN ROADS
- SECTION 4: INSURANCE
- SECTION 5: REGISTRATION AND COMPLIANCE WITH STATE LAW
- SECTION 6: RESTRICTIONS ON OPERATION
- SECTION 7: OPERATION ON TOWN ROADS
- SECTION 8: RIGHT TO RESTRICT OFF-ROAD VEHICLES FROM DESIGNATED TOWN ROADS
- SECTION 9: ENFORCEMENT
- SECTION 10: PENALTIES FOR VIOLATIONS
- SECTION 11: USE RESTRICTED DURING FESTIVAL
- SECTION 12: SEVERABILITY/MODIFICATION
- SECTION 13: APPLICABILITY

MMC 4-10-1: DEFINITIONS

Sec. 1: As used in this Chapter the term:

- a. "Operator" means any person at least eighteen (18) years old, holding a valid Indiana license to operate a motor vehicle, or a valid license to operate a motor vehicle from another state.

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- b. "Off-Road Vehicle" means a motor driven vehicle capable of cross country travel without benefit of a road or trail, on or immediately over land, water, snow, ice, marsh, swampland or other natural terrain. It includes, but is not limited to, a multi-wheel drive or low pressure tire vehicle, amphibious machine, ground effect air cushion vehicle or other means of transportation driving power from a source other than muscle or wind. It does not include a farm vehicle being used for farming or a vehicle used for military or law enforcement purposes, a construction, mining, or other industrial related vehicle used in performance of its common function, a snowmobile, a golf cart, a registered air craft, or a golf cart and does not include any other vehicle properly registered by the Indiana Bureau of Motor Vehicles, and any watercraft which is registered pursuant to Indiana Statues.
- c. "Highway, Road or Right-of-Way" means the entire width between the boundary lines of every way maintained by and within the jurisdiction of Montezuma, Indiana, when any part thereof is open to the use of the public for purpose of vehicular travel.
- d. "Operate" means to ride in or on and to be in actual physical control of the operation of an off-road vehicle.
- e. "Golf Cart" means a four (4) wheeled motor vehicle originally and specifically designed and intended to transport one (1) or more individuals and golf clubs for the purpose of playing the game of golf on a golf course.

MMC 4-10-2: PURPOSES

Sec. 2: The purpose of this Chapter is:

- a. To authorize persons holding a valid Indiana motor vehicle driver's license (or a valid motor vehicle license from another State) to operate off-road vehicles registered with the Indiana Department of Natural Resources over and upon town roads.
- b. To authorize persons holding a valid Indiana motor vehicle driver's license (or a valid motor vehicle license from another State) to operate golf carts over and upon town roads.
- c. To establish rules and regulations for the operation of off-road vehicles and golf carts over and upon town roads; and
- d. To promote the safety for persons and property, responsible enjoyment in and connected with the use and operation of off-road vehicles, and understanding consistent with the rights of all the citizens of this town.

MMC 4-10-3: PERSONS AUTHORIZED TO OPERATE OFF-ROAD VEHICLES AND GOLF CARTS ON TOWN ROADS

Sec. 3: All persons at least eighteen (18) years old who hold a valid motor vehicle driver's license are hereby authorized to operate a golf cart and/or an off-road vehicle over and upon town roads under the conditions set forth in this Chapter, and solely for the purpose of reaching a predetermined destination. No person shall operate an off-road vehicle on any town road without a valid motor driver's license.

MMC 4-10-4: INSURANCE

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Sec. 4: Any person who operates an off-road vehicle or golf cart over and upon town roads shall maintain recreational vehicle liability insurance in the minimum amount of One Hundred Thousand Dollars (\$100,000) per person and Three Hundred Thousand (\$300,000) per occurrence insuring against injury to persons and damage to property arising from the use and operation of such off-road vehicle or golf cart upon town roads. Any person who operates an off-road vehicle over and up on town roads shall carry proof of such insurance on his or her person at all times when operating an off-road vehicle on town roads.

MMC 4-10-5: REGISTRATION AND COMPLIANCE WITH STATE LAW

Sec. 5: An off-road vehicle shall not be operated on a town road unless it is duly registered with the Indiana Department of Natural Resources and meets all of the standards requirements and regulations set for in IC 14-16-1-1 et seq.

MMC 4-10-6: RESTRICTIONS ON OPERATION

Sec. 6: No person shall operate a golf cart or off-road vehicle:

- a. At a rate of speed greater than is reasonable and proper having due regard for conditions then existing;
- b. While the operator is under the influence of intoxicating liquor or unlawfully under the influence of narcotic or other habit forming or dangerous depressant or stimulant drug;
- c. During the hours from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise without displaying a lighted headlight and lighted taillight;
- d. On or across a cemetery or burial ground;
- e. On a railroad track or railroad right-of-way, except railroad personnel in performance of their duties;
- f. In a forest nursery, a planting area, or public land posted or reasonable identified as an area of forest or plant reproduction and when growing stock may be damaged;
- g. On the frozen surface of public waters within:
 1. one hundred (100) feet of an individual not in or upon a vehicle not in or upon a vehicle; or
 2. one hundred (100) feet of a fishing shanty or shelter except at speed of not more than five (5) miles per hour.
- h. Unless the vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke;
- i. Within one hundred (100) feet of a dwelling between midnight and 6:00 a.m. except on the individual's own property as an invited guest;
- j. On any property without the consent of the landowner; or

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- k. While transporting on or in the vehicle a firearm unless the firearm is:
 - 1. unloaded; and
 - 2. securely encased or equipped with and made inoperative by a manufactured key locked trigger housing mechanism.
- l. An individual shall not operate a vehicle while a bow is present in or on the vehicle if the nock of a arrow is in position on the string of the bow.
- m. Unless the off-road vehicle or golf cart is equipped with a lighted taillight, the off-road vehicle or golf cart shall display reflective tape or a slow moving vehicle emblem on the rear of the off-road vehicle or golf cart.

MMC 4-10-7: OPERATION ON TOWN ROADS

Sec. 7: A person shall comply with the following when operating an off-road vehicle on a town road:

- a. The operator of an off-road vehicle or golf cart shall abide by all traffic laws governing the operation of motor vehicles in the State of Indiana, set forth in Titles 9 and 14 of the Indiana Code.
- b. The operator of an off-road vehicle or golf cart may not cross a town road or enter upon a town road other than at right angles.
- c. The operator of an off-road vehicle or golf cart shall bring his off-road vehicle or cart to a complete stop before proceeding onto or across a town road and shall yield the right-of-way to traffic.

MMC 4-10-8: RIGHT TO RESTRICT OFF-ROAD VEHICLES FROM DESIGNATED TOWN ROADS

Sec. 8: The Town Council may restrict golf cart or off-road vehicular traffic on town roads by designating such roads as unsuitable for off-road vehicular traffic or golf carts and by posting signs on such designated roads. It shall be a violation of this Chapter to operate an off-road vehicle or golf cart on any town road so designated and posted.

MMC 4-10-9: ENFORCEMENT

Sec. 9: Unless otherwise prohibited by State law, all law enforcement officers having jurisdiction in Montezuma, Indiana, including officers of the Indiana Department of Natural Resources, shall have authority to enforce the provisions of this Chapter.

MMC 4-10-10: PENALTIES FOR VIOLATIONS

Sec. 10: The following penalties shall apply for violations of this chapter:

- a. Pursuant to Indiana Code 14-1-6-29, a person who violates Section 6(b) of this chapter commits a Class B Misdemeanor.
- b. Pursuant to Indiana Code 14-1-6-29, a person who violates any other section of this Chapter commits a Class C Infraction.

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- c. A person less than eighteen (18) years old that operates an off-road vehicle in violation of this Chapter shall, upon conviction, be fined an amount no less than \$100.00, but not to exceed \$2,500.00.
- d. A person who violates Section 11 of this Chapter shall, upon conviction, be fined an amount no less than \$100.00, but not to exceed \$2,500.00.

MMC 4-10-11: USE RESTRICTED DURING FESTIVAL

Sec. 11: Except as permitted in special events by a law enforcement officer in his/her official capacity, off-road vehicles shall not be operated on town roads during the “Covered Bridge Festival.”

MMC 4-10-12: SEVERABILITY/MODIFICATION

Sec. 12: Each section, subsection, sentence clause and phrase of this Chapter is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any section, sub section, sentence, clause or phrase to be unconstitutional, void, or ineffective for any cause shall not affect another section, subsection, sentence, clause of phrase or part hereof.

MMC 4-10-13: APPLICABILITY

Sec. 13: This Chapter shall apply only to the incorporated areas of Montezuma, Indiana. This Chapter shall not be construed to permit the use of off-road vehicles or golf carts on State highways.

ARTICLE 5: PUBLIC SERVICES AND UTILITIES

CHAPTER 1:	ESTABLISHMENT AND ADMINISTRATION OF MUNICIPAL GAS UTILITY
CHAPTER 2:	RULES AND REGULATIONS FOR CONNECTION TO AND USE OF MUNICIPAL GAS SYSTEM
CHAPTER 3:	GAS SERVICE RATES AND CHARGES
CHAPTER 4:	RULES AND REGULATIONS FOR CONNECTION AND USE OF ELECTRIC SERVICE
CHAPTER 5:	ELECTRIC SERVICE RATES AND CHARGES
CHAPTER 6:	WATER SERVICE RATES AND CHARGES
CHAPTER 7:	GENERAL ADMINISTRATION OF MUNICIPALLY OWNED UTILITIES

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ARTICLE 5, CHAPTER 1: ESTABLISHMENT AND ADMINISTRATION OF MUNICIPAL GAS UTILITY

SECTION 1: MUNICIPAL GAS UTILITY AND SYSTEM ESTABLISHED

SECTION 2: GAS UTILITY CONSTRUCTION AND OPERATING FUND ESTABLISHED

MMC 5-1-1: MUNICIPAL GAS UTILITY AND SYSTEM ESTABLISHED

Sec. 1: Whereas, the Board of Trustees of the Town of Montezuma, Indiana, adopted on February 12th, 1934, the following resolution: "Be it resolved by the Board of Trustees of the Town of Montezuma, Indiana, as follows:

That the Board of Trustees of said Town of Montezuma, Indiana, hereby declares there exists a public necessity, and convenience requires that a certain municipal utility - commonly called a gas distribution system - for the purpose of transmitting, delivering, sale and furnishing heat and/or gas to the public of said Town as well as to the public within six miles thereof, be erected, established, constructed, owned and operated by said Municipality."

And, pursuant to said resolution, said Board called a special election to be held on the 2nd day of March, 1934, for the purpose of having the voters of said Town vote for or against the proposed gas system, as disclosed by the return of the Board of Election Commissioners to the Trustees of said Town (said return to report being entered in the minute book of said Town); it is hereby ordered that the Town shall immediately proceed with the construction, erection, and establishment of, and own and operate, a certain municipal utility- commonly known as a gas distribution system- for the purpose of transmitting, delivering, selling and furnishing heat and/or gas to the public of said Town as well as the public within 6 miles thereof.

MMC 5-1-2: GAS UTILITY CONSTRUCTION AND OPERATING FUND ESTABLISHED

Sec. 2: There is hereby created a separate fund for the Town known and designated as the Municipal Gas Fund. All expenses, both construction and operation, of the municipal gas system and also all receipts of said system shall be placed in said fund.

ARTICLE 5, CHAPTER 2: RULES AND REGULATIONS FOR CONNECTION TO AND USE OF MUNICIPAL GAS SYSTEM

SECTION 1: INITIATION OF GAS SERVICE; TAP FEE AND DEPOSIT; METER REQUIREMENTS

SECTION 2: EXTENSION OF SERVICE; LIABILITY OF CUSTOMER

SECTION 3: ACCESSORIES AND INSTALLATION PROVIDED BY GAS UTILITY

SECTION 4: RESTRICTION ON AUXILIARY OR SECONDARY SERVICE CONNECTIONS

SECTION 5: CONNECTIONS TO GAS DISTRIBUTION SYSTEM

SECTION 6: PRESENCE OF CUSTOMER OR REPRESENTATIVE REQUIRED WHEN GAS TURNED ON

SECTION 7: REQUIREMENTS AND STANDARDS; INSPECTION AND TESTING

SECTION 8: ATTACHMENT OF CERTAIN APPLIANCES RESTRICTED

SECTION 9: WORK ON METERS OR UTILITY'S SERVICE PIPES RESTRICTED

SECTION 10: RESPONSIBILITY OF OWNER OR CUSTOMER FOR PORTION OF SYSTEM

SECTION 11: METER DEFECTS; CUSTOMER COMPLAINT; BILL ADJUSTMENT

SECTION 12: RIGHT TO ENTER PREMISES FOR INSPECTION AND TESTING

SECTION 13: REALE OR REDISTRIBUTION OF GAS BY CUSTOMER PROHIBITED

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SECTION 14:	VOLUNTARY DISCONTINUATION OF GAS SERVICE
SECTION 15:	TEMPORARY OR PERMANENT DISCONTINUATION BY UTILITY
SECTION 16:	AMENDMENTS TO RULES AND REGULATIONS

MMC 5-2-1: INITIATION OF GAS SERVICE; TAP FEE AND DEPOSIT; METER REQUIREMENTS

Sec. 1: Each customer must make application in person at the office of the gas utility for gas connection or service. All applications for gas service subsequent to the completion of the system will be served in accordance with the rules and regulations set forth in this chapter. Any tap-in fee and/or guarantee deposit as then applicable must be paid before the tap will be made or meter set. Gas shall be supplied only through meters and a separate meter shall be required for each consumer and for each dwelling unit. Meters shall be read monthly by the Town.

MMC 5-2-2: EXTENSION OF SERVICE; LIABILITY OF CUSTOMER

Sec. 2: Should it be impossible or inexpedient, on account of lack of funds, for the utility to run a service line or main, make connections, and furnish a meter for any customer, or should the customer's premise be so far from the gas mains that it is not practical, on account of the expense, to run a line to the customer's premise, then the customer shall have the privilege of paying the total labor and material expenses of the installation and of being reimbursed for same by having one-half of his bill each month credited to the account for a period of 4 years or until the cost of the installation has been returned to him. Title and ownership of such installation shall at all times be in the name of the Town.

MMC 5-2-3: ACCESSORIES AND INSTALLATION PROVIDED BY GAS UTILITY

Sec. 3: Subject to the provisions of Section 2, the utility will furnish and install for each customer a meter, regulator, lock wing stop cock and necessary fittings to connect the same. All material furnished shall be and remain the property of the Town. All other material and labor not mentioned as furnished by the utility, including the labor and expense of the installation from the curb, shall be borne by the customer or owner of the premises. Meters shall be installed under the supervision of the Superintendent. However, for temporary service, the customer shall pay the entire cost or furnish all labor, material and all other necessary expenses incurred in supplying gas service for temporary or purpose or use.

MMC 5-2-4: RESTRICTION ON AUXILIARY OR SECONDARY SERVICE CONNECTIONS

Sec. 4: No additional tap shall be made, service line laid or meter set for gas service in a garage, shop or other building on any lot where there already exists a service line to the residence or main building of the customer.

MMC 5-2-5: CONNECTIONS TO GAS DISTRIBUTION SYSTEM

Sec. 5: House service lines shall be connected to the utility's line at the curb and shall be constructed, tested and approved in accordance with the rules and regulations established by the utility. All taps and connections to the gas mains and services of the gas system shall be made under the authority and supervision of the Superintendent of the utility, and anyone found tampering with any part of the gas system without authority from the Superintendent will be liable for prosecution.

MMC 5-2-6: PRESENCE OF CUSTOMER OR REPRESENTATIVE REQUIRED WHEN GAS TURNED ON

Sec. 6: As a safety precaution the customer, or a representative of the customer, must be present on the premises when gas service is turned on by the utility.

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MMC 5-2-7: REQUIREMENTS AND STANDARDS; INSPECTION AND TESTING

Sec. 7: The design and construction of that portion of the gas system on a customer's premises must comply with the following requirements and standards:

- a. **General Standards:** All materials must be of a quality accepted by best gas fitting practice and of serviceable condition. Bushings and concealed unions will not be permitted. Service will not be permitted through piping systems embracing any temporary or unsafe repairs or makeshift connections of any kind whatsoever.
- b. **Service Line from Curb to Meter:** The service line from the curb to the meter location shall be part of the property and shall be installed and maintained at the property owner's expense, but its use as a gas service line will be subject to the inspection and approval of the utility. The owner may have such line installed by anyone competent to do such work, subject to inspection and approval by the utility. The following design and construction standards apply:
 1. The service line shall be not less than 1-1/4" and shall be connected to the utility's line at the curb without union or with a Dresser type coupling, which shall be equal in design and workmanship to those produced by the S. R. Dresser Co.
 2. Service lines shall preferably be installed in a straight line at right angles to the line of property where the service line enters.
 3. No cast iron screwed fittings will be allowed on underground piping.
 4. Service lines shall have a minimum cover of 12" and shall be laid in a separate trench where no other pipes or conduits are laid.
 5. Where a service line passes through a cellar wall, the opening shall be tightly cemented on both sides at that point.
 6. Where conditions force the laying of a service line under a building, the service line shall be cased to points beyond the foundation of the building.
- c. **Meter Location:** The utility shall have the right to determine the location of its meters, which must be placed where they will be easily accessible, not exposed to extreme heat (as near steam pipes or furnaces), dampness, frost, sudden changes of temperature, or liability to damage by having things thrown on them. Meters will not be set in coal cellars under any circumstances, nor under the deck of show windows or in small closets. Where it becomes necessary to locate meters in confined spaces, means must be provided for thorough ventilation to eliminate any damage from escaping gas.
- d. **Standards for Piping within Buildings:** The minimum in length of house piping shall be governed by the number of 3/4" openings to be supplied as follows:

FEET OF PIPE PERMITTED BY PIPE SIZE			
Number of 3/4' Openings	3/4" Pipe	1" Pipe	1 1/2" Pipe
1	40	75	100

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2	20	70	100
3	10	40	100
4	---	25	65

For other opening sizes and for purposes of applying the above table, each 1" opening shall be counted as two 3/4" openings and each 1-1/4" opening shall be counted as three 3/4" openings. An opening left in house piping for a furnace connection shall not be less than 1-1/4". No piping or openings smaller than 3/4" shall be allowed for any purpose except for mantels, grates, small heating appliances, and Bunsen-type burners as used by doctors, dentists and laboratories. Twenty feet of 1/2" pipe may be run for one such opening and two 1/2" openings shall be considered equivalent to one 3/4" opening. For piping to be installed to supply hotel, restaurant, industrial and other heavy duty equipment, the utility should be consulted in making the layout.

- e. Remodeling or Extension of Old Gas Systems: In remodeling or extending old gas piping where additional load is connected, connections must be made where sizes can be maintained in accordance with the above rules and regulations. the old piping must be included in the test to which the new extension is subjected. It shall be the duty of the customer to notify the utility of any changes or alterations, remodeling or reconstruction effecting gas piping occasioned either by design or accident in any building where gas has previously been used, and gas shall not again be turned into the lines of such building until such lines been tested by a competent plumber or gas fitter and the test has been inspected and approved by the Superintendent of the utility or his agent.

Each and every job of gas piping, extensions, and all service tines before the line is covered, must be tested by a competent plumber or gas fitter and inspected by the utility. The piping must be subjected to an air pressure of at least 10" mercury column, which it must maintain 20 minutes without leakage. Request for inspection of test must be made by the gas fitter or owner of the premises 24 hours in advance of the time when inspection is desired. One inspection of each job of piping will be made without charge, but when piping fails to pass inspection for any reason there will be a charge of 50¢ for each additional inspection. The utility will not be responsible for any imperfect material or defective or faulty workmanship or for any loss or damage arising from such imperfect material or defective or faulty workmanship in any job of gas fitting inspected by its inspectors, but for protection, adequacy and safety of service to its customers, the utility has adopted these rules and regulations, and may refuse to turn on gas in any premises when gas piping does not conform to these rules and regulations.

MMC 5-2-8: ATTACHMENT OF CERTAIN APPLIANCES RESTRICTED

Sec. 8: The customer shall not attach or use any appliance or device which will in any way modify or disturb the evenness of pressure of other customers in his locality.

MMC 5-2-9: WORK ON METERS OR UTILITY'S SERVICE PIPES RESTRICTED

Sec. 9: The owner or customer shall not permit anyone, and outside gas fitters and all other persons not authorized agents of the utility are forbidden, to connect or disconnect the utility's meters or service pipes, turning gas on in premises where it has been turned off, or in any way altering or interfering with the utility's meters or service pipes. The utility will promptly, upon receipt of notice,

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attend to any work required in connection with its meters or service pipes. The utility's service pipe is understood to be that portion of the service line between the main and curb cock.

MMC 5-2-10: RESPONSIBILITY OF OWNER OR CUSTOMER FOR PORTION OF SYSTEM

Sec. 10: A customer shall take due care to prevent any waste of gas. All service and house lines and fixtures from the curb or lot line installed at the expense of the owner or customer shall be kept and maintained in condition satisfactory to the utility by the customer or owner of the property. When leaky hazardous conditions of service or house lines are found, repair shall be made promptly by the customer or owner, and the gas will be shut off until repairs are made. In case of detection of a leak within his premises, the customer shall immediately shut off the gas at the meter, extinguish all lighted flames or fires within the premises, open all doors and windows to permit the escape of gas, at once notify the utility by telephone or messenger, and call a plumber or gas fitter so that the conditions existing may receive prompt and proper attention. When gas has been shut off because of leak or hazardous condition of service, or house lines or fixtures, it shall not be turned on again until such leak or hazardous condition has been repaired and made safe either by a competent plumber or gas fitter. In the event of failure or deficiency of gas, the customer shall shut off gas at meter, notify the utility and be governed by the instruction or assistance received from the utility.

MMC 5-2-11: METER DEFECTS; CUSTOMER COMPLAINT; BILL ADJUSTMENT

Sec.11: The quantity of gas delivered to each customer shall be ascertained by the readings of the meter furnished, and each and every successive reading thereof shall be final and conclusive unless objections are made in writing to the utility within 15 days following the date upon which the reading complained of was taken, stating the particulars of such objection and identifying the meter complained of. In such event, the reading or bill objected to shall remain open for adjustment upon the testing of the meter, which the utility at once will proceed to do. The customer who objects to such reading shall, at the time of filing his objection as above provided for, deposit with the utility the sum of \$15.00 to cover the expense of such test. If such test shows the meter to be incorrect, then the utility shall return the above deposit and replace the meter with one registering correctly, and the readings of the removed meter since and including the readings objected to shall be at once corrected according to such test and the accounts of the utility and the customer readjusted and the payment or reimbursement, as the case may be, made in accordance with such readjustment. A meter registering between 2% fast and 2% slow shall, be treated for all purposes hereof as one registering correctly. Should any meter fail to register or its readings are so wholly unreliable that they cannot be taken for a basis of adjustment, then the amount of gas passing through that meter shall be ascertained by taking readings of the meter replacing it for the month succeeding and adjusting to temperature averages. All the provisions hereof shall apply to the first meter installed for any customer and to all meters installed in place thereof. No objection or complaint filed against any meter reading shall stay the regular delivery of gas by the utility nor the payment of the monthly gas bill by the customer, which shall continue and be made without interruption or delay, all difference between the utility and the customer being corrected in the adjustment above provided for.

MMC 5-2-12: RIGHT TO ENTER PREMISES FOR INSPECTION AND TESTING

Sec. 12: The utility, or its authorized agents, shall have the right and privilege of entering the premises of customers at any reasonable time for the purpose of determining if the gas is being carried, distributed and burned in a proper and safe manner and in accordance with these rules, or to inspect and test meters, lines and other appliances or to remove any meter and replace it with another. Refusal on the part of the customer to allow access to his premises for such purpose shall constitute sufficient cause for turning off the gas supply to such premises.

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MMC 5-2-13: RESALE OR REDISTRIBUTION OF GAS BY CUSTOMER PROHIBITED

Sec.13: The customer shall not supply or sell delivery through his meter for use in any premises not served by such meter according to the records of utility covering such meter installation.

MMC 5-2-14: VOLUNTARY DISCONTINUATION OF GAS SERVICE

Sec. 14: Any customer who intends to move from the premises, discontinue the use of gas, or terminate in any manner his liability to pay for gas delivered to the premises, shall give at least 24 hours' notice to the utility, and the bill for gas used will be due and payable immediately upon the discontinuance of the use of gas.

MMC 5-2-15: TEMPORARY OR PERMANENT DISCONTINUATION BY UTILITY

Sec. 15: The authorized agents of the utility shall have access to the premises of the customer at any reasonable time, with the right to shut off the gas and remove its property from the premises, for any of the following reasons:

- a. For repairs or because of leaks;
- b. For non-payment of any bill, for failure to make a proper deposit or for failure to increase the deposit as provided herein;
- c. For any violation of the contract;
- d. For fraudulent representation in relation to the consumption of gas;
- e. Customer vacates or abandons the premises;
- f. For fraudulent tampering with the meter or connections or for the use of gas through rubber hose or other unsafe appliances;
- g. For shortage of gas or reasons of safety;
- h. For larceny of gas; or
- i. For any action by the customer to secure, through his meter, gas for purposes other than those contracted for herein, or for any other party without the written consent of the utility.

MMC 5-2-16: AMENDMENTS TO RULES AND REGULATIONS

Sec. 6: The Town Council reserves the right to change or notify or add to any of these rules and regulations at any time subject to the approval of the Indiana Utility Regulatory Commission..

ARTICLE 5, CHAPTER 3: GAS SERVICE RATES AND CHARGES

SECTION 1:	GENERAL PROVISIONS AND APPLICABILITY OF RATES AND CHARGES
SECTION 2:	AVAILABILITY AND CHARACTER OF SERVICE
SECTION 3:	DEFINITIONS AND MEASURES
SECTION 4:	TAP FEE

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SECTION 5:	GUARANTEE DEPOSIT
SECTION 6:	MONTHLY USE RATES AND MINIMUM MONTHLY CHARGE
SECTION 7:	RATE ADJUSTMENT TRACKING FACTOR
SECTION 8:	TEMPORARY SERVICE SURCHARGE AND TURN-ON FEE
SECTION 9:	DELINQUENT BILLS; DEFERRED PAYMENT CHARGE

MMC 5-3-1: GENERAL PROVISIONS AND APPLICABILITY OF RATES AND CHARGES

Sec. 1: All rates and charges shall be nondiscriminatory, provided that the Town Council reserves the right to impose special rates and charges in cases where particular circumstances render the regular rates inadequate or unjust. For gas service rendered to the Town, regular rates shall be charged against the Town. No free service of the gas utility shall be furnished to any person, firm, organization, or corporation, either public or private. Meter deposits, refunding of deposits, setting off of unpaid bills against refunds of meter deposit, refunds due to mistakes in billing or meter reading, etc. shall be governed by the utility rules and regulations in effect at the time.

MMC 5-3-2: AVAILABILITY AND CHARACTER OF SERVICE

Sec. 2: Natural gas of approximately 1,000 BTU content per cubic foot will be available for any residential, commercial, or industrial customer in the Montezuma service area. The sales unit of the gas deliverable by the gas utility to its customers shall be 100 standard cubic feet (CScf) based upon the definition provided in Section 3 below. A standard cubic foot of natural gas will have a heating value of 1,000 BTUs.

MMC 5-3-3: DEFINITIONS AND MEASURES

Sec. 3: As used in this chapter, the following definitions of terms and equivalences of measurements apply:

- a. "Standard Cubic Foot (Scf)" of natural gas is defined as one cubic foot of gas when at a base temperature of 60° F. and a base pressure of 14.73 psia.
- b. 100 Cu. ft. of gas = 1 therm = 100,000 BTUs.

MMC 5-3-4: TAP FEE

Sec. 4: For initially tapping into the utilities distribution line, there shall be a tap fee of \$375.00

MMC 5-3-5: GUARANTEE DEPOSIT

Sec. 5: The utility shall require from any applicant for service a deposit of \$30.00. The deposit, minus any unpaid amount for service rendered to the customer, will be returned upon discontinuance of service. Deposits shall be handled in accordance with MMC 5-7-9.

MMC 5-3-6: MONTHLY USE RATES AND MINIMUM MONTHLY CHARGE

Sec. 6: Rates and charges for the use of and services rendered by the municipal gas utility of the Town of Montezuma are hereby established. Such rates and charges shall be made and collected against each consumer who shall directly or indirectly receive gas from said municipal utility. The rates and charges shall be based upon the quantity of gas used by each consumer as measured by the consumer's gas meter after adjustment to units of thermos. The charge shall be computed on a monthly basis according to the following schedule of rates and charges (subject to adjustment in accordance with Section 7):

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<u>ALL SERVICE, INCLUDING SPACE HEATING</u>	<u>RATE PER THERM</u>
First 5 therms	\$1.9389
Next 15 therms	\$0.7955
Next 30 therms	\$0.6260
Over 50 therms	\$0.5694
Minimum Monthly Billing (3.33 therms)	\$4.73

In determining the above rates, the Town Council has specifically elected to earn a 0% rate of return on its original cost rate base.

MMC 5-3-7: RATE ADJUSTMENT TRACKING FACTOR

Sec.7: The rate adjustment for the above rates shall be on the basis of a rate tracking factor, occasioned solely by changes in cost of purchased gas, in accordance with order of the Public Service Commission of Indiana, approved August 3, 1983, in Cause No. 37279. The factor per month is \$.0098 per thermo used per month.

MMC 5-3-8: TEMPORARY SERVICE SURCHARGE AND TURN-ON FEE

Sec. 8: For temporary service, a rate for gas 20% higher than the above schedule shall apply, plus a fee of \$5.00 for turning on and turning off the gas.

MMC 5-3-9: DELINQUENT BILLS; DEFERRED PAYMENT CHARGE

Sec. 9: Bills for gas service shall be rendered monthly, and shall be delinquent 20 days after their rendition. Bills unpaid after 20 days following the date as stated on the bill shall be subject to a collection charge of 10% on the first \$3.00 of unpaid billing, and 3% on the balance of unpaid billing in excess of \$3.00.

ARTICLE 5, CHAPTER 4: RULES AND REGULATIONS FOR CONNECTION AND USE OF ELECTRIC SERVICE

SECTION 1:	REQUIRING METERS AND PROHIBITING RESALE
SECTION 2:	FREE SERVICE PROHIBITED; RATES TO BE NONDISCRIMINATORY
SECTION 3:	SERVICE SUBJECT TO UTILITY RULES AND REGULATIONS
SECTION 4:	CLASSES OF SERVICE AVAILABLE
SECTION 5:	EMERGENCY CURTAILMENT RULES; DEFINITIONS
SECTION 6:	EMERGENCY CURTAILMENT RULES; REDUCTION DURING FUEL SHORTAGES
SECTION 7:	EMERGENCY CURTAILMENT RULES; VOLUNTARY LOAD REDUCTION
SECTION 8:	EMERGENCY CURTAILMENT RULES; MANDATORY LOAD REDUCTIONS
SECTION 9:	EMERGENCY CURTAILMENT RULES; MANDATORY CURTAILMENT PROCEDURES
SECTION 10:	EMERGENCY CURTAILMENT RULES; RESTORATION OF SERVICE
SECTION 11:	DELINQUENT BILLS; DEFERRED PAYMENT CHARGE; DISCONNECTION
SECTION 12:	EMERGENCY CURTAILMENT RULES; NONCOMPLIANCE
SECTION 13:	EMERGENCY CURTAILMENT RULES; PRIORITY OVER OTHER RULES

MMC 5-4-1: REQUIRING METERS AND PROHIBITING RESALE

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Sec. 1: Electricity shall be supplied only through meters, and the meters shall be read monthly by the Town. A separate meter shall be required for each consumer and for each dwelling unit, and no electricity shall be purchased for resale.

MMC 5-4-2: FREE SERVICE PROHIBITED; RATES TO BE NONDISCRIMINATORY

Sec. 2: No free service of the electric utility shall be furnished to any person, firm, organization or corporation, public or private, and all rates and charges shall be nondiscriminatory, provided that the Town Council reserves the right to impose special rates and charges in cases where particular circumstances render the regular rates inadequate and unjust. For all electric services rendered to the Town, regular rates therefore shall be charged against the Town, and payment made from the funds thereof to the Electric Utility Fund.

MMC 5-4-3: SERVICE SUBJECT TO UTILITY RULES AND REGULATIONS

Sec. 3: All applications for electric service, meter deposits, refunding of deposits, setting-off of unpaid bills against refunds of meter deposit, and refunds due to the mistakes in billing or meter reading shall be governed by, and in accordance with, the utility rules and regulations in effect at the time.

MMC 5-4-4: CLASSES OF SERVICE AVAILABLE

Sec. 4: Municipal electric service will be available by class of service subject to the special qualifications and requirements as hereinafter set forth in this section, at the applicable rate for each respective class of service as set forth in Chapter 5 of this article. The classes of service are as follows:

- a. General Power Service: This class of service is available to any customer for general power service excluding lighting. The customer must be located adjacent to an electric distribution line of the utility that is suitable and adequate for supplying the service requested. Power will be alternating current having a frequency of 60 cycles at any standard voltage supplied by the utility. The utility will supply and maintain, at a single location, the complete substation equipment that is necessary to make one transformation to a standard voltage from the voltage of the distribution line. Only one such transformation will be installed at the utility's expense. Any customer requiring a nonstandard voltage shall, at his own expense, furnish and maintain all transformers and protective equipment necessary in order to obtain such nonstandard voltage. All wiring, poles, lines, wires, and other electrical equipment and apparatus located beyond the point of connection of the customer's service lines with the lines of the utility are considered the distribution system of the customer and shall be furnished, owned, and maintained by the customer, except in the case of metering equipment and other equipment incidental to the rendering of service, if any, that is furnished, owned and maintained by the utility and installed beyond the point of connection,

- b. Commercial Service: This class of service is available for single phase commercial service, including commercial lighting, miscellaneous small appliances, refrigeration, cooking appliances, water heating, and incidental small motors not exceeding 1/2 horsepower individual capacity or 3 HP combined capacity. The customer must be located on the utility's distribution lines within the corporate limits of the Town of Montezuma or adjacent territory, and can be served from the distribution systems suitable and adequate for supplying the service requested. Service will be alternating current, 60 cycles, single phase, at a voltage of approximately 115 volts 2-wire, or 115/230 volts 3-wire, at the rate provided under Chapter 6; however, appliances requiring 3-phase service or a voltage greater than 115/230 volts will be supplied under the applicable rate. Service to equipment having highly fluctuating or

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intermittent characteristics and having a combined input capacity in excess of 3 kva will not be permitted under this class. Customers having x-ray or welding machines having a total input capacity in excess of 3 kva can secure service for equipment under the applicable rate. All wiring, poles, lines, wires, and other electrical equipment and apparatus located beyond the point of connection of the customer's service lines with the lines of the utility are considered the distribution system of the customer shall be, owned, maintained by the customer, except in the case of metering equipment and other equipment incidental to the rendering of service, if any, that is furnished, owned, maintained by the utility and installed beyond the point of connection.

- c. In-Town Residential Service: This class of service is available only to customers located within the corporate limits of the Town of Montezuma and is available only for residential service to an individual residence or dwelling designed and arranged so provide living quarters for one family, including residential lighting, household appliances, refrigeration, cooking appliances, water heating and small motors not exceeding 5 horsepower individual capacity. Service will be alternating current, 60 cycle, single-phase at a voltage of approximately 115 volts 2-wire, or 115/230 volts 3-wire. Customers shall not have the privilege of taking service for two or more separate residences through a single meter under this rate, except that in the case of an apartment house with a number of individual apartments, the landlord is given the option of providing separate wiring for each apartment, so that the utility may supply each apartment separately under this rate schedule, or of combining the service through a meter and being billed for or the combined service on the commercial rate. This class of service shall not apply to that portion of a residence which becomes regularly used for commercial or manufacturing purposes. Where a portion of the customer's premises becomes regularly used for commercial or manufacturing purposes, customers shall have the option of separating the wiring so that the residential portion of the premises can be served through a separate meter under this class, and the commercial or manufacturing portion of the premises can be served through a separate meter under the applicable class for the service required. In the event the customer does not exercise the option of separating the wiring, the applicable rate shall be applied to the total requirements of the customer. Service to equipment having highly fluctuating or intermittent characteristics and having combined input capacity in excess of 5 kva will not be permitted under this rate. Customers having x-ray or welding machines having a total input capacity in excess of 5 kva can secure service for such equipment under the applicable power rate.
- d. Rural Residential Service: This class of service is available for residential or farm service to any customer located outside the limits of the Montezuma, Indiana, rate area, as such limits are defined by the rate area for such Town filed with the Public Service Commission of Indiana, who cannot be served from the Town's secondary distribution system, but do reside within 1000 feet of the primary voltage line suitable and adequate for supplying the service requested. Otherwise, this class of service is of the same character and is governed by the same requirements and conditions as provided for in-Town residential service under subsection I above.
- e. Municipal Street Lighting Service: This class of service is available to the Town of Montezuma for street lighting only, for all night service. Service will be alternating current, 6.6 amperes lot series use only. All renewals, maintenance, and extensions are to be made at the expense of the Municipal Utilities, Electric Department. The number of lamps used, candle power, and location of each lamp shall rest in the discretion of the Town Council.

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MMC 5-4-5: EMERGENCY CURTAILMENT RULES; DEFINITIONS

Sec. 5: For the purpose of Sections 6 through 13 of this chapter, the following terms shall have the meanings indicated:

- a. "Human needs customers" shall include hospitals, medical centers, nursing homes, and customers where curtailment would adversely affect public health and safety such as municipal fire departments, police departments, civil defense, and emergency Red Cross Services, and any other facility whose use of electric energy is vital to public health and safety as determined by the utility.
- b. "Residential Customers" shall mean customers living in residential dwellings, mobile homes, apartments, or condominiums.
- c. "Commercial customers" shall mean customers engaged primarily in wholesale or retail trade and services including clubs, institutions, and local, state and federal governmental agencies, except educational institutions.
- d. "Industrial customers" shall be customers who are engaged primarily in a process that creates or changes raw or unfinished materials into another form or product.
- e. "Service obligation" shall be the largest metered demand (peak demand for customers served on industrial and commercial rates) in the previous twelve months. If no such demand information is available, an estimate will be used determined by dividing the KWH in the maximum usage month in such previous twelve months by 200 hours.
- f. "Living quarters", as used in Service Priority Class II, shall mean hotels, motels, dormitories and similar dwelling places.
- g. "Base monthly consumption" will be the customer's average billing month usage are based upon the three month period in the prior twelve months which corresponds to the billing month being curtailed and the immediately preceding and succeeding months. Adjustments may be made for customers with changed circumstances that have caused the prior year's usage during the period to be non-representative of current usage during the period.
- h. "Dispensable uses" means the following and similar types of uses of electric energy:
 1. Outdoor flood and advertising lighting, except for the minimum level necessary to protect life and property and single illuminated sign identifying commercial facilities that are open after dark;
 2. General lighting levels in stores and offices greater than minimum functional levels;
 3. Show window and display lighting;
 4. A greater number of elevators operating in office buildings during non-peak hours than is necessary;

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5. Parking lot lighting above minimum functional levels;
6. Energy use greater than that necessary to maintain a temperature of no less than 78° during operation of cooling equipment, and no more than 65° during operation of heating equipment;
7. Greater than minimum work schedules, as for building cleaning and maintenance, restocking, etc., which would require office or industrial facilities to be illuminated, cooled, or heated beyond normal working hours;
8. Nighttime sports and recreational activities; and
9. Public museums, art galleries, and historic buildings requiring illumination, cooling or heating.

MMC 5-4-6: EMERGENCY CURTAILMENT RULES; REDUCTION DURING FUEL SHORTAGES

Sec. 6: This step will be taken by the utility when its fuel supplies are decreasing and the remaining fuel supplies are sufficient, in its opinion, for not more than approximately 50 days' operation of its generation facilities:

- a. The utility's use of electric energy will be reduced in any way that will not jeopardize essential operations.
- b. Fuel supply levels at the utility's generating stations will become a determinant in economic dispatch decisions in the effort to maintain a reasonable supply of fuel at all generating stations.
- c. The utility will partially or fully terminate the availability of electric energy under the surplus capacity provisions of rates for industrial and commercial power service. This shall not apply to cooperative or municipal utilities with generation.

MMC 5-4-7: EMERGENCY CURTAILMENT RULES; VOLUNTARY LOAD REDUCTION

Sec.7: If fuel supplies continue to decrease and the utility's remaining fuel supply is sufficient, in its opinion, for not more than 50 days' operation of its generating facilities, appeals to users will be made for the voluntary curtailment of load. Efforts should be made to obtain a decrease in usage of approximately 25%, except that a lesser amount would be the goal for specific customers if the 25% reduction would result in situations where health and safety is not adequately protected. Public appeals will be made by the utility through appropriate news media asking customers to reduce their use of electric energy by approximately 25% because of the impending fuel shortage. Direct appeals will be made by the utility to major industrial and commercial customers and to wholesale customers requesting them to shut all nonessential loads, and curtail usage in an effort to obtain a 25% reduction.

MMC 5-4-8: EMERGENCY CURTAILMENT RULES; MANDATORY LOAD REDUCTIONS

Sec. 8: When fuel supplies are sufficient for not more than 40 days operation of the utility's generating facilities, or when for any reason sufficient amounts of electric power, in the judgment of the utility, are not available to meet all existing and reasonably anticipated demands for service or to protect the integrity and stability of the system, the utility shall have the right to restrict, limit or curtail electric service within any of its systems so affected in accordance with any of the provisions of this chapter. If fuel supplies continue to decrease and the utility's remaining fuel supply is sufficient, in its opinion,

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for not more than 40 days operation of its generating facilities, mandatory curtailment will commence pursuant to Section 9 of this chapter. Priority of service in the event of mandatory curtailment shall be as set forth below. The highest priority is Service Priority Class I and the lowest priority of service is Service Priority Class V.

Service Priority	Class Respecting
I	Human Needs
II	Residential and living quarters
III	Commercial and industrial customers
IV	Schools, colleges, universities and other educational institutions
V	Dispensable uses and surplus capacity power

MMC 5-4-9: EMERGENCY CURTAILMENT RULES; MANDATORY CURTAILMENT PROCEDURES

Sec. 9: Curtailment, unless pursuant to Section 11, shall begin with Service Priority Class V and continue as necessary through Service Priority Classes IV, III, II and I as follows:

- a. 40 Day Fuel Supply: When the utility's fuel supply reaches 40 days, public notice, by press release, shall be given to:
 1. Service Priority Class V customers to fully (100%) curtail such service, provided, however, that any dispensable use shall be provided the minimum amount of electricity to protect and maintain the dispensable use facilities;
 2. Service Priority Class IV customers to curtail service to a service level of not more than 50% of service obligation or base monthly consumption, whichever is applicable as determined by the utility;
 3. Service Priority Class III customers to curtail service to a service level of not more than 75% of service obligation or base monthly consumption, whichever is applicable as determined by the utility; and
 4. Service Priority Class II customers to curtail service to a service level of not more than 85% of service obligation or base monthly consumption, whichever is applicable as determined by the utility.
- b. 30 Day Fuel Supply: When the utility's fuel supply reaches 30 days, public notice shall be given to:
 1. Service Priority Class IV customers to curtail service fully to a service level that is necessary to protect and maintain Service Priority Class IV facilities;
 2. Service Priority Class III customers to curtail service to a service level of not more than 50% of service obligation or base monthly consumption, whichever is applicable as determined by the utility; and

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3. Service Priority Class II customers to curtail service to a service level of not more than 75% of service obligation or base monthly consumption, whichever is applicable as determined by the utility.
- c. Further Need for Reduction: After Service Priority Classes IV, III and II are curtailed to a level of not more than indicated in subsection (b) above of service obligation or base monthly consumption, Service Priority Classes IV through II, all inclusive, will be further curtailed by equal percentages until full (100%) curtailment occurs. After Service Priority Classes IV, III and II are in full (100%) curtailment, curtailment shall commence in Service Priority Class I as necessary.
- d. Short Term Service Interruption: In the event mandatory curtailment is imposed, as above provided, the utility in addition may employ, for not more than 2 hours' duration at any one time, selective short term service interruptions by operation on a rotational basis of distribution switching equipment to effect the necessary curtailment in one or more service priority classes.

Except as provided in subsection (a), the utility will give notice of curtailment in the most effective manner possible and as much in advance as possible with regard to the exigencies and the number of customers to be notified. The curtailment shall be effective as of the time and date specified in the notice.

MMC 5-4-10: EMERGENCY CURTAILMENT RULES; RESTORATION OF SERVICE

Sec. 10: Service shall be restored in the reverse order of the original curtailment.

MMC 5-4-11: EMERGENCY CURTAILMENT RULES; WITHOUT REGARD TO PRIORITY

Sec. 11: The utility reserves the right to order electric service curtailment without the priority of service when, in its judgment, such curtailment is necessary to forestall imminent and irreparable injury to life, property or the electric system. Curtailment may include interruption of selected circuits. A curtailment to this section shall not exceed 72 consecutive hours without approval Utility Regulatory Commission of Indiana.

MMC 5-4-12: EMERGENCY CURTAILMENT RULES; NONCOMPLIANCE

Sec. 12: Customers failing to comply with the specified curtailment for more than 7 days will be subject to disconnection for the duration of the emergency. Energy use by industrial and large commercial customers in excess of that permitted under curtailment shall be subject to a 10¢ per KWH penalty, in addition to normal billing charges, for all electric energy taken in excess of mandatory curtailment limitations. Penalty charges collected hereunder shall be segregated in a separate account, and shall be applied to reduce the fuel, cost adjustment charges of industrial and large commercial customers who, during the existence of a fuel emergency, have not used electric energy in excess of mandatory curtailment limitations.

MMC 5-4-13: EMERGENCY CURTAILMENT RULES; PRIORITY OVER OTHER RULES

Sec. 13: The terms and provisions of the Emergency Curtailment Rules of this chapter shall control notwithstanding any terms and provisions of rate schedules, general rules and regulations of the utility or any contract or agreement between the utility and any customer to the contrary.

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ARTICLE 5, CHAPTER 4.5: ESTABLISHING INTERCONNECTION STANDARDS FOR MONTEZUMA ELECTRIC

SECTION 1:	APPLICATIONS FOR INTERCONNECTIONS
SECTION 2:	PROHIBITING ALTERATIONS AFTER APPLICATION IS ACCEPTED
SECTION 3:	OTHER CODES AND RULES APPLICABLE
SECTION 4:	CUSTOMER RESPONSIBILITIES
SECTION 5:	OPERATION OF RENEWABLE GENERATION FACILITIES
SECTION 6:	INSPECTIONS BY TOWN UTILITY
SECTION 7:	INSURANCE REQUIREMENTS
SECTION 8:	FINE FOR VIOLATIONS

MMC 5-4.5-1: APPLICATIONS FOR INTERCONNECTIONS

Sec. 1: A customer desiring to interconnect renewable generation facilities with the utility's grid shall complete an interconnection application and submit the application to the utility for review. After receipt of the application, the utility shall conduct such further inspection of the renewable generation facilities as the utility deems necessary and approve or deny the application. If the application is denied, the utility shall provide a written response to the customer explaining why the application was denied. The utility is hereby authorized to charge a reasonable application fee to offset costs involved with reviewing the application, inspecting the renewable generation facilities, and otherwise ensuring compliance with this Ordinance.

MMC 5-4.5-2: PROHIBITING ALTERATIONS AFTER APPLICATION IS ACCEPTED

Sec. 2: If the interconnection application is approved, then the customer agrees that no changes shall be made to the configuration of the renewable generation facilities, as that configuration is described in the application, and no relay or other control or protection settings specified in the application shall be set, reset, adjusted or tampered with, except to the extent necessary to verify that the renewable generation facilities comply with the utility's approved settings.

MMC 5-4.5-3: OTHER CODES AND RULES APPLICABLE

Sec. 3: In addition to such other requirements as the utility deems necessary, any renewable generation facility allowed to interconnect to the utility's grid must comply with: (a) the National Electrical Code and the National Electrical Safety Code, as each may be revised from time to time; (b) the utility's rules and regulations and the utility's General Terms and Conditions for Electric Service, each as contained in the utility's Electric Tariff and each as may be revised from time to time; and (c) all other applicable local, state, and federal codes and laws, as the same may be in effect from time to time.

MMC 5-4.5-4: CUSTOMER RESPONSIBILITIES

Sec. 4: For any approved renewable generation facilities interconnected to the utility's grid, the customer shall install, operate, and maintain, at the customer's sole cost and expense, the renewable generation facilities in accordance with the Institute of Electrical and Electronics Engineers' applicable Standard for Interconnecting Distributed Resources with Electric Power Systems, as it may be amended from time to time. The customer shall be responsible for protecting, at the customer's sole

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cost and expense, the renewable generation facilities from any condition or disturbance on the utility's electric system, including, but not limited to, voltage sags or swells, system faults, outages, loss of a single phase of supply, equipment failures, and lightning or switching surges.

MMC 5-4.5-5: OPERATION OF RENEWABLE GENERATION FACILITIES

Sec. 5: The customer shall operate any interconnected renewable generation facilities in such a manner as not to cause undue fluctuations in voltage, intermittent load characteristics or otherwise interfere with the operation of the utility's electric system. At all times when the renewable generation facilities are being operated in parallel with the utility's electric system, the customer shall operate the renewable generation facilities in a manner that no disturbance will be produced to the service rendered by the utility to any of its other customers or to any electric system interconnected with the utility's electric system. The customer's control equipment for the renewable generation facilities shall immediately, completely, and automatically disconnect and isolate the renewable generation facilities from the utility's electric system in the event of a fault on the utility's electric system, a fault on the customer's renewable generation facilities, or loss of a source or sources on the utility's electric system. The automatic disconnecting device included in such control equipment shall not be capable of reclosing until after service is restored on the utility's electric system. Additionally, if the fault is with the customer's renewable generation facilities, such automatic disconnecting device shall not be reclosed until after the fault is isolated from the customer's renewable generation facilities.

MMC 5-4.5-6: INSPECTIONS BY TOWN UTILITY

Sec. 6: Upon reasonable advance notice to the customer, the utility shall have access to any interconnected renewable generation facilities to perform on-site inspections to verify that the installation and operation of the renewable generation facilities comply with the requirements of this Ordinance and to verify the proper installation and continuing safe operation of the renewable generation facilities. The utility shall also have at all times immediate access to breakers or any other equipment that will isolate the renewable generation facilities from the utility's electric system. The utility shall not be responsible for any costs the customer may incur as a result of such inspection(s). The utility shall have the right and authority to isolate approved interconnected renewable generation facilities at the utility's sole discretion if the utility believes that: (a) continued interconnection and parallel operation of the renewable generation facilities with the utility's electric system creates or contributes (or will create or contribute) to a system emergency on either the utility's or the customer's electric facilities; (b) the renewable generation facilities are not in compliance with the requirements of this Ordinance; or (c) the renewable generation facilities interfere with the operation of the utility's electric system. In non-emergency situations, the utility shall give the customer reasonable notice prior to isolating the renewable generation facilities.

MMC 5-4.5-7: INSURANCE REQUIREMENTS

Sec. 7: Customer shall procure and keep in force during all periods of parallel operation of the renewable generation facilities with the utility's electric system, homeowners, commercial, or other insurance to protect the interests of the utility as a named insured, with insurance carriers acceptable

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to the utility, and in amounts not less than those reasonably determined by the utility to be necessary taking into consideration the nameplate capacity, configuration and type of the renewable generation facilities. The customer shall indemnify and hold harmless the utility, the Town of Montezuma its employees, representatives, agents and subcontractors from and against all claims, liability, damages and expenses, including attorney's fees, based on any injury to any person, including the loss of life, or damage to any property, including the loss of use thereof, arising out of, resulting from, or connected with, or that may be alleged to have arisen out of, resulted from, or connected with, an act or omission by the customer, its employees, agents, representatives, successors or assigns in the construction, ownership, operation or maintenance of the customer's renewable generation facilities. If the utility is required to bring an action to enforce its rights under this Section 8 of the Ordinance, either as a separate action or in connection with another action, and said rights are upheld, the customer shall reimburse the utility for all expenses, including attorney's fees, incurred in connection with such action.

MMC 5-4.5-8: FINE FOR VIOLATIONS

Sec. 8: It shall be unlawful for any person or entity to connect or maintain the connection of a renewable generating facility to the utility's grid without obtaining the utility's approval of an interconnection application. Any person or entity found to be in violation of this section shall be fined not less than \$500, nor more than \$2,500 for each such violation, plus costs. In addition to the foregoing fines and at the utility's sole discretion, property where a renewable generating facility is unlawfully connected to the utility's grid may be disconnected from the utility's grid until an interconnection application is approved. Every day that a violation of this section occurs shall constitute a separate offense.

ARTICLE 5, CHAPTER 5: ELECTRIC SERVICE RATES AND CHARGES

SECTION 1:	ESTABLISHMENT OF RATES AND CHARGES
SECTION 2:	TAP FEE
SECTION 3:	GUARANTEE DEPOSIT
SECTION 4:	GENERAL POWER SERVICE RATES AND MINIMUM MONTHLY CHARGE
SECTION 5:	COMMERCIAL SERVICE RATES AND MINIMUM MONTHLY CHARGE
SECTION 6:	IN-TOWN RESIDENTIAL SERVICE RATES AND MINIMUM MONTHLY CHARGE
SECTION 7:	RURAL RESIDENTIAL SERVICE RATES AND MINIMUM MONTHLY CHARGE
SECTION 8:	FUEL COST ADJUSTMENT FACTOR; RATE ADJUSTMENTS
SECTION 9:	MUNICIPAL STREET LIGHTING SERVICE ANNUAL FLAT RATE
SECTION 10:	TEMPORARY SERVICE; SURCHARGE AND FEES; CONNECTION COSTS
SECTION 11:	DELINQUENT BILLS; DEFERRED PAYMENT CHARGE; DISCONNECTION
SECTION 12:	RATE FOR SECURITY LIGHTS
SECTION 13:	ADOPTING AN ECONOMIC DEVELOPMENT RIDER

MMC 5-5-1: ESTABLISHMENT OF RATES AND CHARGES

Sec. 1: Rates and charges for the use of and services rendered by the municipal electric utility are hereby fixed as set forth in this chapter.

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MMC 5-5-2: TAP FEE AND METER BASE FEE

Sec. 2: For initially tapping into the utility's distribution lines, there shall be a tap fee of \$300.00. In addition, a fee in the amount of \$45.00 shall be charged for a 200 amp electric meter base and a fee of \$35.00 shall be charged for a 125 amp electric meter base.

MMC 5-5-3: GUARANTEE DEPOSIT

Sec. 3: Any applicant for service from the municipal electric utility shall pay a guarantee deposit of \$20.00. The deposit minus any unpaid amount for service rendered to the customer shall be returned to the customer upon discontinuance of service. Deposits shall be administered in accordance with MMC 5-7-9.

MMC 5-5-4: GENERAL POWER SERVICE RATES AND MINIMUM MONTHLY CHARGE

Monthly Usage	Rate/KwH
For the first 1,000 KwH used in any month	\$0.0706
For the next 1,000 KwH used in the same month	\$0.0620
For the next 198,000 KwH used in the same month	\$0.0396
Over 200,000 KwH used in the same month	\$0.0300

However, there shall be a monthly minimum charge based on the connected power load, which shall be the sum of: (1) the horsepower rating of all connected motors; and (2) the rated input capacity of all power equipment other than motors, each kilovolt-ampere of such input rating being considered as one horse-power of connected load. The total monthly minimum charge shall be \$1.03 for each horsepower or fractional part thereof of connected load.

MMC 5-5-5: COMMERCIAL SERVICE RATES AND MINIMUM MONTHLY CHARGE

Sec. 5: Subject to the provisions of Section 8, rates for commercial service customers [see MMC 5-4-4] shall be as follows:

Monthly Usage	Rate/KwH
For the first 30 KwH used in any month	\$0.1050
For the next 470 KwH used in the same month	\$0.0706
For all over 500 KwH used in the same month	\$0.0362

However, there shall be a minimum charge of \$0.88 per meter per month.

MMC 5-5-6: IN-TOWN RESIDENTIAL SERVICE RATES AND MINIMUM MONTHLY CHARGE

Sec. 6: Subject to the provisions of Section 8, rates for in-Town residential service customers [see MMC 5-4-4] shall be as follows:

Monthly Usage	Rate/KwH
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For the first 30 KwH used in any month	\$0.1050
For the next 470 KwH used in the same month	\$0.0706
For all over 500 KwH used in the same month	\$0.0362

However, there shall be a minimum charge of \$0.88 per meter per month.

MMC 5-5-7: RURAL RESIDENTIAL SERVICE RATES AND MINIMUM MONTHLY CHARGE

Sec. 7: Subject to the provisions of Section 8, rates for rural residential service customers [see MMC 5-4-4] shall be as follows:

Monthly Usage	Rate/KwH
For the first 35 KwH used in any month	\$0.1050
For the next 35 KwH used in the same month	\$0.0878
For the 130 KwH used in the same month	\$0..0534
For all over 200 KwH used in any month	\$0.0362

However, there shall be a minimum charge of \$1.15 per meter per month.

MMC 5-5-8: FUEL COST ADJUSTMENT FACTOR; RATE ADJUSTMENTS

Sec. 8: The fuel cost adjustment in dollars per kilowatt hour for rates set forth under Sections 4 through 7 above shall be the same as that most recently billed to the Montezuma municipal electric utility by its purchased power supplier less \$0.00 per kilowatt hour. When future changes occur in the cost of purchased power, which changes would cause a change in said wholesale power cost adjustment tracking factor calculated in accordance with the order of the Public Service Commission of Indiana approved on December 17, 1976, in Cause No. 34614, as may be hereafter amended by said Commission, such factor shall automatically be changed accordingly and the Superintendent of said municipal electric utility shall cause the appropriate documents for approval of such change to be filed with the Public Service Commission of Indiana.

MMC 5-5-9: MUNICIPAL STREET LIGHTING SERVICE ANNUAL FLAT RATE

Sec. 9: The Town of Montezuma shall pay an annual fee of \$3,800.00 to the Montezuma Electric Utility for use and rental of street lights.

MMC 5-5-10: TEMPORARY SERVICE; SURCHARGE AND FEES; CONNECTION COSTS

Sec. 10: For temporary service, the customer shall pay the entire cost or furnish all labor, material and all other necessary expenses incurred in supplying electric service for a temporary purpose or use, and a rate for electric service 20% higher than the applicable schedule above, plus \$5.00 for turning on and turning off the electricity.

MMC 5-5-11: DELINQUENT BILLS; DEFERRED PAYMENT CHARGE; DISCONNECTION

Sec. 11: Bills for electric, service shall be rendered monthly, and shall be delinquent 10 days after their rendition. Bills unpaid after 10 days following the due date as stated on the bill shall be subject to a collection charge of 10% on the first \$3.00 of unpaid billing, and 3% on the balance of unpaid billing in excess of \$3.00. If any bill shall remain delinquent for a period of 30 days or more, the electric

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service shall be disconnected and shall not be reconnected except upon payment of all delinquencies, together with a reconnection charge.

MMC 5-5-12: RATE FOR SECURITY LIGHTS

Sec. 12: Customers shall be charged a monthly rate of \$7.62 per month for each security light. In addition, a reconnect fee of \$15.00 shall be charged for those customers who request a security light be turned off but, within a 12 month period, request the light be turned back on.

MMC 5-5-13: ADOPTING AN ECONOMIC DEVELOPMENT RIDER

Sec. 1: The economic development rider for qualifying electric customers is intended to encourage large power users to expand or create new operations within Montezuma's service territory. Beginning with the effective date indicated in the Service Application submitted by the qualifying customer, Montezuma will receive a credit on its wholesale bill for the qualifying new load. The incentive amount received by Montezuma from the Indiana Municipal Power Agency for such load will be passed in full to qualifying customers. The discount to the wholesale cost for qualifying new load will be calculated according to the following schedule:

Months 1-12	20%
Months 13-24	15%
Months 25-36	10%
Months 37-48	10%
Months 49-60	5%

- a. Qualification: A "Qualifying Customer" is a new or existing non-residential customer in the Montezuma's service territory that is establishing new operations or expanding existing operations such that the new or expanded operations will result in new or additional demand of at least one (1) MW (1000 kW) at one delivery point (the "Qualifying Demand" and the new or expanded operations involve a capital investment of at least one million dollars (\$1,000,000) within the Utility's service territory.

For a qualifying Customer that is expanding operations, Qualifying Demand is measured from the average monthly peak demand for the twelve (12) months immediately preceding the effective date of the Service Application. For a Qualifying Customer that is establishing new operations, Qualifying Demand is measured from zero.

A Qualifying Customer is not a customer: (1) with "new" demand that results from a change in ownership of an existing establishment without qualifying new load; (2) renewing service following interruptions such as equipment failure, temporary plant shutdown, strike, economic conditions, or natural disaster; or (3) that has shifted its load from one operation or customer to another within the Utility's service territory. The Utility may determine exclusively, without recourse by the customer, whether an event has occurred that would prevent a customer from being a Qualifying Customer.

- b. Terms and Conditions: The Qualifying Customer must submit a Service Application to the Utility specifying: (1) a description of the amount and nature of the new load; (2) the basis on which the Qualifying Customer meets the requirements of this Rider; (3) the Qualifying Customer's desired effective date; and (4) any other information required by Montezuma.

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This Rider will terminate on the same date that IMPA's economic development rider terminates, except that any Qualifying Customer receiving the rate incentive at the time of the Rider's termination may continue receiving the incentive for the remainder of the applicable incentive period (as long it continues to meet the Rider's requirements).

ARTICLE 5, CHAPTER 5.5: LAWN METER PROCEDURE

SECTION 1:	PURCHASING LAWN METERS
SECTION 2:	REPORTING PROCEDURES AND DEADLINES FOR REPORTING WATER CONSUMPTION
SECTION 3:	DEDUCTIONS FOR IMPROPERLY REPORTED SPRING/SUMMER MONTHS

MMC 5-5.5-1: PURCHASING LAWN METERS

Sec. 1: Any customer of the Town's water and sewer service desiring to receive a deduction on their monthly sewer bill for the months of April, May, June, July, August, September or October [spring/summer months] must purchase a lawn meter from the Town and properly install said meter to their outside spigot. Lawn meters shall be purchased from the Town for \$50.00. The Town may increase this price as the Town's costs for the meters increases.

MMC 5-5.5-2: REPORTING PROCEDURES AND DEADLINES FOR REPORTING WATER CONSUMPTION:

Sec. 2: On or before the 24th of each spring/summer month, except for October, any customer with a lawn meter purchased from the Town and properly installed must report the recorded amount of the water consumed by the lawn meter to the Town's Utility Office. **If a customer does not report the amount of water consumed by the 24th of any spring/summer month then they will not receive a deduction on that month's sewer bill.**

- a. Customers must report their outdoor domestic water consumption by filling out and submitting a Lawn Meter Report Form which can be obtained at the Town's Utility Office.
- b. October Reporting: on or before October 24th customers must bring their lawn meter to the Town's Utility Office to properly report their October water consumption. **If a customer does not bring in their Lawn Meter on or before October 24th they will not receive a deduction on their November sewer bill.**

MMC 5-5.5-3: DEDUCTIONS FOR IMPROPERLY REPORTED SPRING/SUMMER MONTHS

Sec. 3: Customers may report a previously unreported spring/summer month's usage. In this case, the customer will only be eligible for partial credit on the improperly reported spring/summer month and thus, the deduction will be 50% of the deduction if otherwise reported properly. For example, if a customer improperly reports 4,000 gallons of water to the Town's Utility Office for a spring/summer month, the customer will only receive credit for 2,000 gallons of said water.

ARTICLE 5, CHAPTER 6: WATER SERVICE RATE AND CHARGES

SECTION 1:	ESTABLISHMENT OF WATER SERVICE RATES AND CHARGES
SECTION 2:	TAP FEE
SECTION 3:	GUARANTEE DEPOSIT
SECTION 4:	VOLUMETRIC MONTHLY RATES
SECTION 5:	MINIMUM MONTHLY CHARGE

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SECTION 6:	TANK SALE RATE
SECTION 7:	FIRE PROTECTION SERVICE ANNUAL RATE
SECTION 8:	TEMPORARY USERS; RATES BASED ON ESTIMATED USAGE
SECTION 9:	DELINQUENT BILLS; COLLECTION CHARGE
SECTION 10:	WATER METER REQUIRED; NO RESALE
SECTION 11:	WATER METER READING DURING WINTER
SECTION 12:	CREDIT FOR RUNNING WATER DURING WINTER
SECTION 13:	LEAK ADJUSTMENTS FOR WATER CUSTOMERS

MMC 5-6-1: ESTABLISHMENT OF WATER SERVICE RATES AND CHARGES

Sec. 1: For the use and service rendered by the waterworks system of the Town of Montezuma, the schedule of rates and charges is established as hereinafter set forth in this Chapter.

MMC 5-6-2: TAP FEE

Sec. 2: For initially tapping into the utility's distribution line, there shall be a tap fee of \$450.00.

MMC 5-6-3: GUARANTEE DEPOSIT

Sec. 3: Any applicant for service from the municipal water utility shall pay a guarantee deposit of \$15.00. Such cash deposit, minus any unpaid amount for service rendered to the customer, shall be returned to the customer upon discontinuance of service. Deposits shall be administered in accordance with MMC 5-7-9.

MMC 5-6-4: VOLUMETRIC MONTHLY RATES

Sec. 4: Except as otherwise provided under Sections 5 through 8 of this chapter, monthly rates apply based on the use of water supplied by the waterworks system as follows:

	CURRENT RATE	NEW RATE
GALLONS USED PER MONTH	RATE PER 1,000 GALLONS	RATE PER 1,000 GALLONS
First 10,000 Gallons	\$6.28	\$11.04
Next 40,000 Gallons	\$4.18	\$7.35
Next 150,000 Gallons	\$2.93	\$5.15
Next 300,000 Gallons	\$2.50	\$4.40
Next 1,500,000 Gallons	\$2.10	\$3.69
Next 2,000,000 Gallons	\$1.67	\$2.94

MMC 5-6-5: MINIMUM MONTHLY CHARGE

Sec. 5: Notwithstanding any provision of Section 4, and excepting as otherwise provided under Section 6 through 8 hereinafter (if applicable), each user shall pay a minimum charge in accordance with the size of meter installed, for which the user will be entitled to the quantity of water set out in the following schedule:

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		CURRENT RATE	NEW RATE
METER SIZE	GALLONS ALLOWED PER MONTH	MINIMUM MONTHLY CHARGE	MINIMUM MONTHLY CHARGE
5/8 inch meter	3,330	\$36.77	\$36.77
¾ inch meter	5,000	\$55.17	\$55.20
1 inch meter	8,330	\$91.89	\$91.96
1 ½ inch meter	16,670	\$159.29	\$159.42
2 inch meter	26,670	\$232.71	\$232.92
3 inch meter	50,000	\$403.64	\$404.40
4 inch meter	83,320	\$575.38	\$576.00

MMC 5-6-6: TANK SALE RATE

Sec. 6: The rate applicable to tank sales of water shall be \$0.1104 per 100 gallons. For sales of water from the bulk water coin machine, a fee of \$0.25 per 40 gallons shall be charged.

MMC 5-6-7: FIRE PROTECTION SERVICE ANNUAL RATE

Sec. 7: For availability and use of water by fire hydrants, the Town of Montezuma shall pay an annual fee of \$6,000.00 to the Montezuma Water Utility.

MMC 5-6-8: TEMPORARY USERS; RATES BASED ON ESTIMATED USAGE

Sec. 8: Water furnished to temporary users such as contractors, circuses, etc., shall be charged on the basis of the metered rates set forth under Sections 4 and 5 as estimated and established by the Waterworks Superintendent.

MMC 5-6-9: DELINQUENT BILLS; DEFERRED PAYMENT CHARGE

Sec. 9: Bills for water service shall be rendered monthly, and shall be delinquent 20 days after their rendition. Bills unpaid after 20 days following the date as stated on the bill shall be subject to a collection charge of 10% on the first \$3.00 of unpaid billing, and 3% on the balance of unpaid billing in excess of \$3.00.

MMC 5-6-10: WATER METER REQUIRED; NO RESALE

Sec. 10: Water shall be supplied only through meters and a separate meter shall be required for each consumer, each dwelling unit and each business establishment. In addition, no water shall be purchased for resale.

MMC 5-6-11: WATER METER READING DURING WINTER

Sec. 11: If weather does not permit the physical reading of water meters, customers will be billed based on estimated usage determined by taking the average of the previous three months of meter readings. If a customer's consumption was less than the estimated average, as determined by a physical reading of the meter, a credit will be applied to the customer's account. If a customer's consumption

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was more than the estimated average, as determined by a physical reading of the meter, the customer will be charged for the difference on the customer's next bill.

MMC 5-6-12: CREDIT FOR RUNNING WATER DURING WINTER

Sec. 12: In the event customers are advised to allow a stream of water to run through their system during the winter months to avoid frozen pipes, meter, etc., customers shall receive a credit of 1000 gallons in each month such an advisory is issued.

MMC 5-6-13: LEAK ADJUSTMENTS FOR WATER CUSTOMERS

Sec. 13: Pursuant to I.C. 8-1.5-3.5, a residential customer of the Water Utility may receive a water bill adjustment in the event of a water leak under the circumstances and conditions described herein:

- a. Reasons for Adjustment: An adjustment to a water bill may be made if the following criteria are satisfied:
 1. The customer is a residential customer;
 2. The customer has an "unusually large bill" which is defined as a bill that is a least 2 times the customer's average monthly usage at the premises;
 3. The excessive use reflected in a monthly bill is the result of damage to any facility or equipment supplying water to the customer's premises;
 4. The damage was not visible or detectable on the customer's premises except on excavation or some other disturbance of the property; and
 5. The damage was not the result of the act of the customer (or any agent or contractor hired by the customer).
- b. Procedure for Requesting and Granting an Adjustment: Eligible adjustments shall be considered as follows:
 1. Underground Leak: If a customer is notified by the utility office of a probable underground leak and repairs the leak within two business days after receiving notification, the customer's bill may be adjusted by the Clerk-Treasurer/Water Office Manager without consultation with the Town Council. This deadline may be extended by up to one week at the discretion of the Clerk-Treasurer/Water Office Manager if the customer is unable to have the leak repaired due to inclement weather, contractor unavailability, or other circumstances beyond the customer's control. A customer who does not repair the leak within two business days after receiving notification (unless an extension has been granted under the above paragraph) may not receive an adjustment and shall be responsible for payment of the entire water bill.
 2. Other Leaks: Customers who have an unusually large bill caused by a source other than an underground leak (i.e. damage to a water line or equipment within a home that was not visible or detectable) must request an adjustment from the Town Council by appearing before the Council to request the adjustment. Whether an adjustment shall be made is at the discretion of the Town Council and the customer shall be required

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to present evidence demonstrating the cause of the unusually high bill and that the customer has taken steps to repair the leak.

c. Adjustment Rules:

1. Adjustment Limit: A customer may receive no more than two (2) adjustments every twelve (12) months per address.
2. Timely Requests: A customer must make a written request for an adjustment within thirty (30) days of the end of the billing period for which the adjustment is being requested.
3. Adjustment Period: The adjustment period for undetected leaks cannot exceed one regular meter reading period, unless the meter reading was missed during the leak period (*or the leak affected two consecutive bills*).
4. Amount of Adjustment: A customer receiving a leak adjustment shall be billed based on the customer's average consumption over the previous twelve (12) months period, plus 50% of the amount in excess of the average. The Montezuma Clerk-Treasurer/Water Office Manager may, at his or her discretion, arrange a payment schedule with a customer and waive penalties on the additional portion of the bill. However, a customer's utilities will be disconnected if the customer fails to follow the terms of the payment agreement.

Water Leak Adjustment Example	
Water usage during month with leak	10,000 GL
"Average" water usage	4,000 GL
Usage increase from the leak	6000 GL
Amount in excess of customer's average water bill. (50% of total impacted water bill, in excess of the average)	3,000 GL
Bill after water leak adjustment	7,000 GL

- d. Adjustment for Sewer Charges: This billing structure is designed so that if a customer's water leak does not enter into the town's sanitary sewer system, the customer's sewer bill will be adjusted down to the average of the previous twelve (12) months. In the event that a customer's leak enters into the sanitary sewer system, the customer is therefore responsible for all sewage charges.

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- e. Reservation of Rights: The Montezuma Town Council reserves the right to make exceptions to these rules on a case-by-case basis when warranted under the circumstances, in any extraordinary case that may arise following the guidelines set above.
5. Adjustment Application: Customers requesting a leak adjustment must complete the Request for Water Bill Adjustment application and provide documentation that the leak has been repaired (i.e. photos and receipts). Water Bill Adjustment application example is attached.

ARTICLE 5, CHAPTER 6.5: PROHIBITING CROSS-CONNECTIONS AND BACKFLOW PREVENTION

SECTION 1:	CROSS CONNECTION DEFINITION
SECTION 2:	PROHIBITING CROSS CONNECTIONS WITHOUT APPROVAL
SECTION 3:	INSPECTIONS
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SECTION 7:	REQUIRING BACKFLOW PREVENTER AT CERTAIN BUSINESSES
SECTION 8:	ORDINANCE SUBJECT TO INDIANA PLUMBING CODE AND IDEM RULES

MMC 5-6.5-1: CROSS CONNECTION DEFINITION

Sec. 1: A cross connection shall be defined as any physical connection or arrangement between two otherwise separate systems, one of which contains potable water from the Town of Montezuma water system, and the other, water from a private source, water of unknown or questionable safety, or steam, gases, or chemicals, whereby there may be a flow from one system to the other, the direction of flow depending on the pressure differential between the two systems.

MMC 5-6.5-2: PROHIBITING CROSS CONNECTIONS WITHOUT APPROVAL

Sec. 2: No person, firm, or corporation shall establish or permit to be established or maintain or permit to be maintained any cross connection. No interconnection shall be established whereby potable water from a private, auxiliary, or emergency water supply other than the regular public water supply of Montezuma may enter the supply or distribution system of said municipality, unless such private, auxiliary, or emergency water supply and the method of connection and use of such supply shall have been approved by the Montezuma Water Utility and by the Indiana Department of Environmental Management in accordance with 327 IAC 8-10.

MMC 5-6.5-3: INSPECTIONS

Sec. 3: It shall be the duty of the Montezuma Water Utility to cause inspections to be made of all properties served by the public water system where cross connections with the public water system is deemed possible. The frequency of inspections and re-inspections based on potential health hazards involved shall be established by the Montezuma Water Utility.

MMC 5-6.5-4: RIGHT TO REQUEST ENTRY

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Sec. 4: Upon presentation of credentials, the representative of the Montezuma Water Utility shall have the right to request entry at any reasonable time to examine the property served by a connection to the public water system of Montezuma Water Utility for cross connections. On request, the owner, lessee, or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of access or refusal of requested pertinent information shall be deemed evidence of the presence of cross connections.

MMC 5-6.5-5: DISCONNECTION FOR VIOLATIONS

Sec. 5: That the Montezuma Water Utility is hereby authorized and directed to discontinue water service to any property wherein any connection in violation of this ordinance exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water system. Water service shall be discontinued only after reasonable notice is served on the owner, lessee, or occupants of the property or premises where a violation is found or suspected to exist. Water service to such property shall not be restored until the cross connection(s) has been eliminated in compliance with the provisions of this ordinance.

MMC 5-6.5-6: RIGHT TO HEARING AFTER EMERGENCY DISCONNECTION

Sec. 6: If it is deemed by the Montezuma Water Utility that a cross connection or an emergency endangers public health, safety, or welfare and requires immediate action, and a written finding to that effect is filed with the clerk of the Town of Montezuma and delivered to the consumer's premises, service may be immediately discontinued. The consumer shall have an opportunity for hearing before the Town Council within 10 days of such emergency discontinuance.

MMC 5-6.5-7: REQUIRING BACKFLOW PREVENTER AT CERTAIN BUSINESSES

Sec. 7: All consumers using toxic or hazardous liquids, all hospitals, mortuaries, wastewater treatment plants, laboratories, and all other hazardous users shall install and maintain a reduced-pressure-principal backflow preventer in the main water line serving each building on the premises. The backflow preventer must be installed in an easily accessible location not subject to flooding or freezing.

MMC 5-6.5-8: ORDINANCE SUBJECT TO INDIANA PLUMBING CODE AND IDEM RULES

Sec. 8: This ordinance does not supersede the Indiana Plumbing Code, the IDEM Rule 327IAC 8-10 ordinance but is supplementary to them.

ARTICLE 5, CHAPTER 7: GENERAL ADMINISTRATION OF UTILITIES

SECTION 1:	APPLICABILITY
SECTION 2:	GOVERNING BODY FOR UTILITIES
SECTION 3:	UTILITY CASH RESERVE FUNDS CREATED
SECTION 4:	APPOINTMENT OF UTILITY FISCAL OFFICER; ADDITIONAL COMPENSATION
SECTION 5:	TOWN ATTORNEY; ADDITIONAL COMPENSATION
SECTION 6:	UTILITY RATES AND CHARGES GENERALLY: PILOT

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SECTION 7:	DISPOSITION OF UTILITY REVENUES
SECTION 8:	INVESTMENT OF MUNICIPAL UTILITY MONIES
SECTION 9:	UTILITY CUSTOMER DEPOSITS GENERALLY
SECTION 10:	BUDGET BILLING PROCEDURE
SECTION 11:	RECONNECTION OF DISCONTINUED UTILITY SERVICE
SECTION 12:	CHARACTER AND DISPOSITION OF UTILITY RECONNECTION CHARGES
SECTION 13:	RECONNECTION CHARGES; EFFECT ON DEPOSITS
SECTION 14:	RETURNED CHECK FEE
SECTION 15:	<u>DUE PROCESS PROCEDURES FOR DISCONNECTION OF UTILITIES</u>

MMC 5-7-1: APPLICABILITY

Sec. 1: Unless otherwise expressly provided, the following provisions apply to all municipally owned utilities which are owned and operated by the Town of Montezuma.

MMC 5-7-2: GOVERNING BODY FOR UTILITIES

Sec. 2: The Town Council shall constitute the governing body of all utilities owned and operated by the Town of Montezuma, and shall have all powers and duties for that purpose. The Town Council, acting as the governing body for the municipal utilities, may exercise any and all such powers and duties at any of its regular or special meetings in the same manner that it exercises any of its powers and duties of a general governmental character.

MMC 5-7-3: UTILITY CASH RESERVE FUNDS CREATED

Sec. 3: For purposes of this section, “surplus earnings” of a municipally owned utility refers to all revenues of the utility which are described by IC 8-1.5-3-11(c). There are hereby established the following Cash Reserve Funds in accordance with IC 8-1.5-3-11(b):

- a. A Gas Utility Cash Reserve Fund, for deposit of surplus earnings of the municipal gas utility;
- b. A Water Utility Cash Reserve Fund, for deposit of surplus earnings of the municipal water utility; and
- c. An Electric Utility Cash Reserve Fund, for deposit of surplus earnings of the municipal electric utility.

The Town Council shall determine what amount of the surplus earnings of each respective utility shall be deposited in its Cash Reserve Fund each month. Monies deposited in such cash reserve funds may, at the discretion and by order or ordinance of the Town Council, be transferred to the General Fund of the Town in accordance with IC 8-1.5-3-11(d) or (e), or used for other purposes as permitted by IC 8-1.5-3-11(f), unless prohibited by a bond ordinance, indenture, or similar instrument binding on the utility. All monies now on deposit in any cash reserve fund or equivalent fund of any municipally owned utility as heretofore created and now maintained at the time this section takes effect shall be considered part of and transferred to the respective utility’s Cash Reserve Fund as herein created.

MMC 5-7-4: APPOINTMENT OF UTILITY FISCAL OFFICER; ADDITIONAL COMPENSATION

Sec. 4: The Clerk-Treasurer may serve as the fiscal officer of the municipally owned utilities at the discretion of the Town Council. As compensation for such additional services and duties, the Town Council may annually fix an additional salary for the Clerk-Treasurer (and deputies), in excess of the salary fixed and to be paid to the Clerk-Treasurer for his or her general duties for the civil Town,

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which excess and additional salary shall be apportioned among and payable from the operating funds of each of the respective utilities in such manner and amounts as determined by the Town Council. The specific amounts of additional salary to be paid to the Clerk-Treasurer under this section from the operating fund of each utility shall set forth in the Town's salary ordinance (or an amendment thereto) in the same manner as other salaries.

MMC 5-7-5: TOWN ATTORNEY; ADDITIONAL COMPENSATION

Sec. 5: The Town Council may provide that a reasonable and equitable portion of any salary, retainer, specific legal fees, or other compensation to the Town Attorney be charged to and paid from the operating fund or funds of the respective municipal utilities. The amount of such payments and their apportionment among the several municipal utilities shall be determined by the Town Council and set forth in the Town salary ordinance (or amendment thereto) or in the general retainer agreement or specific fee agreement between the Town Attorney and Town Council, as appropriate to the case.

MMC 5-7-6: UTILITY RATES AND CHARGES GENERALLY; PILOT

Sec. 6: It is hereby determined by the Town Council that all rates and charges hereafter fixed and assessed for services rendered by the municipally owned utilities should be sufficient not only to fulfill all purposes described by IC 8-1.5-3-8(c), but in addition to:

- a. Provide the Town with a reasonable return on its investment in the plant and distribution system of each utility; and
- b. Provide the Town with a return (for general revenue purposes) an amount equivalent to that which would be paid by each utility to the Town in property taxes were such utility privately owned.

Whenever any municipally owned utility is subject to rate review and approval by the Utility Regulatory Commission of Indiana, such Commission shall consider and abide by the intent of this section in accordance with IC 8-1.5-3-8(f) and (g).

MMC 5-7-7: DISPOSITION OF UTILITY REVENUES

Sec. 7: Unless the Town Council determines that all or a portion of the utility revenues provided under Section 6 for each utility are required to meet the legal and necessary operating expenses and debt obligations of such utility, such revenues (or remaining portion) may, as the Town Council elects and orders:

- a. Be treated as surplus earnings of the utility and transferred to its Cash Reserve Fund and used in accordance with Section 3; or
- b. In the case of revenues described under and attributable to Section 6(a), be used to recall or repurchase retire any outstanding bonds or similar obligations of the utility; or
- c. In the case of revenues described under and attributable to Section 6(b), be transferred directly to the Town General Fund in accordance with IC 8-1.5-3-8(g); or
- d. A combination of the above.

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However, this section may not be construed to abrogate any existing provision nor to prohibit the inclusion and validity of any future provision in a utility bond ordinance or similar instrument which would entail and encumber and prescribe a different use and distribution of revenues provided under Section 6 when and if applicable thereto.

MMC 5-7-8: INVESTMENT OF MUNICIPAL UTILITY MONIES

Sec. 8: Pursuant to IC 8-1.5-3-13, the fiscal officer of each municipally owned utility is hereby authorized to invest any monies of the utility which are not required for immediate expenditure in interest-bearing accounts or securities of any kind authorized by IC 5-13-1 for investment of public funds. Investment shall be made and earnings credited and distributed in one of the manners permitted under IC 5-13-1-3.5 or 4, and more particularly in accordance with the following provisions:

- a. Bond Sinking Fund: In the event that the utility concerned has outstanding revenue bonds or similar debt obligations and maintains a sinking fund, all monies invested from such sinking fund shall be held by that specific named fund, and all earnings or capital gains realized from the investment shall be credited to the specific sinking fund. However, if the utility under the provisions of the bond ordinance or trust indenture is required to make certain minimum monthly (or other periodic) deposits to the sinking fund, or to designated subsidiary accounts such as a bond and interest retirement account or debt service reserve account, all investment earnings or gains credited to the sinking fund during such period may be considered as contributing to such minimum deposit requirements and credited and distributed accordingly.
- b. Other Investment by Specific Utility Fund: In addition to the provisions of subsection (a) above, utility monies shall be invest by specific fund of the utility, and all earning credited back to each specific fund, under the following circumstances:
 1. When a bond ordinance it provision of a trust indenture of the utility specifically requires that all earnings from invested utility monies be considered as part of the funds of the utility; or
 2. When specifically required by a statute or another Town ordinance; or
 3. When the governing body of the utility finds and declares that there exists unforeseen circumstances whereby a specifically named fund, without the credit of investment earnings from monies in such fund, would suffer a shortfall of revenues by which all legal and necessary expenses of the utility to be paid form that fund could not otherwise be duly paid; or
 4. When the circumstances described by subsection (c)(1) hereinafter apply.
- c. Meter and Other Deposit Funds: If the rules of the concerned utility require that customers post a deposit as guaranty against damage to meters, nonpayment of bills, or similar purposes, the monies deposited in such fund may be invested as follows:
 1. If a statute, ordinance, or utility rule provides that interest be paid on deposits while held in the deposit fund, monies in the fund shall be invested by specific fund in accordance with subsection (b) above, and only in accounts or other securities having a yield at least equal to that required to be paid on the deposits held in the fund.

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However, subject to any applicable restrictions under subsection (b)(1) or (b)(2), if the governing body of the utility determines that monies already on deposit in the fund plus anticipated earnings from fund investments are more than sufficient to refund all customer deposits plus the interest that would be due thereon, then they may direct that any investment earnings for the fund in excess of such sufficient amount be treated as surplus earnings of the utility and transferred to its Cash Reserve Fund in accordance with Section 3, or else be distributed in accordance with paragraph (2) of this subsection if applicable.

2. If paragraph (1) of this subsection does not apply, or if there exist excess earnings for the fund, the governing body of the municipal utility may, in the case of a meter deposit fund, direct that all or a portion of such earnings be distributed to the operating and maintenance and/or depreciation fund of the utility in accordance with IC 5-13-1-4.
 3. Otherwise, subject to any applicable provisions of subsection (b) above, all monies in utility meter or other deposit funds shall be invested and earnings applied in accordance with subsection (d) hereinafter.
- d. Investment as Total Monies on Deposit: Except as otherwise required or provided pursuant to subsections (a) through (c) of this section, all monies belonging to or in custody of a municipally owned utility and available for investment shall be invested as part of the Town's total monies on deposit and not as investments of specifically named utility funds, and all net interest and capital gains thereon shall accrue to the Town General Fund in accordance with IC 5-13-1-3.5(a), with only the principal of the investment (plus any transaction charges paid out of a utility fund) being repaid and credited to the originating utility fund.

MMC 5-7-9: UTILITY CUSTOMER DEPOSITS GENERALLY

Sec. 9: The fiscal officer of the municipally owned utilities shall establish a special fund to be known as the Municipal Utility Deposit Fund, the books of which fund shall provide for segregated accounts for each of the respective municipally owned utilities. Whenever the regulations of any municipally owned utility require that a customer post a guarantee deposit against payment of bills or other costs or charges which may be owed to the utility, such deposit shall be credited to the Municipal Utility Deposit Fund and to the account of the respective utility concerned, and shall be recorded with the name and address of the customer making the deposit, the address of the premises or other identification of the service outlet to which the deposit pertains, the date the deposit was posted, and any other pertinent information. All monies credited to the Municipal Utility Deposit Fund (including any investment earnings credited to the fund in accordance with Section 8 above) shall be held and administered as public trust funds, and shall not be regarded as revenues of the Town nor as income or revenues of the municipal utility for any purpose unless and until properly transferred or escheating to the Town or the utility in accordance with this section or other applicable laws, ordinances, or regulations. The following policies, rules and procedures shall govern the administration of the Municipal Utility Deposit Fund:

- a. Crediting of Interest on Deposits: If a statute, ordinance, or other applicable regulation requires that a customer be paid interest on a utility deposit, the rate of interest provided shall be computed as a simple annual rate prorated from the date the deposit is made to the date that the utility's service to the customer is permanently discontinued, and shall be credited to the customer's deposit account only at the time of such termination of service. The interest

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earned, when so credited, shall be deemed and administered as part of the deposit for purposes of the subsequent provisions of this section. Interest payment shall cease on the date of final termination of service.

- b. Deduction of Deposit from Final Bill: When utility service to any customer is permanently terminated for any reason, the fiscal officer of the utility within 15 days of such termination shall prepare a final bill for the customer reflecting all rates, costs, or other charges then owing to the utility by the customer and unpaid through the date of termination of service. From such gross bill, the fiscal officer shall deduct and credit the amount of the customer's deposit for the utility, including the total amount as described in subsection (a) above if applicable, and shall then send the customer a net bill if the amount owed exceeds the total amount credited to the customer's deposit account, or shall send the customer a refund check written on the Municipal Utility Deposit Fund in the amount by which the customer's deposit credit exceeds the amount of the gross final bill if the latter is the case. Deposit refunds when determined under this subsection shall be considered as trust and legal obligation of the Fund, and may be paid without appropriation or allowance of the claim. All amounts deducted from the final bill shall be transferred from the Municipal Utility Deposit Fund to the affected utility and treated as revenues of the utility as though tendered in ordinary payment of the billings owed.
- c. Unrefundable Deposit Remainders: The fiscal officer of the utility shall make all reasonable effort to deliver any deposit remainder (after deduction) owing to the customer under the provisions of subsection (b). However, if the refund cannot be made to the customer within 30 days after the date of the final bill, either because the customer's whereabouts cannot be ascertained or for any other reason, the customer's deposit account shall be kept open and the deposit remainder continue to be credited thereto, without interest, until claimed by the customer or his legal representative. However, from and after such 30 days following the date of the final bill, a carrying charge equal to 8.33% of the amount of the original unrefunded deposit remainder shall apply to the account each month and be deducted from the account until such time as the net deposit remainder is claimed or the total amount of the account is exhausted. Carrying charge deductions made under this subsection shall escheat to and become the property of the Town, and shall be transferred to the Town General Fund, and customer shall have no further claim on such monies.
- d. Customers with no credit references or with unfavorable credit references (as determined by the Clerk-Treasurer) shall be required to make an additional deposit of \$100.00 per utility.

Nothing in the above rules and procedures may be construed to contravene any contrary rule or procedure for the administration or disposition of utility deposits as prescribed by statute or rules of the Utility Regulatory Commission of Indiana, the State Board of Accounts, or any other superior authority having jurisdiction as now or hereafter in effect, and any of the above provisions shall be subordinate to and void to the extent in conflict therewith.

MMC 5-7-10: BUDGET BILLING

Sec. 10: Any customer of the Town utilities who has been a customer of such utility or utilities for not less than 12 consecutive months shall, upon request, be advised of the amounts due the Town from them for gas, water, electric service upon a budget billing basis. By accepting budget billing, as herein provided, customers of the Town's utilities agree and consent that their services shall be

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discontinued if such customers are in default in the payment of their budget billing account according to normal billing payment and shut-off schedules. Customer sign-up for budget billing will be prior to July 20th of each year and the budget billing cycle will be based on the period from the preceding August 1st to July 1st, with settle-up on the July 1st bill.

MMC 5-7-11: RECONNECTION OF DISCONTINUED UTILITY SERVICE

Sec. 11: The Superintendent of the municipally owned utilities shall refuse to reconnect any service, be it electric, gas, or water, to any residence or business where there still remains any unpaid bill for utilities until the same has been paid in full. However, in the event that the premises have been vacated by a previous utility customer and there remains any unpaid bill, a new occupant shall not be liable for the unpaid bill of the former occupant, but only for the reconnection charge, unless the former occupant and the new occupant through a sales contract, lease, or other legally binding agreement, have entered into an agreement whereby the new occupant assumes the utility bill obligations of the former occupant.

MMC 5-7-12: CHARACTER AND DISPOSITION OF RECONNECTION CHARGES

Sec. 12: Monies derived from reconnection charges assessed by any of the municipally owned utilities shall be considered operating revenues of the utility and distributed among the various funds and accounts of a utility in the same manner as other operating revenues. Charges so collected shall not be applied toward any unpaid bills of the current or former occupant of the premises.

MMC 5-7-13: RECONNECTION CHARGES; EFFECT ON DEPOSITS

Sec. 13: Whenever electric, gas or water service is disconnected to any premises, either by the utility for nonpayment by the customer or at the customer's request, there shall be a reconnection fee of \$15.00 per utility (\$50.00 if reconnection is made after normal business hours). However, a customer requesting reconnection will not be assessed a reconnection fee under the following circumstances:

- a. Changing of main fuse box, gas line replacement, gas furnace replacement (if no shutoff valve inside premises), or water line replacement provided that shut-off and reconnection occur during normal business hours. If occurring after regular business hours, the customer will be charged \$50.00.
- b. Seasonal shut-off and reconnection, if shut-off and reconnection occur during normal business hours. If occurring after regular business hours, the customer will be charged \$50.00.
- c. In the event of fire, voltage problem, gas leaks, water leaks or other similar circumstances no reconnection fee shall be charged. Provided, however, that if a customer has a water leak inside the customer's premises, the reconnection fee will only be waived if the premises has an operable and functioning water shut-off valve on main water supply at the time of reconnection. If no such water shut-off valve is present at the time of reconnection, the customer shall be charged a \$15.00 reconnection fee or a \$50.00 reconnection fee if it is after regular business hours.

In addition, any customer who has been disconnected/reconnected for a second time shall be required to pay an additional deposit of \$30.00 per utility. Any customer who has been disconnected/reconnected more than three times shall be required to pay an additional deposit of \$50.00 per utility.

MMC 5-7-14: RETURNED CHECK FEE

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Sec. 13: A customer will be charged a fee of \$15.00 for each check returned for either nonsufficient funds or on a closed account.

MMC 5-7-15: DUE PROCESS PROCEDURES FOR DISCONNECTION OF UTILITIES Sec. 15: Any customer who is delinquent on a utility bill and is subject to disconnection for nonpayment thereof shall be notified of their right to a hearing before the Montezuma Utility Disconnection Committee to determine the appropriateness of the disconnection. If a customer desires to request a hearing contesting the appropriateness of disconnection for nonpayment of a utility bill, he or she must request such hearing within seven (7) days after receiving the disconnection notice. The customer may be represented at the hearing by an attorney or other person(s) of their choosing. The Montezuma Utility Disconnection Committee shall consist of the Utility Office Manager and Utility Superintendent. If a customer requests a hearing before the Committee, the customer's utility service shall not be disconnected for nonpayment until after the hearing has been conducted.

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ARTICLE 6: COMMERCE, BUSINESS AND TRADES

- CHAPTER 1: ALCOHOLIC BEVERAGE SALES
- CHAPTER 2: JUNKYARDS AND JUNK BUSINESSES
- CHAPTER 3: DOOR-TO-DOOR SOLICITORS
- CHAPTER 4: YARD AND GARAGE SALES

ARTICLE 6, CHAPTER 1: ALCOHOLIC BEVERAGE SALES

SECTION 1: AUTHORIZATION FOR RETAIL SALE OF LIQUOR BY THE DRINK

MMC 6-1-1: AUTHORIZATION FOR RETAIL SALE OF LIQUOR BY THE DRINK

Sec. 1: It is lawful to sell at retail and by the drink any spirituous alcoholic beverage within the corporate limits of the Town of Montezuma, Indiana, provided the retailer has obtained the appropriate permits and licenses from the State of Indiana.

ARTICLE 6, CHAPTER 2: JUNKYARDS AND JUNK BUSINESSES

- SECTION 1: DEFINITIONS
- SECTION 2: OPERATION RESTRICTED IN CERTAIN AREAS WITHOUT CONSENT
- SECTION 3: PROCEDURE FOR SEEKING CONSENT OF TOWN COUNCIL
- SECTION 4: REQUIREMENTS SUPPLEMENTAL TO APPLICABLE ZONING REGULATIONS
- SECTION 5: VIOLATIONS; PENALTIES; ENFORCEMENT BY INJUNCTION

MMC 6-2-1: DEFINITIONS

Sec. 1: For purposes of this chapter, the following terms have the meanings indicated:

- a. “Junk” means any scrap vehicles, other machinery or un-reconditioned parts thereof; metal; glass or ceramic materials; paper; wood; rubber; rags; construction or demolition discards; or similar materials.
- b. “Scrap” means that the items or materials in question could not ordinarily be resold at wholesale or retail for direct reuse by a consumer without significant repairs, reconditioning, reprocessing, or similar substantial modifications. The term does not include items such as used cars or other vehicles and machinery, used furniture and other household items, antiques, etc., which are directly reusable without or with only minor modifications.
- c. “Junk yard/junk business” means any open lot or building on which or wherein any junk is regularly bought, salvaged, and/or sold for pay or profit, or is collected or stored for such purposes. The term does not include any facility wherein junk which is incidentally produced by virtue of industrial, commercial, or residential activities is temporarily kept pending permanent disposal; facilities such as or incident to sanitary landfills, trash burning facilities, etc., which are operated or licensed and authorized by a public authority for the permanent disposition of junk; nor facilities temporarily used by a nonprofit organization for the collection and eventual disposal of recyclable junk in order to raise funds for such nonprofit organization or to fulfill some other civic purpose.

MMC 6-2-2: OPERATION RESTRICTED IN CERTAIN AREAS WITHOUT CONSENT

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Sec. 2: It is unlawful for any person, firm or corporation to conduct, operate, or maintain a junk yard or business on any block in the Town of Montezuma, Indiana, on which are erected dwelling houses and business houses, or either of them, without having obtained the written consent of the Town Council.

MMC 6-2-3: PROCEDURE FOR SEEKING CONSENT OF TOWN COUNCIL

Sec. 3: The consent of the Town Council as required under Section 2 shall not be considered until the following requirements have been complied with:

The person seeking such consent shall file a written petition with the Clerk-Treasurer, stating the following:

- a. The name and address of the person seeking to establish such business;
- b. The proposed location thereof;
- c. A description of the exact nature of the proposed business; and
- d. Evidence that all other requirements for permits or compliance with applicable regulations by virtue of federal, state, county, or Town laws, including any effective zoning regulations, have been or can be fulfilled by the proposed business.

The applicant shall at the time of filing such petition pay to the Town a nonrefundable application fee of \$25.00, which shall be credited to the General Fund.

The person seeking such consent shall, at his expense, publish by one insertion in a newspaper of general circulation within the Town a public notice that such petition has been filed with the Town Council, the time and date of the Council's meeting to consider the petition (which shall be the Council's next regular meeting unless the Clerk-Treasurer notifies the applicant otherwise), and the location of the proposed business. Such insertion must be published at least 48 hours in advance of such meeting, and proof of such publication must be filed with the Clerk-Treasurer for the record either at the time or of prior to the meeting.

At its meeting to consider the petition, the Town Council shall afford a reasonable opportunity for all persons having an interest in the matter to be heard, but shall have in its full discretion the power to deny the petition, or to grant same with or without such further and binding conditions as the Council deems desirable.

MMC 6-2-4: REQUIREMENTS SUPPLEMENTAL TO APPLICABLE ZONING REGULATIONS

Sec. 4: The consent and procedure required under Sections 2 and 3 is in addition to and a further requirement beyond any permit or procedure required under the provisions of any zoning ordinance which may be effective in the Town. Compliance with any zoning ordinance and procedures (including the granting of any special exceptions or variances) does not exempt any person from complying with the provisions of Sections 2 and 3, nor, vice versa, does compliance with Sections 2 and 3 granting of any consent thereunder exempt any person from complying with any applicable zoning ordinance and procedures.

MMC 6-2-5: VIOLATIONS; PENALTIES; ENFORCEMENT BY INJUNCTION

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Sec. 5: Any person, firm, or corporation violating the provisions of this chapter shall on conviction be fined \$50.00 for each offense, and each day said junk yard or junk business is so conducted, operated, or maintained in violation of Section 2 shall constitute a separate offense. In addition, the Town Council may direct the Town Attorney to seek an injunction in accordance with IC 36-1-6-4 to halt the establishment or operation of a junk yard or junk business in violation of this chapter.

ARTICLE 6, CHAPTER 3: DOOR-TO-DOOR SOLICITORS

SECTION 1:	PURPOSE AND REGULATORY SCOPE
SECTION 2:	DEFINITIONS
SECTION 3:	DOOR-TO-DOOR SOLICITORS LICENSE REQUIRED
SECTION 4:	LICENSE APPLICATION PROCEDURE; LICENSE TERMS AND FEE
SECTION 5:	CHARACTER AND CONDITIONS OF LICENSE; MISREPRESENTATION
SECTION 6:	EXEMPTIONS FROM LICENSE REQUIREMENT
SECTION 7:	PREQUALIFICATION OF CHARITABLE ORGANIZATIONS
SECTION 8:	REVOCAION OF LICENSE OR PREQUALIFIED CHARITABLE STATUS
SECTION 9:	REGULATIONS GOVERNING DOOR-TO-DOOR SOLICITATION
SECTION 10:	VIOLATIONS; PENALTIES

MMC 6-3-1: PURPOSE AND REGULATORY SCOPE

Sec. 1: This chapter is adopted for the purpose of prohibiting door-to-door soliciting at residential premises within the corporate limits of the Town of Montezuma, Indiana, except as hereinafter licensed or otherwise permitted. The license herein required is in addition to any transient merchant's license which a solicitor may possess or be required to possess from Parke County or the State of Indiana.

MMC 6-3-2: DEFINITIONS

Sec. 2: For purposes of this chapter, the following terms have the meanings indicated:

- a. "Charitable organization" means any charitable, educational, religious, scientific, civic, or governmental organization described under Section 501(a) or Section 501(c) of the Internal Revenue Code of the United States.
- b. "Commodity" means any valuable goods, wares, merchandise, produce, publications (including subscriptions thereto), or similar tangible personal property; any real property or interests therein; any tickets, memberships, securities, insurance policies, or similar intangibles; or any services proposed to be provided by contract (written or verbal) or by any other means other than as a direct employee of the person solicited.
- c. "Door-to-Door" soliciting means calling in person at residential premises for the purpose of soliciting other than by pre-arranged appointment with an occupant of the premises.
- d. "Residential premises" means any premises used and occupied primarily as a dwelling by one or more persons, including one and two-family dwellings, mobile homes, apartments and apartment buildings, etc.

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- e. "Solicit" means to sell, offer for sale, or promote the sale of any commodity, either for immediate or future delivery.

MMC 6-3-3: DOOR-TO-DOOR SOLICITORS LICENSE REQUIRED

Sec. 3: Except as permitted under Section 6, it shall be unlawful for any person or corporation, without a license from the Town of Montezuma, Indiana, to solicit or sell, door-to-door, at any residential premises within the corporate limits of the Town of Montezuma, Indiana.

MMC 6-3-4: LICENSE APPLICATION PROCEDURE; LICENSE TERMS AND FEE

Sec. 4: Except as provided under Section 6, any person or corporation desiring to solicit or sell, door-to-door, at residential premises within the Town shall apply to the Clerk-Treasurer for a license. The cost of such license shall be as follows:

<u>License Term</u>	<u>Fee</u>
1 day	\$5.00
7 days	\$10.00
1 year	\$25.00

The license fee is non-refundable. The term of such license shall be measured from the date that the license is granted. The person applying for the license shall provide the Clerk-Treasurer with the following information:

- a. His name and permanent address;
- b. The name and address of the person or firm whom he represents (if different from applicant); and
- c. The nature of the goods, services, etc., proposed to be solicited.

Before granting the license, the Clerk-Treasurer may refer the application to the Town Marshal, and shall deny the license if the Town Marshal recommends that it would not be consistent with the public safety and interest to grant same. Such denial shall be appealable to the Town Council at its next regular meeting. Otherwise, the Clerk-Treasurer shall grant the license upon payment of the appropriate charge as provided above, and shall give the applicant a written license certificate showing the term of the license and the information described under subsections (a) through (c).

MMC 6-3-5: CHARACTER AND CONDITIONS OF LICENSE; MISREPRESENTATION

Sec. 5: The license granted under Section 4 is non-distributive and does not cover any employees, agents, or other representatives other than the applicant himself. The license is not transferrable. A license granted under Section 4 does not imply any warranty of any nature whatever on the part of the Town or its officers or employees as to the quality or delivery of any commodities sold under such license, nor as to the honesty or reliability of the licensee or any person whom he represents, and it shall be a violation of this chapter for any licensee to represent otherwise.

MMC 6-3-6: EXEMPTIONS FROM LICENSE REQUIREMENT

Sec. 6: The solicitor's license as otherwise required under Section 3 is not required in the case of the following persons or activities, subject to such conditions as indicated:

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- a. Persons who are members of or soliciting on behalf of and as authorized by a prequalified charitable organization, who are engaged in such soliciting solely for the purpose of raising funds for such prequalified charitable organization or in support of its purposes, and who receive no personal pay, profit, or other compensation therefrom other than reimbursement of personal out-of-pocket expenses incurred in such activity;
- b. Selling, limited to foods, wares, fruits, and merchandise, conducted by honorably discharged veterans of foreign wars exempt from municipal licensing requirements under Indiana law;
- c. Sale of newspapers, dairy products, or similar commodities provided and delivered through a regularly established and direct route delivery system.

However, any person purportedly conducting business activities without a license under an exemption provided by this section shall have the burden of proof that his activities are bona fide and eligible for exemption hereunder. In particular, persons exempt under subsections (b) or (c) of this section should carry their military discharge papers or other identification proving such exemption, and show same upon demand in lieu of the municipal license.

MMC 6-3-7: PREQUALIFICATION OF CHARITABLE ORGANIZATIONS

Sec. 7: A charitable organization which desires to become a prequalified charitable organization may apply in writing for such status to the Town Council. Prequalified status may be granted at the discretion of the Town Council to any charitable organization when the following conditions are substantially met in the opinion of the Council:

- a. The organization and its purposes are nationally or locally well-known and generally accepted to be in the public interest and benefit;
- b. The organization regularly or traditionally conducts fund raising or charitable solicitation activities in an orderly manner and with integrity consistent with the purposes of the organization and with adequate supervision of its members or representatives engaged in the activity;
- c. Members or representatives engaged in the activity do not receive pay, commissions, or other private and personal remuneration or financial benefits for their services; and
- d. The preponderance of the members or representatives of the organization to engage in the activities within the Town are residents of the Town or the vicinity of the Town.

When a charitable organization has been granted prequalified status, no further license is required under Section 3 for members or representatives of such organization to engage in soliciting in the manner described under Section 6(a).

MMC 6-3-8: REVOCATION OF LICENSE OR PREQUALIFIED CHARITABLE STATUS

Sec. 8: Any license granted under the provisions of Section 4, or prequalified charitable status granted under the provisions of Section 7, may be revoked by the Town Council President, or by majority vote of the Town Council, if it is found by him or them that the person or organization involved has provided false information on the application, has ceased to meet the qualifications for the license or prequalified status or has consistently failed to abide by all applicable regulations in accordance with this chapter. Written notice of such revocation shall be given to the affected person or organization

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by personal service or by registered mail, and shall be effective as of the date and time of such service or delivery. The revocation may be appealed to the Town Council at its next regular meeting.

MMC 6-3-9: REGULATIONS GOVERNING DOOR-TO-DOOR SOLICITATION

Sec. 9: No person, whether required to have a license under the provisions of Section 3 or not, shall engage in soliciting in violation of the following requirements and regulations:

- a. No door-to-door soliciting may be conducted at any residential premises before the hour of 9:00 a.m., nor later than 1/2 hour after sunset on any day.
- b. No person shall attempt to enter upon any residential premises for the purpose of soliciting when the occupant of such premises has posted a clearly legible sign at or near the entrance of such premises stating “no solicitors”, “no peddlers”, or similar wording of plain intent.
- c. Any door-to-door solicitor who has been admitted to any residential premises shall, upon being directed to do so by the owner, occupant, or the person having admitted the solicitor, depart the premises forthwith.

Any door-to-door solicitor shall show to any person upon the residential premises so requesting, or to any police officer, his license certificate (if required under Section 3), his alternative credentials (when required under Section 6), or some other identification or satisfactory explanation showing that he is exempt from the license requirement under Section 6.

MMC 6-3-10: VIOLATIONS; PENALTIES

Sec. 10: Any person violating any of the provisions of this chapter shall, upon conviction, be fined not less than \$10.00 nor more than \$25.00, for each violation thereof. However, each incident of soliciting without a license, or of misrepresenting the character and perquisites of such license, or in violation of other conditions of such license, or in violation of the requirements of Section 9, shall be considered and punishable as a separate offense.

ARTICLE 6, CHAPTER 4: YARD AND GARAGE SALES

SECTION 1:	PERMIT REQUIRED FOR YARD AND GARAGE SALES
SECTION 2:	RULES AND REQUIREMENTS FOR YARD AND GARAGE SALES
SECTION 3:	PENALTIES FOR VIOLATIONS

MMC 6-4-1: PERMIT REQUIRED FOR YARD AND GARAGE SALES

Sec. 1: All persons or organizations having a yard sale, garage sale, porch sale or other similar general sale of multiple items of personal property is required to first obtain a permit from the office of the Clerk-Treasurer. Persons shall apply for the permit at least one week prior to the first day of the sale. No permit fee shall be required. Neighborhood sales or non-profit organizations sponsoring sales involving more than one location require only one permit.

MMC 6-4-2: RULES AND REQUIREMENTS FOR YARD AND GARAGE SALES

Sec. 2: The following conditions must be met in order to obtain the permit described in Section 1 of this Chapter:

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- a. No merchandise other than that normally found in the household may be sold
- b. The sale shall not exceed three days (72 hours) provided, however, that a sale may run the duration of the Covered Bridge Festival.
- c. Not more than three sales per year are allowed at any one location.
- d. All yard sale signs shall be removed upon the conclusion of the sale.
- e. All merchandise, stands and/or equipment used in the course of the sale shall be removed upon conclusion of the sale.
- f. The permit holder shall openly display said permit upon the premises upon which the sale is being held during the entire period of sale.

MMC 6-4-3: PENALTIES FOR VIOLATIONS

Operation of a yard sale without a permit or in violation of the rules and requirements set for in Section 2 shall be punishable by a fine of \$50.00 for each offense. Each day of a violation of this ordinance shall constitute a separate offense.

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ARTICLE 7: PUBLIC PROPERTY AND FACILITIES

CHAPTER 1:	MUNICIPALLY OPERATED CEMETERIES
CHAPTER 2:	PUBLIC PARKS
CHAPTER 3:	PUBLIC LIBRARIES
CHAPTER 5:	PUBLIC AND SUBSIDIZED HOUSING
CHAPTER 6:	FAIR HOUSING

ARTICLE 7, CHAPTER 1: MUNICIPALLY OPERATED CEMETERIES

SECTION 1:	OAKLAND CEMETERY PERMANENT MAINTENANCE FUND ESTABLISHED
SECTION 2:	INVESTMENT OF PERMANENT MAINTENANCE FUND
SECTION 3:	RULES CONCERNING FLOWERS AND OTHER DECORATIONS
SECTION 4:	SPRING AND FALL MAJOR CEMETERY CLEANUP
SECTION 5:	OWNERSHIP AND TRANSFERS
SECTION 6:	SERVICES, FOUNDATIONS, MARKERS AND REMOVALS
SECTION 7:	CEMETERY CONDUCT RULES
SECTION 8:	MEMORIAL DAY CEMETERY DECORATIONS
SECTION 9:	ROADWAYS AND REPLOTTING
SECTION 10:	CHARGES FOR GRAVE LOTS AND SERVICES
SECTION 11:	AUTHORITY TO IMPLEMENT

MMC 7-1-1: OAKLAND CEMETERY PERMANENT MAINTENANCE FUND ESTABLISHED

Sec. 1: There is hereby established an irrevocable permanent maintenance fund, the income only of which shall be devoted to the perpetual care of Oakland Cemetery, the municipally owned cemetery of the Town of Montezuma, Indiana. Except as otherwise stated herein, the perpetual care fund shall be generally administered by the Town Council and as provided by the Indiana General Cemetery Act (IC 23-14-65-1 et seq.) and all acts amendatory thereof and supplemental thereto.

MMC 7-1-2: INVESTMENT OF PERMANENT MAINTENANCE FUND

Sec. 2: All money in the permanent maintenance fund shall be invested only in savings accounts and certificates of deposit fully insured by the Federal Deposit Insurance Corporation of the United States of America, or in securities of the United States of America.

MMC 7-1-3: RULES CONCERNING FLOWERS AND OTHER DECORATIONS

Sec. 3:

1. Only hanging baskets are permitted as decorations during the growing/mowing season, except the Memorial Day exclusion described below.
2. Glass containers, candles, pictures, wind chimes, toys, decorative stones, or other decorations are not permitted on monuments, next to graves, or on foundations.
3. One shepherd hook may be used per grave site.
4. Flowers or other decorations cannot be placed on or be stuck into the ground with the only exception for Memorial Day decorations.
5. Memorial Day decorations may be placed ten days prior to the holiday. Decorations stuck into the ground must be removed within one week after Memorial Day. Cemetery staff will dispose of any decorations that are left behind

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6. Fresh flowers are permitted but will be removed when they become unsightly.
7. Flowers and decorations will be removed when broken or damaged.
8. Planting of real flowers, shrubs, or trees on grave sites is prohibited.
9. Funeral sprays and flowers may be left at the burial site. Flowers, wreaths, emblems, flags, etc. used at funerals will typically be removed after 7 days.
10. Grave Blankets will be allowed to be placed after November 1st, but will need to be removed prior to the spring cleanup date or they will be disposed of.
11. All trees, shrubbery, and flowers growing in the cemetery shall remain the property of the cemetery and cannot be removed without written consent of the cemetery. No labor or landscaping, including seeding, fertilizers and herbicides shall be permitted within the cemetery without special permission. In order that all might be protected and to ensure the best results, all landscaping shall be done under the direction and with approval of the Town Superintendent. No mounds on graves shall be permitted, and no enclosures of graves or lots with stones or other material will be permitted.

MMC 7-1-4: SPRING AND FALL MAJOR CEMETERY CLEANUP

Sec. 4:

1. The two weeks prior to Easter and October 15th – 31st are used to clean up the grounds and prepare the cemetery for spring and winter. Following cleanup, spring decorations may be placed on Good Friday and fall decorations may be placed beginning November 1st.
2. All decorations, including statues and trinkets, flower stands, hanging baskets, shepherd hooks, crypt/niche vases, monument vases and saddles must be removed, including from foundations, during this time. If items remain throughout these dates, they will be removed and disposed of. If you wish to save your decorations, please remove them before we begin the cleanup process. Please do not place any decoration during the cleanup time.

MMC 7-1-5: OWNERSHIP AND TRANSFERS

Sec. 5:

1. Property rights of owners of cemetery plots are governed by Indiana law.
2. All lots are sold under restrictions and no transfer by owner(s) by conveyance or gift of any lot or any portion of a lot shall be valid without the consent of the cemetery officials and a statement from a notary public of said transaction must be submitted to cemetery officials. The cemetery is divided into nine sections.
3. All lots and burial spaces conveyed to individuals shall be presumed to be the sole and separate property of the person named as grantee in the instrument of conveyance; provided, however, that the spouse of the grantee of any such plot containing more than one interment space shall have a vested right of interment of his or her remains within such plot as long as he (she) is the spouse. Any person later becoming the spouse of the grantee shall have a vested right in such plot if more than one interment space remains unoccupied at the times such person becomes the spouse of the grantee, no conveyance or other action of the grantee shall divest such spouse of his/her vested right of interment; provided, however, that a final decree of divorce between them shall terminate unless it is otherwise provided by such decree.
4. Whenever an interment of the remains of the record owner or a relative of the family of the record owner is made in a burial plot transferred by deed or certificate of ownership said owner dies without making disposition of the burial plot in his will by a specific device

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thereof, or by written declaration filed and recorded in the office of the cemetery, said burial plot becomes inalienable and shall be held as a family burial plot of the owner.

Provided sufficient space in the family burial plot is available, one grave may be used for the owner's interment, one for the surviving spouse, if any, of the owner, who has a vested right of interment, and, in any graves remaining, the parents and children of owner.

5. All agreements for the purchase of cemetery interment rights must be in writing, and the Town Superintendent and/or Clerk-Treasurer must sign this agreement. Verbal agreements or representations will not be recognized.
6. It shall be the duty of the plot owner to notify the Clerk-Treasurer of any change in post office address. Notice sent to a plot owner at his/her last address on file in the office of the Clerk-Treasurer/Utility Office shall be considered sufficient and proper legal notification.

MMC 7-1-6: SERVICES, FOUNDATIONS, MARKERS AND REMOVALS

Sec. 6:

1. No Graveside funeral services are permitted on the grounds of Oakland Cemetery, except for military graveside services for a U.S. Service Veteran. All services must be held at the chapel.
2. All graves will be opened and closed by employees of the Town of Montezuma, for which a reasonable charge shall be made. When instructions regarding the locations of a grave on a lot cannot be obtained or are indefinite, or for any reason the grave cannot be opened where specified the Town Superintendent and/or Clerk-Treasurer may at their discretion open it in such location on the lot as they deem best and proper in order not to delay the funeral. Before leaving the cemetery, the undertaker shall deliver to the Town Superintendent, or his/her agent, the regular burial permit along with the grave-opening fee. The right is reserved by the cemetery to require at least twenty-four hours' notice prior to any interment and at least seven days' notice prior to any disinterment (removal).
3. The cemetery staff shall exercise the utmost care in making a removal, but it shall assume no liability for damage to any burial vault, casket, or urn incurred in making removal.
4. No wooden box burials permitted. Vaults must be used.
5. In order that improvements be kept uniform, the Town reserves the right to regulate the size and quality of all markers and other constructions on any grave or lot in said cemetery, and to prevent the erection or placing of any obstruction which may conflict with the regulations or which may be injurious to the general appearance of the ground, and to remove same if necessary.
6. All markers shall be of good quality colored granite, and shall be located at the head of the grave (west end). The lots are so arranged that a space is left at the head of the grave for setting markers, and no markers shall be placed out of marker/ lines.
7. All markers shall be two feet long, by one foot wide, by six inches high, with one-inch bevel and sides pitched, lettering optional, and finish of top optional. Double markers will be permitted for companion graves and they shall be four feet long by one-foot wide, same design. The exception to this rule would be any stone set prior to 1995.
8. Foundations will not be built during freezing weather. To ensure completion by Memorial Day, all orders must be in by April 15th for the spring pour and October 1st for the fall pour.
9. Foundations within the cemetery will be installed by the town, under the town

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superintendent's supervision. All foundation and setting fees must be paid in advance. As a protection to lot owners and to guarantee the quality of work that is performed at Oakland Cemetery, the cemetery reserves the right to excavate and build all foundations, and to regulate all work that is done in the cemetery. The cemetery reserves the right to require a larger deeper foundation if deemed essential for permanency and safety. This may come at an additional cost to the plot owner.

10. The Town of Montezuma reserves the right to halt all construction work between November 1 and April 15.
11. Lot owners are liable for any damage to adjoining lots or other property in the cemetery caused by construction work on monuments, markers, etc. Vandalism or damage caused by forces beyond the control of Oakland Cemetery is the responsibility of the individual lot owner.
12. The name of inscription on each memorial must correspond with the name on record in the office of the Clerk-Treasurer.
13. No advertising shall be allowed upon the grounds and no stones or markers showing the dealer's name or trademark will be permitted.
14. No private mausoleums will be permitted, nor will any vault or tomb of any nature or material which extends to the surface of the ground or would interfere with the sod or natural beauty of the grounds.

MMC 7-1-7: CEMETERY CONDUCT RULES

Sec. 7:

1. The cemetery closes at dusk and any persons found on the grounds after such time will be considered a trespasser. Any person violating the terms of this section by entering or remaining in said cemetery after sundown shall be fined not less than \$15.00 nor more than \$35.00.
2. All persons entering upon the cemetery grounds shall conduct themselves with proper decorum, and any breach of this rule within the discretion of cemetery officials may cause removal of the offender from the grounds.
3. Children will not be permitted unless attended by an adult who will be responsible for their conduct.
4. No automobile shall be driven in the cemetery at a speed greater than 20 miles per hour. All vehicles shall be restricted to the cemetery roads and shall drive and park on the right side of the roadways. No undue noise shall be permitted in operating a vehicle through the cemetery, and only licensed drivers may operate vehicles within the cemetery grounds.
5. No motorcycles, go-karts, atvs, snowmobiles, etc., shall be permitted within the cemetery except as may be in attendance at funerals or on business.
6. No horses or horseback riding will be allowed on cemetery grounds, and no dogs shall be allowed on cemetery grounds outside of a vehicle except service animals.
7. No drinking, hunting, trapping, or participation in any game activities shall be permitted within the cemetery grounds.
8. The cemetery reserves the right to exclude any vehicle which might in anyway damage the roads or cemetery grounds.

MMC 7-1-8: MEMORIAL DAY CEMETERY DECORATIONS

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Sec. 8: Memorial Day decorations may be placed ten days prior to the holiday. Decorations stuck into the ground must be removed within one week after Memorial Day. Cemetery staff will dispose of any decorations that are left behind.

MMC 7-1-9: ROADWAYS AND REPLOTTING

Sec. 9: The right to enlarge, reduce, replot, and /or change the boundaries of the cemetery or of a section or sections, from time to time, including the right to modify and/or change the locations of or remove or regrade roads, drives and/or walks, or any part thereof, is hereby expressly reserved. The right to lay, maintain, and operate, or alter or change pipe lines, and/or gutters, is also expressly reserved. The cemetery reserves to itself, and to those lawfully entitled thereto, a perpetual right of ingress and egress to all sections of Oakland Cemetery, of the Town of Montezuma, Indiana.

MMC 7-1-10: CHARGES FOR GRAVE LOTS AND SERVICES

Sec. 10: The following charges shall apply for grave lots and services:

RESIDENTS AND/OR PROPERTY TAXPAYERS OF MONTEZUMA AND RESERVE TOWNSHIP

Section A	\$130 per grave
Section B	\$150 per grave
Section C	\$200 per grave
Section D	\$400 per grave
Section E	\$400 per grave
Section F	\$400 per grave
Section G	\$400 per grave
Section H	\$400 per grave
Complete 6 grave lot (Section C only)	\$1,000
Complete 6 grave lot (Sections D thru H)	\$2,000

ALL OTHERS

Section A	\$180 per grave
Section B	\$200 per grave

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Section C	\$250 per grave
Section D	\$500 per grave
Section E	\$500 per grave
Section F	\$500 per grave
Section G	\$500 per grave
Section H	\$500 per grave
Complete 6 grave lot (Section C only)	\$1,250
Complete 6 grave lot (Sections D thru H)	\$2,500

For each grave lot purchased, \$50 from the purchase price shall be deposited in the Perpetual Care Fund. For the sale of a complete 6 grave lot, \$250 shall be deposited in the Perpetual Care Fund.

OTHER CHARGES (REGARDLESS OF RESIDENCE)

Grave Opening — Monday thru Saturday	\$300
Grave Opening — Sunday and Holiday	\$500
Grave Opening (infant) Monday thru Saturday	\$100
Grave Opening (infant) Sunday and Holiday	\$200
Burial of Cremated Remains Monday thru Saturday	\$100
Burial of Cremated Remains Sunday and Holiday	\$100
Foundations — Small (32" x 20")	\$100
Foundations — Large (70" x 20")	\$130
Foundations — VA	\$50
Chapel Rental	\$150

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MMC 7-1-11: AUTHORITY TO IMPLEMENT

Sec. 11: The Town Superintendent and/or Clerk-Treasurer are hereby empowered to enforce all rules and regulations. The Town Superintendent and/or Clerk-Treasurer shall have charge of the grounds and buildings, and at all times shall have supervision and control of all persons in the cemetery, including the conduct of funerals, traffic, plot owners, and visitors. The Town Superintendent and/or Clerk-Treasurer may authorize any request from a lot owner so long as it does not conflict with these rules, or affect the beauty of the property, or the rights of other lot owners. The foregoing rules and regulations, with exception of Sections B and C additions, apply to all sections in the Oakland Cemetery, Town of Montezuma, Indiana.

ARTICLE 7, CHAPTER 2: PUBLIC PARKS

SECTION 1:	CERTAIN TOWN LANDS DEDICATED TO PARK PURPOSES (AZTEC PARK)
SECTION 2:	ESTABLISHMENT OF PARK DEPARTMENT AND PARK BOARD
SECTION 3:	PARK BOARD MEMBERS
SECTION 4:	TERMS OF PARK BOARD MEMBERS
SECTION 5:	PARK BOARD OFFICERS
SECTION 6:	AUTHORITY OF THE PARK BOARD
SECTION 7:	PARK BUDGET
SECTION 8:	RULES AND REGULATIONS GOVERNING USE OF TOWN PARKS
SECTION 9:	ESTABLISHING REEDER PARK CAMPING, DUMPING, AND PAVILLION FEES; PROHIBITING CAMPING AT AZTEC PARK

MMC 7-2-1: CERTAIN TOWN LANDS DEDICATED TO PARK PURPOSES (AZTEC PARK)

Sec. 1: Whereas, the Town of Montezuma is the owner in fee simple of the following real estate in Parke County, Indiana, to-wit; part of the northwest quarter of Section 36, Township 16 north, Range 9 west, more particularly described as follows:

- a. Lots 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36 in Zion's Subdivision to the Town of Montezuma, Parke County, Indiana; and
- b. Beginning at the northeast corner of Lot 36 in Zion's Subdivision to the Town of Montezuma, Parke County, Indiana; thence east 225 feet to a stake; thence south 1,342 feet and 8 inches to a stake 225 feet east of the northwest corner of Lot 18 in said Zion's Subdivision; thence west 225 feet to a stake at the northeast corner of said Lot 18; thence north 1,342 feet and 8 inches to the place of beginning, containing 6.93 acres, more or less, subject to the reservation of an easement for utility purposes 25 feet wide along the east side of the last above-described tract; and
- c. All parts of Wilkinson, Zion, Sylvester and Miles Streets east of Jackson Street in said Town of Montezuma;

said real estate is hereby declared and dedicated as a public park to be used for park purposes under the management and control of the Town of Montezuma.

MMC 7-2-2: ESTABLISHMENT OF PARK DEPARTMENT AND PARK BOARD

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Sec. 2: Under the provisions of I.C. 36-10-3 there is hereby created a Department of Parks and Recreation. Said Department shall be under the management and control of the Park and Recreation Board which is hereby established. The Board shall be composed of Four (4) members appointed by the Town Council on the basis of their interest in and knowledge of parks and recreation.

MMC 7-2-3: PARK BOARD MEMBERS

Sec. 3: Pursuant to I.C. 36-10-3-4.1, the requirement that members of the Board be affiliated with any particular political party and that not more than two (2) of the four (4) members be affiliated with the same political party are waived. Board appointments shall be made without regard to the political affiliation of the appointee.

MMC 7-2-4: TERMS OF PARK BOARD MEMBERS

Sec. 4: In accordance with I.C. 36-10-3-5, the four members of the Board shall have staggered terms. Each new appointment shall be made by the Town Council for a term of four (4) years. All terms expire on the first Monday in January, but a member shall continue until his or her successor is appointed. If an appointment for a new term is not made by the Town Council by the first Monday in April, the incumbent shall serve another term. If a vacancy occurs, the Town Council shall appoint a new member for the remainder of the unexpired term. There are no restrictions on the number of terms a Board Member may serve.

MMC 7-2-5: PARK BOARD OFFICERS

Sec. 5: At its first regular meeting in each year, the Park Board shall elect a president and a vice-president. The vice-president shall have authority to act as the president of the Board during the absence or disability of the president. The Board may select a secretary either from within or without its own membership.

MMC 7-2-6: AUTHORITY OF THE PARK BOARD

Sec. 6: The Park Board shall have the power to perform all acts necessary to acquire and develop sites and facilities and to conduct such programs as are generally understood to be park and recreation functions. In addition, the Board shall have all the powers and duties listed in I.C. 36-10-3 *et seq.*

MMC 7-2-7: PARK BUDGET

Sec. 7: The Park Board shall prepare and submit an annual budget in the same manner as other departments of the Town as prescribed by the State Board of Accounts. The Board may accept gifts, donations, and subsidies for park and recreation purposes.

MMC 7-2-8: RULES AND REGULATIONS GOVERNING USE OF TOWN PARKS

Sec. 8: The rules and regulations herein provided for are intended to be effective in all public parks, parts thereof, and park facilities of the Town of Montezuma unless otherwise expressly provided hereinafter, and such rules and regulations are intended to provide for the improvement, preservation, and management of such parks and their facilities. The following rules and regulations apply:

- a. The operation of all vehicles in such parks, except in designated parking areas, is hereby forbidden, except as the operation of vehicles therein may be authorized by the Board of Trustees.
- b. The parking of vehicles in all parks shall be restricted to designated parking areas only.

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- c. The presence of bicycles and horses on baseball diamonds, tennis courts and basketball courts in the parks is forbidden.
- d. The use of glass containers in the parks is forbidden.
- e. Instructions on all legally posted signs in the parks shall be obeyed.
- f. No alcoholic beverages or controlled substances shall be brought into, used, consumed, sold, or traded in such parks at any time.

Any person violating of any of the terms of this section shall be fined an amount not exceeding \$50.00.

MMC 7-2-9: ESTABLISHING REEDER PARK CAMPING, DUMPING AND PAVILION FEES; PROHIBITING CAMPING AT AZTEC PARK

Sec. 9: The following fee schedule is hereby established for persons using certain facilities and services at Reeder Park:

- a. Campers using a campsite with electrical hook-up shall be charged a fee of \$25.00 per night. Campers using a primitive campsite shall be charged a fee of \$15.00 per night. These fees shall also include use of the dump-station. Each camper shall be provided with a tag or sticker for display to indicate the fee has been paid.
- b. Non-campers shall be charged a fee of \$5.00 for use the dump station.
- c. Any person who wishes to reserve the use of the pavilion at Reeder or Aztec Park shall be charged a fee of \$5.00. Only persons who have reserved use of the pavilion may use the electric service provided at the pavilion.

All fees shall be paid during regular business hours at the Montezuma Utility Office. Fees paid during non-regular business hours may be collected by authorized members of the Park Board or a member of the Police Department who shall issue the customer a receipt and submit the fees collected and copy of the receipt to the Utility Office. All fees collected shall be deposited in the Park Fund.

No overnight camping is allowed at Aztec Park.

ARTICLE 7, CHAPTER 3: PUBLIC LIBRARIES

SECTION 1: MONTEZUMA PUBLIC LIBRARY ESTABLISHED

MMC 7-3-1: MONTEZUMA PUBLIC LIBRARY ESTABLISHED

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Sec. 1: There is hereby created and established a free public library in and for the Town of Montezuma to be known and designated as the "Montezuma Public Library." Said public library shall have all of the rights, powers, and duties as set out in the Library Law of 1947 (IC 20-13-1).

ARTICLE 7, CHAPTER 4: PUBLIC AND SUBSIDIZED HOUSING

SECTION 1:	PARKE COUNTY HOUSING AUTHORITY GRANTED JURISDICTION WITHIN TOWN
SECTION 2:	TOWN OF ROCKVILLE HOUSING AUTHORITY GRANTED JURISDICTION WITHIN TOWN

MMC 7-4-1: PARKE COUNTY HOUSING AUTHORITY GRANTED JURISDICTION WITHIN TOWN

Sec.1: The Town of Montezuma shall be included within the area of operation of the Parke County Housing Authority.

MMC 7-4-2: ROCKVILLE HOUSING AUTHORITY GRANTED JURISDICTION WITHIN TOWN

Sec. 2: The Town of Montezuma shall be included within the area of operation of the Rockville Housing Authority.

ARTICLE 7, CHAPTER 5: FAIR HOUSING

SECTION 1:	POLICY STATEMENT
SECTION 2:	DEFINITIONS
SECTION 3:	UNLAWFUL PRACTICE
SECTION 4:	DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING
SECTION 5:	DISCRIMINATION IN REAL ESTATE TRANSACTION
SECTION 6:	DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES
SECTION 7:	INTERFERENCE, COERCION OR INTIMIDATION
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MMC 7-5-1: POLICY STATEMENT

Sec. 1: It shall be the policy of the Town of Montezuma provide, within constitutional limitation, for fair housing throughout 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 and Indiana Code 22-9.5-1 *et seq.*

MMC 7-5-2: DEFINITIONS

Sec. 2: The definitions set forth in this Section shall apply throughout this Chapter:

- a. "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.

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- b. "Family" includes a single individual with the status of such family being further defined in subsection (h) of this Section. Furthermore, pursuant to 24 CFR Part 5.403 and 24 CFR Part 574.3 this definition is revised to include families regardless of the actual or perceived sexual orientation, gender identity, or marital status of its members.

- b. "Person" 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.

- c. "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy the premises owned by the occupant.

- d. "Discriminatory Housing Practice" means an act that is unlawful under Sections 4, 5, 6, 7 or 8 of this Chapter or I.C. 22-9.5-5.

- e. "Handicap" means, with respect to a person:
 - 1. A physical or mental impairment which substantially limits one or more of such person's major life activities,
 - 2. a record of having such an impairment, or
 - 3. being regarded as having such an impairment,
 - 4. An impairment described or defined pursuant to the Federal Americans with Disabilities Act of 1990.
 - 5. Any other impairment defined under I.C. 22-9.5-2-10.
 - 6. The term "handicap" shall not include current illegal use of or addiction to a controlled substance as defined in Section 802 of Title 21 of the United States Code nor does the term "handicap" include an individual solely because that individual is a transvestite I .C. 22-9 .5-2-10(c).

- f. "Aggrieved person" includes any person who:
 - 1. claims to have been injured by a discriminatory housing practice; or
 - 2. believes that such person will be injured by a discriminatory housing practice that is about to occur.

- g. "Familial status" means one or more individuals (who have not attained the age of 18 years) being domiciled with: a parent or another person having legal custody of such individual or the written permission of such parent or other person. The protections afforded against discrimination on this basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18

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years.

- h. "Commission" means the Indiana Civil Rights Commission created pursuant to I.C. 22-9-1-4, et. seq.
- i. "Complainant" means a person, including the Commission, who files a complaint under I.C. 22-9.5-6.

MMC 7-5-3: UNLAWFUL PRACTICE

Sec. 3: Subject to the provisions of subsection (a) of this Section, Section 9 of this Chapter and Title 22-9.5-3 of Indiana Code, the prohibitions against discrimination in the sale or rental of housing set forth Title 22-9.5-5-1 of Indiana Code and in Section 4 of this Chapter shall apply to all dwellings except as exempted by subsection (b) and Title 22-9.5-3 of Indiana Code.

- a. Other than the provisions of subsection (b) of this Section, nothing in Section 4 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 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 who was not the most recent resident of such house prior to the sale, the exemption shall apply only to one such sale within any twenty-four month period. The private individual owner may not own any interest in, nor have owned or reserved on his behalf, title to or any right to all or a portion of the proceeds from the sale or rental of more than three 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:
 - a) 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
 - b) without the publication, posting or mailing, after notice of advertisement or written notice in violation of section 4(c) of this ordinance, but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstracters, title companies and other such professional assistance as necessary to perfect or transfer this title, or
 - 2. rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.
- b. For the purposes of subsection (a), a person shall be deemed to be in the business of selling or renting dwellings if:
 - 1. He has, within the preceding twelve months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or

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2. He has, within the preceding twelve months, participated as agent, other than in the sale of his own personal residence, in providing sales or rental facilities or services in' two or more transactions involving the sale or rental of any dwelling or any interest therein, or
3. He is the owner of any dwelling unit designed or intended for occupancy by, or occupied by, five or more families.

MMC 7-5-4: DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING

Sec. 4: As made applicable by Section 3 and except as exempted by Sections 3(a) and 9, it shall be unlawful:

- a. To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, national origin, or handicap status.
- b. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, familial status, national origin, or handicap status.
- 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 sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of that buyer or renter; a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available or any person associated with that person.
- g. 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 that person; a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or any person associated with that person.
- h. For purposes of this subsection, discrimination includes:
 1. 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

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condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

2. 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 a dwelling.
3. In connection with the design and construction of covered multi-family dwellings for first occupancy after the date that is 30 months after September 13, 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.

Compliance with the appropriate requirement Americans with Disabilities Act of 1990 and of the American National Standard for Buildings and Facilities providing accessibility an usability for physically handicapped people (commonly cited as □ANSI A117.1") suffices to satisfy the requirements of paragraph (3) (C)(iii).

Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals of whose tenancy would result in substantial physical damage to the property of others.

MMC 7-5-5: DISCRIMINATION IN REAL ESTATE TRANSACTION

Sec. 5: 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. As used in this section, the term "residential real estate-related transaction" means any of the following:

- a. The making or purchasing of loans or providing other financial assistance for purchasing, constructing, improving, repairing, or maintaining a dwelling; or secured by residential real

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estate.

- b. The selling, brokering, or appraising of residential real property.

Nothing in this ordinance 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.

MMC 7-5-6: DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES

Sec. 6: 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.

MMC 7-5-7: INTERFERENCE, COERCION OR INTIMIDATION

Sec. 7: It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by sections 3, 4, 5, or 6 of this Chapter.

MMC 7-5-8: PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES

Sec. 8: It is prohibited for any person, whether or not acting under color of law, by force or threat of force to intimidate or interfere with, or attempts to intimidate or interfere with:

- a. Any person because of his race, color, religion, sex, handicap, familial status, or national origin and because he is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings; or
- b. Any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from participating, without discrimination on account of race, color, religion, sex, handicap, familial status, or national origin, in any of the activities, services, organizations or facilities described in subsection 15(a); or affording another person or class of persons opportunity or protection so to participate.

MMC 7-5-9: EXEMPTIONS

Sec. 9: Exemptions defined or set forth under Title 22-9.5-3 *et seq.* of Indiana Code shall be exempt from the provisions of this Ordinance to include those activities or organizations set forth under subsections (a) and (b) of this Section.

- a. Nothing in this ordinance shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color or national origin. Nor shall anything in this Chapter

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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 lodgings to its members or from giving preference to its members.

- b. Nothing in this ordinance regarding familial status shall apply with respect to housing for older persons.
- c. As used in this section, "housing for older persons" means housing:
 - 1. Provided under any state or federal program that the Secretary of the Federal Department of Housing and Urban Development or the state civil rights commission determines is specifically designed and operated to assist elderly persons (as defined in the state or federal program); or
 - 2. Intended for, and solely occupied by, persons 62 years of age or older; or .
 - 3. Intended and operated for occupancy by at least one person 55 years of age or older per unit

MMC 7-5-10: ADMINISTRATIVE ENFORCEMENT OF ORDINANCE

Sec. 10: The authority and responsibility for properly administering this Chapter and referral of complaints hereunder to the Commission as set forth in subsection (a) hereof shall be vested in the Chief Executive Officer of the Town of Montezuma, Indiana.

- a. Notwithstanding the provisions of I.C. 22-9.5-4-8, the Town of Montezuma, Indiana, because of a lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under this Ordinance, herein elects to refer all formal complaints of violation of the articles of this Ordinance by Complainants to the Indiana Civil Rights Commission ("Commission") for administrative enforcement actions pursuant to Title 22-9.5-6 of Indiana Code and the Chief Elected Officer of the Town of Montezuma, Indiana, shall refer all said complaints to the Commission.
- b. All executive departments and agencies of the Town of Montezuma , Indiana, shall administer their departments , programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this Ordinance and shall cooperate with the Chief Executive Officer and the Commission to further such purposes.
- c. The Chief Executive Officer of the Town of Montezuma, or the Chief Executive Officer's designee, shall provide information on remedies available to any aggrieved person or complainant requesting such information.

MMC 7-5-11: SEVERABILITY OF PROVISIONS

Sec. 11: If any provision of this Chapter or the application thereof to any person or circumstances shall be determined to be invalid, the remainder of the Chapter and the application of its provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

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ARTICLE 8: PUBLIC HEALTH AND ENVIRONMENT

CHAPTER 1:	SEWAGE DISPOSAL
CHAPTER 2:	SOLID WASTE DISPOSAL
CHAPTER 3:	WEEDS AND RANK VEGETATION
CHAPTER 4:	ANIMAL CONTROL
CHAPTER 5:	MISCELLANEOUS HEALTH AND ENVIRONMENTAL NUISANCES

ARTICLE 8, CHAPTER 1: PRIVATE SEWAGE DISPOSAL

SECTION 1:	DEFINITIONS
SECTION 2:	PROHIBITIONS
SECTION 3:	MANDATORY CONNECTION
SECTION 4:	LATERAL SEWER CONNECTIONS
SECTION 5:	DISCHARGES
SECTION 6:	PRETREATMENT
SECTION 7:	SUBMITTAL OF PLANS
SECTION 8:	INDUSTRIAL COOLING WATER
SECTION 9:	SUPPLYING INFORMATION
SECTION 10:	SAMPLING
SECTION 11:	INTERCEPTORS
SECTION 12:	NOTIFICATION
SECTION 13:	COMPLIANCE WITH STATE AND FEDERAL REQUIREMENTS
SECTION 14:	TAMPERING WITH SEWAGE SYSTEM PROHIBITED
SECTION 14.5:	PROHIBITING DISPOSAL OF CERTAIN SUBSTANCES THROUGH THE SEWER SYSTEM
SECTION 15:	ACCESS OF AUTHORIZED EMPLOYEES
SECTION 16:	VIOLATIONS

MMC 8-1-1: DEFINITIONS

Sec. 1: As used in this chapter, the following words and terms have the meanings indicated:

- a. "Biochemical oxygen demand" (or BOD) shall mean the quantity of oxygen expressed in mg/1 utilized in the biochemical oxidation of organic matter under standard laboratory procedures with nitrification inhibition in five (5) days as 20 degrees C.
- b. "Building drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of a building and conveys it to the building sewer beginning five (5) feet outside the building wall.

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1. Building Drain – Sanitary: A building drain which conveys sanitary or industrial sewage only.
 2. Building Drain – Storm: A building drain which conveys storm water or other Clearwater drainage, but no wastewater.
- c. “Building sewer” shall mean the extension from the building drain to the public sewer or other place of disposal. (Also called house connection.)
1. Building Sewer – Sanitary: A building sewer which conveys only sanitary or industrial sewage.
 2. Building Sewer – Storm: A building sewer which conveys storm-waste or other Clearwater drainage, but no sanitary or industrial sewage.
- d. “Combined sewer” shall mean a sewer intended to receive both wastewater and storm or surface water.
- e. “Compatible pollutant” shall mean biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria, plus additional pollutants identified in the NPDES permit if the treatment works was designed to treat such pollutants, and in fact does remove such pollutants to a substantial degree. The term substantial degree is not subject to precise definition, but generally contemplates removals in the order of 80 percent or greater. Minor incidental removals in the order of 10 to 30 percent are not considered substantial.
1. Examples of the additional pollutants which may be considered compatible include:
 - a.) Chemical oxygen demand,
 - b.) Total organic carbon,
 - c.) Phosphorus and phosphorus compounds,
 - d.) Nitrogen and nitrogen compounds, and
 - e.) Fats, oils, and greases of animal or vegetable origin (except as prohibited where these minerals would interfere with the operation of the treatment works.)
- f. “Easement” shall mean an acquired legal right for the specific use of land owned by others.
- g. “Fecal coliform” shall mean any of a number of organisms common to the intestinal tract of man and animals, whose presence in sanitary sewage is an indicator of pollution.
- h. “Floatable oil” shall mean oil, fat, or grease in a physical state, such that will separate by gravity from wastewater by treatment in the pretreatment facility approved by the Town.
- i. “Garbage” shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.
- j. “Incompatible pollutant” shall mean any pollutant that is not defined as a compatible pollutant, including non-biodegradable dissolved solids.
- k. “Industrial wastes” shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from employee wastes or wastes from sanitary convenience.

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- l. “Infiltration” shall mean the water entering a sewer system, including building drains and sewers, from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections, or manhole walls. (Infiltration does not include and is distinguished from inflow.)
- m. “Infiltration/Inflow” shall mean the total quantity of water from both infiltration and inflow without distinguishing the source.
- n. “Inflow” shall mean the water discharge into a sewer system, including building drains and sewers, from such sources as, but not limited to, roof leaders, cellars, yard and area drains, foundation drains, unpolluted cooling water discharges, drains from springs and swampy areas, manhole covers, cross connections from storm sewers and combined sewers, catch basins, storm waters, surface run-off, street wash waters or drainage. (Inflow does not include, and is distinguished from infiltration.)
- o. “Inspector” shall mean the person or persons duly authorized by the Town, through its Town Council, to inspect and approve the installation of building sewers and their connection to the public sewer system.
- p. “Major contributing industry” shall mean an industry that:
 1. Has a flow of 50,000 gallons or more per average work day;
 2. Has a flow greater than five percent of the flow carried by the municipal system receiving the waste;
 3. Has in its waste a toxic pollutant in toxic amounts as defined in standards issued under Section 307(a) or PL 92-500; or
 4. Has a significant impact, either singly or in combination with other contributing industries, on a treatment works or on the quality of effluent from that treatment works.
- q. “NPDES Permit” shall mean a permit issued under the National Pollutant Discharge Elimination System for discharge of wastewaters to the navigable waters of the United States pursuant to Section 402 of PL 92-500.
- r. “Natural Outlet” shall mean any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
- s. “pH” shall mean the reciprocal of the logarithm of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams per liter of solution.
- t. “Person” shall mean any individual, firm, company, association, society, corporation, group or other entity.
- u. “Pretreatment” shall mean the treatment of industrial sewage from privately owned industrial sources prior to introduction into a public treatment works.
- v. “Private sewer” shall mean a sewer which is not owned by a public authority.

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- w. “Properly shredded garbage” shall mean the wastes from the preparation, cooking, and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension.
- x. “Public sewer” shall mean a sewer which is owned and controlled by the public authority and will consist of the following increments:
 - 1. Collector sewer: shall mean a sewer whose primary purpose is to collect wastewaters from individual point source discharges.
 - 2. Interceptor sewer: shall mean a sewer whose primary purpose is to transport wastewater from collector sewers to a treatment facility.
 - 3. Force Main: shall mean a pipe in which wastewater is carried under pressure.
 - 4. Pumping station: shall mean a station positioned in the public sewer system at which wastewater is pumped to a higher level.
- y. “Sanitary sewer” shall mean a sewer which carries sanitary and industrial wastes, and to which storm, surface, and ground water are not intentionally admitted.
- z. “Sewage” shall mean the combination of liquid and water carried wastes from residences, commercial buildings, industrial plants and institutions (including polluted cooling water). The three most common types of sewage are:
 - 1. Sanitary sewage: shall mean the combination of liquid and water carried wastes discharged from toilet and other sanitary plumbing facilities.
 - 2. Industrial sewage: shall mean a combination of liquid and water carried wastes, discharged from any industrial establishment, and resulting from any trade or process carried on in that establishment (this shall include the wastes from pretreatment facilities and polluted cooling water).
 - 3. Combined sewage: shall mean wastes including sanitary sewage, industrial sewage, stormwater, infiltration and inflow carried to the wastewater treatment facilities by a combined sewer.
- aa. “Sewage works” shall mean the structures, equipment and processes to collect, transport and treat domestic and industrial wastes and dispose of the effluent and accumulated residual solids.
- bb. “Sewer” shall mean a pipe or conduit for carrying sewage.
- cc. “Shall” is mandatory; “May” is permissive.
- dd. “Sludge” shall mean any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 10 minutes more than 3 times the average 24 hours concentration of flows during normal operation and shall adversely affect the collection system.
- ee. “Standard methods” shall mean the laboratory procedures set forth in the latest edition, at the time of analysis, of “standard Methods for the Examination of Water Wastewater” prepared

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and published jointly by the American Public Health Association, The American Water Works Association and the Water Pollution Control Federation.

- ff. “Storm sewer” shall mean a sewer for conveying water, ground water or unpolluted water from any source and to which sanitary and/or industrial wastes are not intentionally admitted.
- gg. “Superintendent” shall mean the Superintendent of the municipal sewage works of the Town of Montezuma, Indiana, or his authorized deputy, agent or representative.
- hh. “Suspended solids” shall mean solids that either float on the surface of, or are in suspension in, water, sewage, or other liquids and which are removable by laboratory filtering under standard laboratory procedure.
- ii. “Total solids” shall mean the sum of suspended and dissolved solids.
- jj. “Toxic amount” shall mean concentrations of any pollutant or combination of pollutants, which upon exposure to or assimilation into any organism will cause adverse effects, such as cancer, genetic mutations, and physiological manifestations, as defined in standards issued pursuant to Section 307(a) of PL 92-500.
- kk. “Unpolluted water” is water of quality equal to or better than the effluent criteria in effect, or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.
- ll. “Volatile organic matter” shall mean the material in the sewage solids transformed to gases or vapors when heated to 55 degrees C for 15 to 20 minutes.
- mm. “Watercourse” shall mean a natural or artificial channel for the passage of water either continuously or intermittently.
- nn. “NH₃N” shall mean the same as Ammonia Nitrogen measured as Nitrogen. The laboratory determinations shall be made in accordance with procedures set forth in “standard Methods” as defined in paragraph “ff”.
- oo. “P” or Phosphorus shall mean the chemical element Phosphorus.
- pp. “Vacuum Collection Sewer” shall mean a public sewer which transports sewage by means of an internal vacuum applied to the line from a central vacuum collection/pumping station.
- qq. “Vacuum Valve” shall mean a special valve installed in the interface between a Vacuum Collection Sewer and the collection sump which collects gravity discharge from one or more “Building sewers”. The vacuum valve’s function is to automatically introduce the discharge from the building sewer into the vacuum collector sewer.
- rr. “Collection Sump” shall mean a tank which collects and holds the discharge from one or more building sewers pending its introduction into the vacuum collection sewer through the vacuum valve.

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- ss. "Vacuum Valve Pit" shall mean an underground enclosure complete with cover which houses a vacuum valve along with collection sump, related controls and appurtenances.

MMC 8-1-2: PROHIBITIONS

Sec. 2:

- a. It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the Town or in any area under the jurisdiction of said Town any human or animal excrement, garbage, or other objectionable waste.
- b. No person shall discharge or cause to be discharged to any sanitary sewer, either directly or indirectly, stormwater, surface water, ground water, roof run-off, subsurface drainage, cooling water, unpolluted water, or unpolluted industrial process water. The Town shall require the removal of unpolluted waters from any wastewater collection or treatment facility.
- c. Stormwater, surface water, ground water, roof run-off, subsurface drainage, cooling water, unpolluted water or unpolluted industrial process water may be admitted to storm sewers which have adequate capacity for their accommodation. No person shall use such sewers, however, without the specific permission of the Town. No new connection shall be made to any sanitary or storm sewer unless there is capacity available in all downstream sewers, lift stations, force mains, and the sewage treatment plant including capacity for BOD and suspended solids.
- d. No person shall place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the jurisdiction of the Town any wastewater or other polluted waters except where suitable treatment has been provided in accordance with provisions of this ordinance and the NPDES Permit.
- e. No person shall discharge or cause to be discharged to any natural outlet any wastewater or other polluted waters except where suitable treatment has been provided in accordance with provisions of this ordinance and the NPDES Permit.
- f. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.
- g. The owner of all houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the Town or served by the Town's water utility is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this ordinance, within ninety (90) days after date of official notice to do so, provided that said public sewer is within three hundred (300) feet of the property line. As a condition of connection to a public sewer, the owner(s) shall grant a right of access easement to the building sewer to the Town for the purpose of repair and inspection prior to backfilling.
- h. Upon connection to the public sewer, any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material by the owner(s)

MMC 8-1-3: UNSANITARY DISPOSAL OF SEWAGE ON PROPERTY PROHIBITED

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Sec. 3:

- a. Where a public sanitary sewer is not available under the provisions of Section 2(g), the building sewer shall be connected to a private sewage disposal complying with the provisions of this article.
- b. Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the Superintendent.
- c. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. He shall be allowed to inspect the works at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within twenty-four (24) hours of the receipt of notice by the Superintendent.
- d. The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the State Board of Health. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than twenty thousand (20,000) square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.
- e. At such time as a public sewer becomes available to a property served by a private sewage disposal system as provided in Section 3(d), a direct connection shall be made to the public sewer in compliance with this ordinance, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.
- f. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the Town.
- g. When a public sewer becomes available, the building sewer shall be connected to the public sewer within sixty (60) days and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.
- h. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the Health Officer.

MMC 8-1-4: APPROVED PRIVATE SEWAGE DISPOSAL SYSTEM REQUIRED; EXEMPTIONS

Sec. 4:

- a. No unauthorized person shall uncover, make any connections with or opening into, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Clerk-Treasurer.
- b. There shall be two (2) classes of building sewer permits:
 1. For residential and commercial service, and

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2. For service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the said Town. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the inspector.

A permit and inspection fee of Five Hundred Dollars (\$500.00) for residential or commercial building sewer permit and One Thousand Dollars (\$1,000.00) for an industrial building sewer permit shall be paid to the Clerk-Treasurer at the time the application is filed. Provided, however, no permit and inspection fees will be required of any customer connecting to a local or lateral sewer within 90 days of the date on which said service was available for connection as a result of the initial construction project.

- c. All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- d. Old building sewers may be used in connection with the new buildings only when they are found, on examination and test by the said Inspector, to meet all requirements of this ordinance.
- e. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the Guidelines for Installation of Building Sewer Laterals included at the end of this Ordinance, as well as the plumbing code or other applicable rules and regulations of the Town. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and S.P.C.F. manual of Practice no. FD-9 shall apply. For vacuum sewer systems at or near the point of the building sewer into the building being served, an open vent, vented to atmosphere, shall be provided. The vent shall have an inside diameter of a least 4 inches.
- f. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
- g. No person(s) shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface run-off or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
- h. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Town or the procedures set forth in appropriate specifications of the A.S.T.M. and the S.P.C.F. Manual of Practice in No. FD-9. All such connections shall be made gas tight and water tight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installations.

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- i. The applicant for the building sewer permit shall notify the said Inspector when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the said Inspector or his representative. The applicant shall provide access to all structures (and areas of structures) to the Inspector for the purpose of establishing compliance with Section 4(h).
- j. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the said Town.
- k. The Guidelines for Installation of Building Sewer Laterals, attached shall be adhered to with regard to building sewer construction, installation, material and/or specifications.

MMC 8-1-5: APPLICABILITY OF STATE BOARD OF HEALTH REGULATIONS

Sec. 5:

- a. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:
 - 1. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.
 - 2. Any waters or wastes containing toxic (as described in Section 307A of the Clean Water Act) or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant.
 - 3. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works or interfere with any treatment process.
 - 4. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rages, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair, entrails, paper, dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
 - 5. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the State, Federal, or other public agencies of jurisdiction of such discharge to the receiving waters.

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6. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.
 7. Any waters or wastes having pH in excess of 9.5.
 8. Materials which exert or cause:
 - a) Unusual concentrations of inert suspended solids (such as, but not limited to Fullers earth, lime slurries, and lime residues or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
 - b) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
 - c) Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
 - d) Unusual volume of flow or concentration of wastes constituting “slugs” as defined herein.
 9. Waters or wastes containing substances which are not amendable to treatment or reduction by the sewage treatment processes employed, or are amendable to treatment only to such degree that the sewage treatment effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- b. If any waters or wastes are discharged, or are proposed to be discharged, to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 5(a) of this article, and which in judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:
1. Require new industries (or other large users) or industries (or other large users) with significant increases in discharges to submit information on wastewater quantities and characteristics and obtain prior approval for discharges.
 2. Reject the wastes in whole or in part for any reason deemed appropriate by the Town.
 3. Require pretreatment of such wastes to within the limits of normal sewage as defined.
 4. Require control or flow equalization of such wastes so as to avoid any “sludge” loads or excessive loads that may be harmful to the treatment works, or
 5. Require payment of a surcharge on any excessive flows or loadings discharged to the treatment works to cover the additional costs of having capacity for and treating such wastes.

If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plant and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances and laws.

- c. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

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- d. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his expense, and shall be maintained so as to be safe and accessible at all times. Agents of the Town, the State Water Pollution Control Agencies, and the U.S. Environmental Protection Agency shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling and testing.
- e. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this ordinance shall be determined in accordance with the latest edition of “Standard Methods for the Examination of Water and Wastewater”, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole, except for application for NPDES permits and report thereof which shall be conducted in accordance with rules and regulations adopted by the USEPA (40 CFR part 136). In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and Suspended Solids analyses are obtained from twenty-four (24) hour composites of all outfalls whereas pH’s are determined from periodic grab samples.
- f. No statement contained in this article shall be construed as preventing any special agreement or arrangement between the Town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Town for treatment, subject to payment therefore, by the industrial concern, at such rates as are compatible with the rate ordinance.

MMC 8-1-6: PRETREATMENT

Sec. 6: Pretreatment of industrial wastes from major contributing industries prior to discharge to the treatment works is required and is subject to the Rules and Regulations adopted by the United States Environmental Protection Agency (USEPA) (40 CFR Part 403), and “Guidelines Establishing Test Procedures for Analysis of Pollutants” (40 CFR Part 136), in addition to any more stringent requirements established by the Town and any subsequent State of Federal Guidelines and Rules and Regulations.

MMC 8-1-7: SUBMITTAL OF PLANS

Sec. 7: Plans, specifications, and any other pertinent information relating to pretreatment or control facilities shall be submitted for approval of the Town and no construction of such facilities shall be commenced until approval in writing is granted. Where such facilities are provided, they shall be maintained continuously in satisfactory and effective operating order by the owner at his expense and shall be subject to periodic inspection by the Town to determine that such facilities are being operated in conformance with applicable Federal, State and local laws and permits. The owner shall maintain operating records and shall submit to the Town a monthly summary report of the character of the

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influent and effluent to show the performance of the treatment facilities and for comparison against Town monitoring records.

MMC 8-1-8: INDUSTRIAL COOLING WATER

Sec. 8: Industrial cooling water, which may be polluted with insoluble oils or grease or suspended solids, shall be pretreated for removal of pollutants and the resultant clear water shall be discharged in accordance with the above Section.

MMC 8-1-9: PERMIT REQUIRED FOR INSTALLATION OR MODIFICATION OF SYSTEM

Sec. 9: The Town may require users of the treatment works, other than residential users, to supply pertinent information on wastewater flows and characteristics. Such measurements, tests, and analysis shall be made at the user's expense. If made by the Town, an appropriate charge may be associated to the user at the option of the Town.

MMC 8-1-10: SAMPLING

Sec. 10: The strength of wastewaters shall be determined, for periodic establishment of charges provided for in the Rate Ordinance, from samples taken at the aforementioned structure at any period of time and of such duration and in such manner as the Town may elect, or, at any place mutually agreed upon between the user and the Town. Appropriate charges for sampling and analysis may be assessed to the user at the option of the Town. The results of routine sampling and analysis by the user may also be used, for determination of charges after verification by the Town.

MMC 8-1-11: INTERCEPTORS

Sec. 11: The strength of wastewaters shall be determined, for periodic establishment of charges provided for in the Rate Ordinance, from samples taken at the aforementioned structure at any period of time and of such duration and in such manner as the Town may elect, or, at any place mutually agreed upon between the user and the Town. Appropriate charges for sampling and analysis may be assessed to the user at the option of the Town. The results of routine sampling and analysis by the user may also be used, for determination of charges after verification by the Town.

MMC 8-1-12: NOTIFICATION

Sec.12: Users of the treatment works shall immediately notify the Town of any unusual flows or wastes that are discharged accidentally or otherwise to the sewer system.

MMC 8-1-13: COMPLIANCE WITH STATE AND FEDERAL REQUIREMENTS

Sec. 13: All provisions of this Chapter and limits set herein shall comply with any applicable State and/or Federal Requirements now, or projected to be in effect.

MMC 8-1-14: TAMPERING WITH SEWAGE SYSTEM PROHIBITED

Sec. 14: No unauthorized person shall maliciously, willfully or negligently break, damage, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the municipal sewage works. Any person violating this provision shall be subject to immediate arrest and criminal prosecution.

MMC 8-1-14.5: PROHIBITING DISPOSAL OF CERTAIN SUBSTANCES THROUGH THE SEWER SYSTEM

Sec. 15: In addition to other restrictions within this chapter, no person shall dispose into the Town's sewer system the following substances: (a) wet/dry cleaning clothes or wipes (i.e. baby wipes, Swiffer pads); (b) plastic, latex or polyurethane items (i.e. bags, gloves, condoms); (c) sanitary napkins or

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tampons; (d) diapers; (e) cloth, rags, strings; or (f) other substances which could clog or damage the Town's sewer system.

MMC 8-1-15: ACCESS OF AUTHORIZED EMPLOYEES

Sec. 15: The Superintendent, Inspector and other duly authorized employees of the Town bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this ordinance. The Superintendent or his representative shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

MMC 8-1-16: VIOLATIONS

Sec. 16:

- a. Any person found to be violating any provisions of this Ordinance, except Section 14, shall be served by the Town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
- b. Any person who shall continue any violation beyond the time limit provided for in Section 16(a) shall issue a citation and, upon conviction, be fined in an amount not exceeding One Thousand Dollars (\$1,000.00) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.
- c. Any person violating Section 14 or Section 14.5 of this Ordinance shall be issued a citation and, upon conviction, be fined in an amount not exceeding Five Hundred Dollars (\$500.00) for each violation.
- d. Any person violating any of the provisions of this Ordinance shall, in addition to the fines set forth above, become liable to the Town for any expense, loss or damage occasioned the Town by reason of such violation.

ARTICLE 8, CHAPTER 2: SOLID WASTE DISPOSAL

SECTION 1:	DEFINITIONS
SECTION 2:	PLACEMENT OF TRASH CONTAINERS NEAR STREETS RESTRICTED
SECTION 3:	VIOLATIONS; PENALTIES

MMC 8-2-1: DEFINITIONS

Sec. 1: For purposes of this chapter, the following words have the meaning indicated:

- a. "Trash" means all putrescible and non-putrescible solid and semi-solid wastes, except human excrement, but including garbage, rubbish, ashes, street cleanings, dead animals, offal, and solid commercial, industrial, and institutional wastes, leaf rakings, etc.

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MMC 8-2-2: PLACEMENT OF TRASH CONTAINERS NEAR STREETS RESTRICTED

Sec. 3: No trash receptacle or dumpster shall be placed in a location where it impedes vehicular or pedestrian traffic, where as it creates a view block to vehicles or pedestrians, or otherwise creates a safety hazard to the traveling public.

MMC 8-2-3: VIOLATIONS; PENALTIES

Sec. 4: Any person violating any of the provisions of this chapter shall, upon conviction, be fined \$25.00 for each violation thereof.

ARTICLE 8, CHAPTER 2.5: REGULATING OPEN BURNING IN THE TOWN OF MONTEZUMA

SECTION 1:	DEFINITION
SECTION 2:	ABIDING THE REGULATION OF OPEN BURNING ORDINANCE
SECTION 3:	EXEMPTIONS FOR OPEN BURNING
SECTION 4:	VARIANCES
SECTION 5:	CONDITIONS APPLIED TO EXEMPTIONS AND VARIANCES

MMC 8-2.5-1: DEFINITION

Sec. 1: Open burning is defined as the burning of any materials wherein air contaminants resulting from combustion are emitted directly into the air, without passing through a stack or chimney from an enclosed chamber

MMC 8-2.5-2: ABIDING THE REGULATION OF OPEN BURNING ORDINANCE

Sec. 2: No person shall start, kindle, cause, allow, or maintain any form of open burning of any materials on private or public property, except as specifically authorized by this ordinance. No person shall allow the accumulation or existence of combustible material that constitutes or contributes to open burning.

MMC 8-2.5-3: EXEMPTIONS FOR OPEN BURNING

Sec. 3: The following types of burning are allowed:

- a. The burning of charcoal, clean untreated wood, and other cooking fuels customarily used in an outdoor grill, traditional food cooking devices, or campfires.
- b. Fires used for recreational or ceremonial purposes such as school pep rally fires or the celebration of scout activities. Recreational or ceremonial burning shall meet the following conditions:
 1. Only clean untreated wood or charcoal shall be used. Paper or petroleum products can be used for ignition purposes only.
 2. The fire shall not be ignited more than 2 hours before the recreational activity is to take place and shall be extinguished upon the conclusion of the activity.
 3. The pile to be burned shall be less than 1000 cubic feet (for example: 10ft. x 10ft. x 10ft.).

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4. The local fire department shall be notified 24 hours in advance if the pile to be burned is more than 125 cubic feet (for example: 5ft. x 5ft. x 5ft.).
5. The fire shall not be for disposal purposes.
6. The fire shall not be within 500 feet of a pipeline or fuel storage area.

MMC 8-2.5-4: VARIANCES

Sec. 4: Other types of fires may be approved as follows:

Any other type of fire whereby a citizen of the Town of Montezuma has obtained a variance from the provisions of this ordinance by petitioning the Common Council may be allowed. However, the Common Council cannot grant a variance for burning that would otherwise violate the provisions of the 326 Indiana Administrative Code 4-1 et seq. and as amended and Indiana Code 13-17-9.

MCC 8-2.5-5: CONDITIONS APPLIED TO EXEMPTIONS AND VARIANCES

Sec. 5: The following conditions apply to all exemptions and variances:

- a. Burning shall be done during safe weather conditions. Burning shall not occur, during high winds, temperature inversions, air stagnation, or when a pollution alert or ozone action day has been declared.
- b. Fires must be attended at all times until completely extinguished.
- c. Fires must be extinguished if they create a fire hazard, nuisance, pollution problem, or threat to public health.
- d. Firefighting equipment adequate for the size of the fire shall be on-site and nearby during times of burning.
- e. Burning shall not be for disposal purposes.
- f. All burning shall comply with other federal, state, and local laws, rules, and ordinances.

ARTICLE 8, CHAPTER 3: WEEDS AND RANK VEGETATION

SECTION 1:	AUTHORITY
SECTION 2:	DEFINITIONS AND STANDARDS
SECTION 3:	MAINTENANCE OF RANK VEGETATION PROHIBITED
SECTION 4:	ENFORCEMENT; SERVICE OF NOTICE TO LANDOWNER
SECTION 5:	FAILURE TO COMPLY; REMOVAL BY TOWN; BILLING COSTS TO LANDOWNER
SECTION 6:	NONPAYMENT OF BILL; CERTIFICATION TO AUDITOR
SECTION 7:	ALTERNATIVE COLLECTION PROCEDURE IN CASE OF NONTAXABLE PROPERTY
SECTION 8:	PENAL VIOLATION, PENALTIES
SECTION 9:	NON-EFFECT ON PRIVATE PROPERTY MAINTENANCE CONTRACTS

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MMC 8-3-1: AUTHORITY

Sec. 1: This chapter is adopted under authority of IC 36-1-3 and IC 36-7-10-3.

MMC 8-3-2: DEFINITIONS AND STANDARDS

Sec. 2: As used in this chapter, the following words and terms shall have the meanings indicated below:

- g. “Landowner” is the owner-of-record of any property as shown in the most recent property tax abstracts on record in the office of the County Auditor, and includes jointly or severally two or more persons owning property in partnership or joint tenancy. The term also includes a political or municipal corporation or other governmental or quasi-governmental entity, religious or charitable organization or association, etc., which holds or controls actual proprietary title to any land even though such land may be excluded from property taxation.
- h. “Weed” means any plant, vine, or small bush which is naturally growing and is not normally planted deliberately, cultivated, and maintained for ornamental or agricultural purposes.
- i. “Noxious vegetation” means any weed or other plant which, because of its toxic or allergenic characteristics, propensity to grow densely or rapidly so as to choke out more desirable forms of vegetation, or other reasons, is deemed inimical to the public health or general welfare, and the presence and proliferation of which in the community is therefore deemed subject to proper control and restriction under the general police powers of the municipality.
- j. “Rank vegetation” means:
 - 1. Lawn grass or weeds which are permitted to grow to a height of more than 6 inches on any developed residential, commercial, or industrial property (whether occupied or not), or to a height of more than 1 foot on any undeveloped land or land in agricultural use; or
 - 2. Any noxious vegetation regardless of height, location, the use of property on which situated, or other incidental characteristic’s, subject, however, to such exceptions as are set forth in Schedule A; or
 - 3. Trees, bushes, shrubs, vines, etc., whether cultivated or naturally growing, which are permitted to grow so as to encroach upon, obstruct the normal use of, or render hazardous a public sidewalk or vehicular thoroughfare; or encroach upon, impair the normal use and enjoyment of, or detract from the appearance of any adjacent public or private property.

MMC 8-3-3: MAINTENANCE OF RANK VEGETATION PROHIBITED

Sec. 3: It is hereby declared to be unlawful and a public nuisance to the inhabitants of the town for any landowner to allow rank vegetation to grow upon his lands within the corporate limits of the town.

MMC 8-3-4: ENFORCEMENT; SERVICE OF NOTICE TO LANDOWNER

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Sec. 4: Whenever any rank vegetation is found to be maintained in violation of Section 3, the landowner shall be given a written notice by the Clerk-Treasurer describing the nature and location of the violation, and directing the landowner to remove the rank vegetation or otherwise abate the violation within five (5) days of the date of service of the notice. The notice shall be served by the Town Marshal on the landowner or his proper representative in person, if he is a resident, or by registered mail if he is a nonresident.

MMC 8-3-5: FAILURE TO COMPLY; REMOVAL BY TOWN; BILLING COSTS TO LANDOWNER

Sec. 5: If the landowner or his agent fails to remove the rank vegetation or otherwise timely abate the violation in accordance with the notice served under Section 4 the Town Council may cause the same to be removed or otherwise abated either by employees of the town or by a private contractor engaged for that purpose. Such town employees or private contractor and his employees shall have a right to enter upon the affected property at any reasonable hour to carry out such removal or other abatement. In this case, the Clerk-Treasurer shall make a certified statement of the actual costs incurred by the town in the removal or abatement. The costs computed shall include an allowance for the costs of service or delivery both of the original notice provided for under Section 4 and of the statement of costs provided under this section. The statement shall be tendered to the landowner or his proper representative by the Town Marshal or by registered mail, and the landowner shall have not more than ten (10) days from the date of service of the statement within which to pay the amount to the Clerk-Treasurer. The statement shall include an expressed notice as to the deadline for payment.

MMC 8-3-6: NONPAYMENT OF BILL; CERTIFICATION TO AUDITOR

Sec. 6: Except as provided by Section 7 hereinafter, if the landowner fails to pay the sum owing under Section 5 within the time prescribed, a certified copy of the statement of cost shall be filed in the County Auditor's office, as provided by IC 36-7-10-3, and the Auditor shall place the amount claimed on the tax duplicate against the lands of the landowner affected by the work, and the amount shall be collected as taxes are collected, and when collected shall be dispersed to the General Fund of the town.

MMC 8-3-7: ALTERNATIVE COLLECTION PROCEDURE IN CASE OF NONTAXABLE PROPERTY

Sec. 7: In the event the landowner fails to pay the sum owing under Section 5 within the time prescribed, but the nature of the landowner and affected property is such that said property is not subject to property taxes, then in lieu of the procedure prescribed under Section 6 the Town Council may direct the Town Attorney, in accordance with IC 36-1-6-2, to take out and file a lien on said property in favor of the town and in the amount of costs incurred, which lien shall be enforceable and foreclosable in the same manner as other contractor's or workmen's liens as provided by law.

MMC 8-3-8: PENAL VIOLATION, PENALTIES

Sec. 8: Except when the landowner is a political or municipal corporation or other governmental or quasi-governmental entity, any landowner who fails to remove his rank vegetation when given notice and within the time period allowed under Section 4 may also be given a penal citation for violation of this chapter, and shall be liable to a fine of not less than \$25.00 nor more than \$50.00 in addition to any costs for which such person is liable under Section 5.

MMC 8-3-9: NON-EFFECT ON PRIVATE PROPERTY MAINTENANCE CONTRACTS

Sec. 9: This chapter is not intended and may not be construed to abrogate any provisions of leases, easements, or other private contracts or agreements whereby some person other than the landowner is made liable for maintenance of the property, including expressly or implicitly the removal of weeds

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and rank vegetation. However, no such lease, easement, contract, or agreement shall be construed to relieve the landowner of immediate liability for compliance with this chapter or from costs and/or penalties assessed hereunder. It shall be a private matter between the landowner and lessee, contractee, or similar other person to recover any costs or penalties incurred by the landowner through the nonperformance of the other party.

ARTICLE 8, CHAPTER 4: ANIMAL CONTROL

SECTION 1:	DEFINITIONS
SECTION 2:	KEEPING OF LIVESTOCK WITHIN TOWN RESTRICTED
SECTION 3:	GENERAL TOWN ANIMAL REGULATIONS
SECTION 4:	KEEPING OF WILD ANIMALS RESTRICTED
SECTION 5:	IMPOUNDMENT OF ANIMALS FOUND IN VIOLATION
SECTION 6:	TIME PERIOD FOR RETAINING ANIMALS IN CUSTODY; RECLAIMING OF ANIMAL
SECTION 7:	BARS TO RECOVERY OF IMPOUNDED ANIMALS
SECTION 8:	FEES AND CHARGES FOR IMPOUNDED ANIMALS
SECTION 9:	ENFORCEMENT AND PENALTIES; INJUNCTIONS

MMC 8-4-1: DEFINITIONS

Sec. 1: As used hereinafter, the following words and terms have the meanings indicated:

- a. "Animal" means any nonhuman vertebrate
- b. "Livestock" means any live cattle, horses, swine, sheep, goats, poultry, and other such animals which are ordinarily kept, bred, or maintained for purposes of animal husbandry or commercial breeding, but applies to any such animal irrespective of the particular reason for which such individual animal is kept or maintained
- c. "Domestic animal" means livestock or animals belonging to species normally kept, harbored, and maintained by persons as pets, irrespective of the particular reason for which an individual animal is kept or maintained.
- d. "Wild animal" means any animal which is not a domestic animal.
- e. "To run at large" means for an animal to be loose upon public property or in a public area, or upon private property other than that of the animal's owner or keeper and, without the consent of the owner or tenant of such private property, without direct and responsible human control and supervision
- f. "Reckless" means with clear and deliberate or grossly negligent disregard for the safety and welfare of persons and property.
- g. "Poultry" means any domesticated avian species or variety, including chickens, ducks, geese, guinea fowl, turkeys, etc.

MMC 8-4-2: KEEPING OF LIVESTOCK WITHIN TOWN RESTRICTED

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Sec. 2: Except as permitted under Section 3, it shall be unlawful for any person to keep any livestock within the corporate limits of the town.

MMC 8-4-3: GENERAL TOWN ANIMAL REGULATIONS

Sec. 3: No person having; ownership or custody of an animal shall, within the corporate limits of the town:

- a. Knowingly or negligently permit a domestic animal to run at large, or to destroy or deface shrubbery, lawns, flowers, gardens, or other property;
- b. Keep any animal which by barking, howling, yelping or making any other noise disturbs the peace and quiet of any neighborhood, or which by foul and noxious odors detracts from the use, enjoyment, and value of surrounding properties;
- c. Keep any animal known to be dangerous, other than securely confined in an enclosed area on the premises of the owner with clearly visible signs posted to warn persons of the presence of such animal;
- d. Knowingly or negligently permit an animal to kill or injure livestock or other domestic animals, or to attack or injure any person who is engaged in lawful pursuits; or
- e. Knowingly or negligently permit any animal to chase or harass vehicles or pedestrians on public streets and sidewalks, or obstruct the normal use of streets and sidewalks.

MMC 8-4-4: KEEPING OF WILD ANIMALS RESTRICTED

Sec. 4: It shall be unlawful for any person to keep any wild animal in captivity, other than such small species as may be lawfully obtained through regular retail pet stores, or animals kept by zoos, circuses, educational institutions, or scientific establishments which are authorized under the wildlife laws of the state and the United States to keep and harbor such animals in captivity. However, a person may temporarily keep an injured or an abandoned immature wild animal for such time as necessary to restore it to health or raise to maturity, at which time it must be released.

MMC 8-4-5: IMPOUNDMENT OF ANIMALS FOUND IN VIOLATION

Sec. 5: The Town Marshal, acting directly or through his authorized deputies and reserve officers, may take into custody and impound any animal found to be kept, harbored, or maintained in violation of Sections 2, 3, or 4 above. When impounding an animal under this section, and if the owner or keeper of the animal is not personally present at the time of such impoundment, the Town Marshal or other officer so impounding the animal shall post a notice at the Town Hall stating a description of the animal, the time, place, and cause of its impoundment, and where the animal has been taken. The Town Marshal may keep the impounded animal in custody at a place within the town for such period of time that, in the opinion of the Marshal, it is reasonably possible to hold, shelter, feed, care for, and humanely maintain the animal. Thereafter, the Town Marshal shall transport and deliver custody of the animal to the nearest or most convenient municipal, county, or Humane Society pound which will accept the animal. However, if the animal is a wild animal impounded for violation of Section 5, is of a species indigenous to central Indiana, is not dangerous to humans or domestic animals, and is sufficiently mature to care for itself in the wild, the Marshal may immediately release same in a suitable area outside of the town. Furthermore, the Marshal or his officers may immediately

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destroy, by the most humane means available, any vicious, ferocious, or otherwise dangerous animal which in their opinion cannot be safely captured and impounded by reasonable and ordinary means.

MMC 8-4-6: TIME PERIOD FOR RETAINING ANIMALS IN CUSTODY; RECLAIMING OF ANIMAL

Sec. 6: An impounded domestic animal shall be kept by the Town Marshal or by a pound into whose custody it is delivered for at least 5 days. During such period of time, the owner or keeper of the animal or his authorized agent may reclaim the animal upon identification and payment of applicable charges as provided under Section 10, excepting in cases described under Section 9. After the applicable time period has expired, the Marshal or pound may humanely destroy or otherwise lawfully dispose of the animal, and the owner shall forfeit all claims to possession of the animal or other recovery. However, such disposal may be enjoined by a court, the County Health Officer, or the State Veterinarian if circumstances so warrant.

MMC 8-4-7: BARS TO RECOVERY OF IMPOUNDED ANIMALS BY OWNER

Sec. 7: Notwithstanding any provision of Section 6, an impounded animal may not be reclaimed by and released to the custody of its owner or keeper under the following circumstances:

- a. If the animal is a wild animal illegally kept in violation of Section 4;
- b. If the animal was impounded for suspected cruelty or neglect in violation of IC 35-46-3-2, unless a court of jurisdiction finds and orders that the animal should be returned to its previous owner or keeper; or
- c. If the County Health Officer or State Veterinarian orders that the animal be kept under quarantine or observation because of suspected disease, until such time as release is authorized by such officer.

In cases described by subsection (b) or (c), no further disposition of the animal shall be made until the question is resolved by the appropriate authority.

MMC 8-4-8: FEES AND CHARGES FOR IMPOUNDED ANIMALS

Sec. 8: Whenever any animal is impounded under the provisions of Section 6, the owner or keeper of the animal shall pay to the town the following charges:

- a. An enforcement charge of \$5.00 for picking up the animal; and
- b. If the animal before being reclaimed has been taken to an impoundment facility outside of the corporate limits of the town, there shall be an additional charge of \$10.00 for transporting the animal.

The above charges must be paid as a prerequisite of reclaiming the animal under Section 7; but if the owner of the animal does not intend to reclaim the animal or is barred from doing so under Section 7, such charges shall nevertheless be a legal obligation of the owner to the town payable within 14 days of the date the animal was impounded, and failure to tender such payment shall be a penal violation per se for which the owner may be cited and subject to penalties as prescribed under Section 9. Monies collected under this section shall be deposited in the town General Fund but shall be refundable without appropriation if a court determines that the owner or the affected animal was not guilty of the alleged violation upon which the impoundment was based. The above charges are in

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addition to any boarding or other charges for which an animal may be subject under the rules and policies of any pound facility to which the impounded animal may have been taken.

MMC 8-4-9: ENFORCEMENT AND PENALTIES, INJUNCTIONS

Sec. 9: Any person owning or keeping an animal in violation of the provisions of Sections 2 through 4, or failing to make timely payment to the Town of charges owing to it under Section 8, may be cited for an ordinance violation and, upon conviction, shall be liable to a fine of not less than \$25.00 nor more than \$50.00 for each offense and/or for each day a violation continues. In addition to or in lieu of such penal citation and fine, the Town may seek an injunction in any court of jurisdiction to compel the owner or keeper of an animal to comply with the provisions of Sections 2 through 4.

ARTICLE 8, CHAPTER 5: MISCELLANEOUS HEALTH AND ENVIRONMENTAL NUISANCES

SECTION 1:	CERTAIN ACTS OR CONDITIONS DECLARED PUBLIC NUISANCES
SECTION 2:	ORDER TO CEASE AND DESIST FROM AND ABATE NUISANCE
SECTION 3:	FAILURE TO ABATE NUISANCE; CITATIONS AND PENALTIES; INJUNCTIONS
SECTION 4:	NON-SUPERSESSION OF OTHER ORDINANCES OR PROCEDURES

MMC 8-5-1: CERTAIN ACTS OR CONDITIONS DECLARED PUBLIC NUISANCES

Sec. 1: The following acts or conditions are deemed to constitute public nuisances detrimental to the public health, the environment, or the general welfare, peace, and tranquility of the community, and which are subject to mandatory abatement as hereinafter provided:

- a. Causing or permitting the emission and dissemination of dense, toxic, foul-smelling, irritating, or annoying smoke, fumes, dust, ash products, or condensates;
- b. Causing or permitting excessive and annoying noise or dust from the operation of machinery or vehicles, except to the extent that their operation is necessary for the ordinary purposes of construction, industry, or transportation, and the noise and dust is natural to their operation and cannot be prevented by reasonable and ordinary means;
- c. Operation of electrical or mechanical equipment or machinery which causes electrical or electromagnetic interference with radios, televisions, telephones, or other communications or electronic equipment or causes earthshaking vibrations detectable beyond the premises where such equipment is operated and causing or potentially causing damage to property or annoyance to others;
- d. Operating or permitting the operation of radios, phonographs, tape recorders, amplifiers, musical instruments, power tools, or similar devices, or conducting or participating in noisy or boisterous parties or gatherings, producing noise of such unreasonable level or at such unreasonable hours and plainly audible beyond the property boundary or through partitions within a building, so as to cause other persons to complain of being disturbed thereby or which appears, in the opinion of an enforcement officer, to substantially disturb the tranquility of a neighborhood; or
- e. Any other act or condition which:

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1. Works an unreasonable injury, harm or prejudice to others or the public generally;
2. Is done to the unreasonable hurt and annoyance of the lands, tenements, or hereditaments of others or of the public;
3. Endangers life or health;
4. Gives unreasonable offense to the senses;
5. Violates the laws of common decency; or
6. Constitutes an abuse of public or another's private property, or impedes the normal use and enjoyment of public or private property by others.

However, the provisions of this section do not apply to nor prohibit any acts or conditions resulting from the conduct of an agricultural or industrial activity which has been carried on for more than one year, and the nuisance of the activity results from a change in the locale and environs of the activity rather than a change in the activity itself, and the activity would not have constituted a substantial nuisance except for such change in the locale or environs, to the extent provided by IC 34-1-52-4; nor does this section prohibit any act or condition expressly required or authorized by any law of the United States or the State of Indiana, or any ordinance or order adopted by the Town Council, or by any regulation, license, or permit promulgated or issued under authority thereof.

MMC 8-5-2: ORDER TO CEASE AND DESIST FROM AND ABATE NUISANCE

Sec. 2: Whenever the Town Marshal or another police officer, or the Town Council, finds that any person is lawfully causing, maintaining, or permitting (when he has the power to prevent the same) any nuisance in violation of Section 1, such officer or Council may issue to and serve on such person a written order or warning citation requiring the person to cease and desist from and abate such nuisance. If, in the opinion of the officer or Council, the nature of the offending act or condition is such that it may reasonably and feasibly be abated immediately and without delay, the officer or Council may so require and state in the order or warning citation; otherwise, the officer or Council shall allow and state in the order or citation a reasonable period of time from the service thereof in which the person must comply and abate the nuisance.

MMC 8-5-3: FAILURE TO ABATE NUISANCE; CITATIONS AND PENALTIES; INJUNCTIONS

Sec.3: If any person to whom an order or warning citation has been served in accordance with Section 2 fails to comply therewith and abate the nuisance either immediately (if so required), or within the time period otherwise allowed and stated, or thereafter reinstates or permits the reinstatement of the same nuisance, he may be served with a penal citation and upon conviction shall be liable to a fine of not less than \$50.00 nor more than \$100.00, and each day thereafter that the violation continues shall be a separate offense. In addition to or in lieu of a penal citation as provided above, the town may seek an injunction, in accordance with IC 36-1-6-4 or other law, in any court of competent jurisdiction to compel such person to cease and desist from causing, maintaining, or permitting the said nuisance.

MMC 8-5-4: NON-SUPERSESSION OF OTHER ORDINANCES OR PROCEDURES

Sec. 4: The provisions of Sections 1 through 3 above are intended to be supplementary to, and do not supersede, any other ordinance declaring or implying any act or condition to be a public nuisance, or regulating the same, or providing a procedure for the enforcement of such provisions or penalties

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for their violation. If any act or condition is such as to constitute a violation or a public nuisance both under the above provisions and also under the provisions of any other ordinance, the matter may be enforced and the nuisance abated in accordance with either as the proper authorities shall determine.

ARTICLE 8, CHAPTER 6: PUBLIC SEWAGE RATES AND CHARGES

- SECTION 1: SEWAGE SERVICE RATES**
SECTION 2: INTERIM MONTHLY RATE
SECTION 3: PAYMENT AND APPROPRIATION OF SEWER BILLS

MMC 8-6-1: SEWAGE SERVICE RATES

Sec. 1: The following rates are hereby fixed for sewage service and shall be based on a customer's monthly water usage, as determined by water meter readings. Said rates shall be charged to users and owners of any lot, parcel of real estate, building or improvement that is connected with or uses the sewage works of the Town of Montezuma or that in any way uses or is served by the sewage works.

- a. Base Charge per Month: Each customer shall be charged a base charge each month that service is provided in the following amounts, as determined by water meter size:

BASE MONTHLY CHARGE

Meter Size by Inch	Current Rate Base Charge	New Rate Base Charge
5/8-3/4	\$37.15	\$52.49
1	\$92.43	\$130.59
1 ¼	\$147.70	\$208.68
1 ½	\$214.03	\$302.40
2	\$368.80	\$521.07
3	\$847.85	\$1,197.91
4	\$1,474.30	\$2,083.00
6	\$3,353.65	\$4,738.29

- b. Consumption per Month: In addition to the base monthly fee established by subsection "a", each user shall also be charged a monthly fee based on water consumption, as determined by water meter readings. The consumption charge shall be billed in 10 gallon increments.

CONSUMPTION CHARGE PER 1,000 GALLONS

\$8.04

- b. Any customer's without water meters shall be charged a flat amount each month in the amount described below:

UNMETERED MONTHLY RATE- FLAT RATE

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\$92.69 per month

MMC 8-6-2: INTERIM MONTHLY RATE

Sec. 2: During construction of the sanitary sewer system, an interim monthly rate shall be charged to users and owners of any lot or parcel of real estate, building or improvement that will be connected with and use the sewage works of the Town of Montezuma or that in any way will use or be served by the sewage works in the amount of \$23.60 per month.

MMC 8-6-3: PAYMENT AND APPROPRIATION OF SEWER BILLS

Sec. 3: Sewer bills shall be due and payable at the same date as other municipal bills. In the event a customer only pays a portion of his or her combined utility bill, the Clerk-Treasurer shall first apply the partial payment to the sewer portion of the customer's bill. Any unpaid sewer bill shall be charged a late fee of 10% of the first three dollars of the unpaid portion of the sewer bill and charged a later fee of 3% of any remaining unpaid balance of the sewer bill.

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ARTICLE 9: PUBLIC SAFETY AND ORDER

- CHAPTER 1: FIREARMS AND DANGEROUS PROJECTILES
- CHAPTER 2: CURFEW FOR MINORS
- CHAPTER 3: LOITERING AND UNLAWFUL CONGREGATIONS

ARTICLE 9, CHAPTER 1: FIREARMS AND DANGEROUS PROJECTILES

- SECTION 1: DEFINITIONS
- SECTION 2: DISCHARGING FIREARMS IN CORPORATE LIMITS RESTRICTED
- SECTION 3: DISCHARGING FIREARMS IN PERFORMANCE OF OFFICIAL DUTIES OR SELF-DEFENSE
- SECTION 4: DISCHARGE OF FIREARM AUTHORIZED RANGES PERMITTED
- SECTION 5: ESTABLISHMENT AND OPERATION OF A FIREARMS RANGE
- SECTION 6: DUE PRUDENCE REQUIRED IN USE OF DANGEROUS PROJECTILES GENERALLY
- SECTION 7: VIOLATIONS; PENALTIES

MMC 9-1-1: DEFINITIONS

Sec. 1: As used in this chapter, the following terms have the meanings indicated:

- a. “Dangerous projectile” means and includes any object which is deliberately shot or otherwise deliberately projected through the air and which, because of its high velocity, sharpness, weight, or incendiary character can reasonably be anticipated to cause injury to persons or property, regardless of whether such injury is actually caused or intended.
- b. “Firearm” means any device for propelling a bullet, shot, dart, or other solid projectile by means of an explosive charge.
- c. “Law enforcement officer” means any person who is sworn or temporarily deputized to enforce the laws of the State of Indiana or of the United States.

MMC 9-1-2: DISCHARGING FIREARMS IN CORPORATE LIMITS RESTRICTED

Sec. 2: It shall be unlawful for any person to discharge a firearm within the corporate limits of the Town of Montezuma except as permitted under Sections 3 or 4 hereinafter.

MMC 9-1-3: DISCHARGING FIREARMS IN PERFORMANCE OF OFFICIAL DUTIES OR SELF-DEFENSE

Sec. 3: Section 2 does not prohibit a person from discharging a firearm under the following circumstances:

- a. When the person is a law enforcement officer, and as necessary to perform his duties as such;

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- b. When the person is a member of the armed forces of the United States or an allied military force, and as necessary to perform his military duties;
- c. When the person is defending his life, person, or property, or those of another person, from unlawful attack or intrusion, and the use of deadly force in such defense is deemed reasonable and justifiable by law or under generally accepted construction of law.

MMC 9-1-4: DISCHARGE OF FIREARM AUTHORIZED RANGES PERMITTED

Sec. 4: Notwithstanding any provision of Section 2, a person may discharge a firearm upon an authorized firearms range.

MMC 9-1-5: ESTABLISHMENT AND OPERATION OF A FIREARMS RANGE

Sec. 5: A person wishing to establish, maintain, and operate an authorized firearms range, either private or open to the public, must obtain a written permit from the Town Marshal, and pay to the Town a nonrefundable permit application fee of \$100.00 at the time application is made. Before granting the permit, the Town Marshal shall determine that the range will be operated and supervised by responsible persons at all times, and that it is or will be so located, constructed, and designed so as to provide adequate protection to persons both using the range and in the vicinity thereof. The granting or denial of the permit shall be at the full discretion of the Marshal, and he may place any further conditions, restrictions, or requirements upon such permit as he deems desirable in the interests of the public safety and convenience. If he finds that the authorized firearms range is being operated in violation of the expressed or implied conditions of the permit, or otherwise contrary to the interests and safety of the public, the Marshal may revoke the permit by written order served upon the owner or operator of the range, such service to be in person or by registered mail, and the revocation to be effective as of the date and time of such service.

MMC 9-1-6: DUE PRUDENCE REQUIRED IN USE OF DANGEROUS PROJECTILES GENERALLY

Sec. 6: It shall be unlawful for a person to discharge, shoot, hurl, throw, or otherwise unleash or use any dangerous projectile in any reckless or imprudent manner so as to endanger the public or property. However, this section does not prohibit the use of dangerous projectiles for purposes and under such circumstances where the use of firearms is permitted under Section 3.

MMC 9-1-7: VIOLATIONS; PENALTIES

Sec. 7: Any person convicted of a violation of this chapter shall be fined in the sum of \$50.00 for each offense.

ARTICLE 9, CHAPTER 2: CURFEW FOR MINORS

SECTION 1:	DEFINITIONS
SECTION 2:	CURFEW FOR CHILDREN BETWEEN 16 AND 18
SECTION 3:	CURFEW FOR CHILDREN LESS THAN 16 YEARS OF AGE
SECTION 4:	DEFENSES
SECTION 5:	DISPOSITION OF MINORS FOUND IN VIOLATION OF CURFEW HOURS
SECTION 6:	LIABILITY OF PARENTS, GUARDIANS AND CUSTODIANS

MMC 9-2-1: DEFINITIONS

Sec. 1: As used in this chapter, the following terms have the meanings indicated:

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- a. "Adult" means a person who is 18 years of age or older.
- b. "Custodian" of a person under 18 years of age means any adult into whose legal custody a person under 18 has been committed by a court, or into whose de facto custody such person under 18 has been committed by a parent or guardian, or who by any other virtue of statute or common law is deemed to stand in loco parentis in relation to a person under 18 years of age. The term also includes an adult spouse of a person under 18 years of age.
- c. "Public place" means any public property such as but not limited to streets, public alleys, public parking lots, parks, etc.; areas which are under private or semi-private ownership or control, but which are dedicated as or generally recognized as and permitted to be used as commons to which public access is given without active restriction; or business establishments or similar facilities during such hours as they are open to the public.
- d. "To be in" a public place means to be in or upon such premises in any manner, including within a vehicle.

MMC 9-2-2: CURFEW FOR CHILDREN BETWEEN 16 AND 18

Sec.2: Pursuant to IC 31-37-3-2, it is a curfew violation for a child at least 16 years of age but less than 18 years of age to be in a public place (unless subject to a defense described in Section 4 herein):

- a. Between 1 a.m. and 5 a.m. on a Saturday or Sunday;
- b. After 11 p.m. on Sunday, Monday, Tuesday, Wednesday or Thursday; or
- c. Before 5 a.m. on Monday, Tuesday, Wednesday, Thursday, or Friday.

In making this determination, the Town has determined that the hours of curfew for persons sixteen or seventeen years of age, as established under IC 31-37-3-2, are reasonable for public safety under the conditions found to exist in the Town, but has further determined, pursuant to IC 31-37-3-4, that the curfew time for children 16 years of age should be advanced by two hours as described in Section 3 herein.

MMC 9-2-3: CURFEW FOR CHILDREN LESS THAN 16 YEARS OF AGE

Sec. 3: It is a curfew violation for a child less than 16 years of age to be in a public place after 11 p.m. or before 5 a.m. on any day. In making this determination, the Town has determined, pursuant to IC 31-37-3-4, that the curfew time for children 16 years of age should be advanced by two hours as described in Section 3 herein.

MMC 9-2-4: DEFENSES

Sec. 4: Pursuant to IC 31-37-3-3.5, including any subsequent amendments thereto, it is a defense to a violation of this chapter that:

- a. The child was emancipated under IC 31-37-19-27, by virtue of having married, or in accordance with the laws of another state or jurisdiction.

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- b. The child was engaged in the prohibited conduct while accompanied by the child's parent, guardian, or custodian or accompanied by an adult specified by the child's parent, guardian, or custodian;
- c. The child was participating in, going to, or returning from:
 - 1. Lawful employment;
 - 2. A school sanctioned activity;
 - 3. A religious event;
 - 4. An emergency involving the protection of a person or property from an imminent threat of serious bodily injury or substantial damage;
 - 5. An activity involving the exercise of the child's rights protected under the First Amendment to the United States Constitution or Article 1, Section 31 of the Constitution of the State of Indiana, or both, such as freedom of speech and the right of assembly; or
 - 6. An activity conducted by a nonprofit or governmental entity that provides recreation, education, training, or other care under the supervision of one (1) or more adults;
- d. The child was participating in an activity undertaken at the prior written direction of the child's parent, guardian, or custodian; or
- e. The child was engaged in interstate or international travel from a location outside Indiana to another location outside Indiana.

MMC 9-2-5: DISPOSITION OF MINORS FOUND IN VIOLATION OF CURFEW HOURS

Sec. 5: A law enforcement officer may not detain a child or take a child into custody based on a violation of curfew unless the law enforcement officer, after making reasonable determination and considering the facts and surrounding circumstances, reasonably believes that the child has violated curfew and there is no legal defense to the violation.

MMC 9-2-6: LIABILITY OF PARENTS, GUARDIANS AND CUSTODIANS

Sec. 6: It is unlawful for any parent, guardian, or other custodian having the care and custody of any person under 18 years, to allow or permit any such person, while in such custody, to go to or be in any of the public places in Montezuma within the times prohibited in Section 2 or 3 of this chapter. Any person violating the provisions of this section may be cited therefor and shall, upon conviction, be fined \$25.00 for the first offense and \$50.00 for the second offense and each offense thereafter. However, it is a defense against any alleged violation under this section if evidence is presented and the court finds that the minor in question is also a delinquent child as defined by Indiana law and therefore was not under effective parental control when the curfew violation was committed. Upon such finding, the judge of the court shall refer and transmit same to the appropriate juvenile court for the latter courts consideration and further proceedings as to the disposition of such delinquent child.

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ARTICLE 9, CHAPTER 3: LOITERING AND UNLAWFUL CONGREGATIONS

SECTION 1:	UNLAWFUL LOITERING OR GATHERING ON PRIVATE PROPERTY PROHIBITED
SECTION 2:	UNLAWFUL LOITERING OR GATHERING ON PUBLIC PROPERTY PROHIBITED
SECTION 3:	BURDEN OF PROOF OF CONSENT OR OTHER PERMIT
SECTION 4:	VIOLATIONS; PENALTIES

MMC 9-3-1: UNLAWFUL LOITERING OR GATHERING ON PRIVATE PROPERTY PROHIBITED

Sec. 1: Irrespective of whether or not any other unlawful activity is conducted or intended, it shall be unlawful for any person or group of persons to loiter or gather, whether in a vehicle or otherwise, at or upon any private property in a manner contrary to any written and prominently displayed rules or signs, or if asked to disperse or depart by the owner, tenant, or manager of the property or their authorized agent.

MMC 9-3-2: UNLAWFUL LOITERING OR GATHERING ON PUBLIC PROPERTY PROHIBITED

Sec. 2: Irrespective of whether or not any other unlawful activity is conducted or intended, it shall be unlawful, except as hereafter permitted, for any person or persons to loiter or gather, whether in a vehicle or otherwise:

- a. In a public building, except on bona fide public business or for purposes for which such building is open to the public, or which are authorized by law or by the public body or officer having charge of such building;
- b. In a street, alley, parking area, sidewalk, or other public thoroughfare so as to obstruct the use thereof by normal vehicular or pedestrian traffic, to which use such thoroughfares are hereby dedicated, or pose a hazard to such traffic; except that the Town Board may, at its discretion, permit the use of such thoroughfares for parades, demonstrations, or similar events having a public purpose, interest, or benefit;
- c. In a street, alley, parking area, sidewalk, park, or similar public facility for the purpose of or in such manner so as to harass, disturb, or annoy passers-by or other persons seeking to use and enjoy such public facility;
- d. On other public premises, except for the purposes for which such premises are ordinarily used and made available to the public and in accordance with any applicable rules and regulations imposed by the appropriate public authority.

However, nothing in this section shall be construed or applied so as to prohibit the exercise of any of the rights of any person as guaranteed under the constitutions or statutes of the state or United States, except to the extent that such exercise would unreasonably and unavoidably impair the supervening rights, safety, and welfare of the general public.

MMC 9-3-3: BURDEN OF PROOF OF CONSENT OR OTHER PERMIT

Sec. 3: Whenever under Section 1 or Section 2 any activity which might otherwise be construed as unlawful thereunder is not unlawful in the circumstances because it is done with the consent and permission of a person, public officer, or public body having power over the premises and authority to grant such consent, or because it is done under authority of law, it shall be the burden of any person suspected of or charged with violating such section to show to the satisfaction of an enforcement

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officer or a court that such knowledge and consent, permit, or other such authorization did in fact validly exist.

MMC 9-3-4: VIOLATIONS; PENALTIES

Sec. 4: Any person violating Section 1 or Section 2 shall, upon conviction, be liable to a fine of not less than \$10.00 nor more than \$20.00 for each offense; provided, however, that should such person or persons remain or return to the premises to unlawfully loiter or gather after being directed to depart or disperse by an enforcement officer, the fine shall be not less than \$25.00 nor more than \$50.00.

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ARTICLE 10: TOWN GOVERNMENT AND ADMINISTRATION

- CHAPTER 1: TOWN COUNCIL
- CHAPTER 2: OFFICE OF THE TOWN MARSHAL
- CHAPTER 3: VOLUNTEER FIRE DEPARTMENT
- CHAPTER 4: GENERAL TOWN REVENUE AND FINANCE

ARTICLE 10, CHAPTER 1: TOWN COUNCIL

- SECTION 1: REGULAR TOWN COUNCIL MEETINGS
- SECTION 2: SPECIAL TOWN COUNCIL MEETINGS
- SECTION 3: EXECUTIVE SESSIONS
- SECTION 4: MEETINGS OPEN TO THE PUBLIC; AGENDAS
- SECTION 5: GENERAL RULES OF PROCEDURE FOR TOWN COUNCIL MEETINGS
- SECTION 6: QUORUM AND VOTING
- SECTION 7: PUBLIC SPEAKING PRIVILEGES
- SECTION 8: MAINTENANCE OF ORDER; PENALTIES
- SECTION 9: TOWN COUNCIL PRESIDENT
- SECTION 10: EXECUTIVE AND ADMINISTRATIVE FUNCTIONS OF THE TOWN COUNCIL
- SECTION 11: DELEGATION OF FUNCTIONS TO INDIVIDUAL BOARD MEMBERS
- SECTION 12: ESTABLISHMENT OF SPECIAL COMMITTEES
- SECTION 13: TOWN COUNCIL WARDS (DISTRICTS) DEFINED
- SECTION 14: MUNICIPAL ELECTIONS
- SECTION 15: STAGGERING OF TERMS

MMC 10-1-1: REGULAR TOWN COUNCIL MEETINGS

Sec. 1: The Town Council may determine and adopt by motion a fixed schedule of regular meetings to be held at such times and places as it determines, or shall otherwise fix the time and place of its next meeting at the termination of each meeting. No special notice need be given to Council members of regular meetings fixed and conducted in accordance with this Section, unless the time or place of the meeting is changed as provided hereinafter. Any business proper to the Town Council may be conducted at a regular meeting.

MMC 10-1-2: SPECIAL TOWN COUNCIL MEETINGS

Sec. 2: Special meetings may be called either by the Town Council President or by a majority of the other members of the Council. Except in case of an emergency meeting, notice of a special meeting shall be provided at least 48 hours in advance to any Council member who is not a party to calling the special meeting. If a member cannot feasibly be given notice (as, for example, if the member is out of Town) such inability to notify the member does not bar the holding of the special meeting nor invalidate any actions taken. Any business proper to the Council may be conducted at a special

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meeting. Notices of any special meetings shall also be provided to the public as required by Indiana law.

MMC 10-1-3: EXECUTIVE SESSIONS

Sec. 3: Executive sessions of the Town Council, when authorized by Indiana law, may be called and notice provided in the same manner as a special meeting. Business shall be limited to discussion on matters of an executive or administrative character, not culminating in the taking of any final action.

MMC 10-1-4: MEETINGS OPEN TO THE PUBLIC; AGENDAS

Sec. 4: All of the regular or special meetings of the Town Council, other than executive sessions when authorized by law, shall be open to the public. If a written agenda is to be used at the meeting, a copy of such agenda shall be posted as well.

MMC 10-1-5: GENERAL RULES OF PROCEDURE FOR TOWN COUNCIL MEETINGS

Sec. 5: Meetings of the Town Council shall be governed by parliamentary rules in priority as follows:

- a. First, by all rules of procedure governing a Town Council as prescribed by statute;
- b. Secondly, by all specific rules as set forth herein to the extent not in conflict with subsection (a); and
- c. Thirdly, by the latest edition of Robert's Rules of Order, to the extent not in conflict with subsection (a).

Any rules described by subsection (b) or (c) above may be suspended at any time by consent of a majority of the members present. Rules prescribed by statute may not be suspended, except when authorized by statute.

MMC 10-1-6: QUORUM AND VOTING

Sec. 6: A majority of all of the members of the Town Council must be present for the conduct of business. Any ordinance, resolution or other action may only be adopted upon majority vote of all of the members of the Council, whether present or not. For purposes of this Section, an abstention is not counted as a favorable vote. If a tie occurs, final action shall be deferred to the next meeting; provided, however, that if the entire Council consists of an even number of members and a tie occurs, the Clerk-Treasurer may cast a deciding vote in accordance with IC 36-5-2-8(b).

MMC 10-1-7: PUBLIC SPEAKING PRIVILEGES

Sec. 7: All persons shall have a right to address the Town Council at any public meeting. However, as it deems necessary for the orderly conduct of public business, the Council may allocate and limit time among persons wishing to speak. Members of the public wishing to exercise this privilege must obtain recognition from the presiding officer before addressing the Council, and may not interrupt other speakers. The subject of the speaking must be germane to any topic of business currently on the floor. The use of personal abusiveness, insults, offensive language, shouting, or other uncivilized speaking behavior will be considered out of order and cause to deny further speaking privilege to the guilty party at that meeting.

MMC 10-1-8: MAINTENANCE OF ORDER; PENALTIES

Sec. 8: The presiding officer at any meeting of the Town Council is granted all powers reasonably necessary to maintain order and decorum at a meeting, including the power to summarily evict any

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person, other than a member of the Council, who persistently, and after fair warning, acts in any disruptive and disturbing way contrary to the rules of the Council or ordinary standards of orderly behavior. No requirement of public access shall be construed to impair the proper use of this power in accordance with this section, and the presiding officer may invoke the aid of the Town Marshal or other law officer to enforce the order. Any person who:

- a. So behaves in a disruptive or disturbing manner; or
- b. Refuses to obey the proper and lawful rules of procedure as adopted by the Town Council; or
- c. Refuses to appear or produce documents at an investigatory hearing when so ordered pursuant to IC 36-1-4-12;

may be held guilty of contempt of the Town Council pursuant to IC 36-1-4-13, and upon conviction, shall be fined in an amount not less than \$50.00 nor more than \$100.00. The provisions of this Section may be applied to a member of the Town Council, but only by unanimous consent of the other members present, and for proper and extreme cause, and not for frivolous, vexatious, or political purposes, nor with intent to deprive the member's constituents of just representation with respect to any matter

MMC 10-1-9: TOWN COUNCIL PRESIDENT

Sec. 11: At its first regular meeting of each year, the Town Council shall elect one of its members as President. The President shall serve until the first regular meeting of the next succeeding year, unless he sooner resigns the Presidency or ceases to be a member of the Town Council for any reason. If a vacancy occurs, the Council at its next meeting thereafter shall elect another member as President to fill the remainder of the vacating President's term. If the President is absent at a meeting or is disqualified from presiding for any reason, the Council may designate another member to preside temporarily for purposes of that meeting. Such designee shall have the powers of the President for all purposes of conducting the business of the meeting at which he presides, including the power to sign and attest to the passage of any ordinances or resolution finally adopted by the Council during the time he presides, but does not have the other powers of the Town executive as provided by statutes or ordinances.

MMC 10-1-10: EXECUTIVE AND ADMINISTRATIVE FUNCTIONS OF THE TOWN COUNCIL

Sec. 10: Unless a separate board is hereafter formed and granted the appropriate powers under the provisions of Indiana law, the Town Council shall serve and function as:

- a. A board of public works or "works board;"
- b. A board of public safety; and
- c. A utility service board;

and all references to any of the above entities in Town ordinances or in statutes which are applicable to Towns shall be construed as references to the Town Council. Additional executive or administrative powers and duties may be ascribed to the Town Council by law or ordinance.

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MMC 10-1-11: DELEGATION OF FUNCTIONS TO INDIVIDUAL BOARD MEMBERS

Sec. 11: Except where expressly prohibited by statute or ordinance, the Town Council may delegate to individual Council members executive or administrative powers of supervision or similar responsibilities over particular functional areas of Town operations and administration (e.g., streets, parks, utilities, etc.), subject to such specific limitations as the Council may wish to place on such powers. In any event, the exercise of such powers shall be subject to the super ordinate powers of the Town Council as a whole, and the Council by majority action may annul or modify any action or decision of an individual member ac pursuant to powers delegated under this section.

MMC 10-1-12: ESTABLISHMENT OF SPECIAL COMMITTEES

Sec. 12: The Town Council may by resolution or motion establish special committees, either standing or ad hoc, to assist the Council with the administration of the Town or the conduct of special business. Such committees may be established to conduct studies or investigations, formulate plans or policy recommendations, and similar matters to the extent not requiring final action by the Town Council. A committee may consist of Town Council members, other officers or employees of the Town government or municipally owned utilities, interested citizens, or a combination of the foregoing, the exact constituency and members to be specified in the resolution or motion. The resolution or motion shall specify the purpose and duties of the committee, and, in the case of an ad hoc committee, the term for which the committee shall exist or the date by which its final report must be presented to the Council. Unless particular ex officio memberships are stipulated in the resolution or motion, specific appointments shall be made by the Town Council President, who shall also designate the Chairman of the Committee, all subject to approval by the majority of the Council. All such committees shall function as adjuncts to the Town Council, and their meetings and proceedings shall be governed by IC 5-14-1.5, including IC 5-14-1.5-5(a).

MMC 10-1-13: TOWN COUNCIL WARDS (DISTRICTS) DEFINED

Sec. 13: All members of the Town Council shall be elected or appointed as “at-large” members, without regard to where the member resides within the boundaries of the Town.

MMC 10-1-14: MUNICIPAL ELECTIONS

Sec. 14: At all Town elections to be held in the Town of Montezuma, Indiana, after November, 1979, all Town Council members and the Town Clerk-Treasurer shall be elected at-large.

MMC 10-1-15: STAGGERING OF TERMS

Sec. 15: At the Town election to be held in the Town of Montezuma, Indiana, in November, 1979:

- a. The Town Council members to be nominated and elected to represent Wards 2 and 4, and the Town Clerk-Treasurer are to be elected to terms to run for 4 years from January 1, 1980, through December 31, 1983; and
- b. The Town Council members to be nominated and elected to represent Wards 1, 3 and 5 (at-large) are to be elected to terms to run for 2 years from January 1, 1980, through December 31, 1981.
- c. The successors of persons elected under both subsection (a) and subsection (b) shall all serve for 4 year terms.

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ARTICLE 10, CHAPTER 2: OFFICE OF THE TOWN MARSHAL

SECTION 1:	OFFICE OF TOWN MARSHAL ESTABLISHED
SECTION 2:	APPOINTMENT OF DEPUTY TOWN MARSHALS
SECTION 3:	APPOINTMENT OF RESERVE DEPUTY TOWN MARSHALS
SECTION 4:	POLICE STATUS OF RESERVE DEPUTY MARSHALS
SECTION 5:	IMMUNITY AND LIMITATION OF LIABILITY
SECTION 6:	INDEMNIFICATION OF TOWN AGAINST INJURIES
SECTION 7:	DISCHARGE OF TOWN MARSHAL OR DEPUTY TOWN MARSHAL
SECTION 8:	TERMINATION OF POWERS UPON DISCHARGE OR LEAVING OFFICE

MMC 10-2-1: OFFICE OF TOWN MARSHAL ESTABLISHED

Sec 1: The office of the Montezuma Town Marshal is hereby established. The Marshal shall be appointed and have his compensation fixed by the Town Council. The Marshal is the chief police officer of the Town and has the powers of other law enforcement officers in executing the orders of the Town and enforcing laws.

MMC 10-2-2: APPOINTMENT OF DEPUTY TOWN MARSHALS

Sec. 2: The Town Marshal may be authorized to appoint one or more Deputy Marshal(s). Any Deputy Town Marshal so authorized shall have his compensation fixed by the Town Council and shall have the powers of the Marshal in enforcing laws and executing the orders of the Town.

MMC 10-2-3: APPOINTMENT OF RESERVE DEPUTY TOWN MARSHALS

Sec. 3: The Town Marshal may be authorized to appoint one or more Reserve Deputy Town Marshals. Reserve Deputy Town Marshals are not to be paid for their service in such capacity. However, the Town Council may provide the Reserve Deputy Town Marshals with such insignia, equipment, and uniforms as deemed proper. Reserve Deputy Town Marshals shall serve entirely at the pleasure of the Town Marshal and Town Council, and may be dismissed or suspended by the Marshal or the Council at any time and for any reason. The provisions of Section 10 hereinafter do not apply to Reserve Deputy Town Marshals

MMC 10-2-4: POLICE STATUS OF RESERVE DEPUTY MARSHALS

Sec. 4: Reserve Deputy Town Marshals shall be considered special officers, and not as regular deputy marshals or law enforcement officers, for purposes of IC 5-2-1, and they shall be subject only to such minimum training requirements as may from time to time be prescribed by the Town Marshal or Town Council. Reserve Deputy Town Marshals shall perform only such duties and have only such powers as shall be specified by the Town Marshal. However, except as limited by the Town Marshal as provided above, Reserve Deputy Town Marshals shall otherwise have all of the authority, powers, and duties of a law enforcement officer.

MMC 10-2-5: IMMUNITY AND LIMITATION OF LIABILITY

Sec. 5: Reserve Deputy Town Marshals shall be deemed to be performing a governmental function, and are public employees of the Town as defined by Indiana law notwithstanding the fact that they serve without compensation, and while performing their duties both they and the Town shall therefore be imbued with all immunities from and limitations of liability as provided under Indiana law.

MMC 10-2-6: INDEMNIFICATION OF TOWN AGAINST INJURIES

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Sec. 6: Reserve Deputy Town Marshals shall assume or continue in the performance of their duties at their own risk. All Reserve Deputy Town Marshals shall be required to sign a release form, as prescribed or approved by the Town Attorney, indemnifying and saving the Town harmless against all claims for or arising out of any injury suffered by such Reserve Deputy Town Marshal in consequence of the performance of such duties. However, the Town Council may, at its discretion, provide Reserve Deputy Town Marshals with life and/or health and accident insurance policies, which policies may cover duty-related injuries, and no provision of this section, or of the release form referred to herein, may be construed to relieve the insurance carrier of any liability otherwise applicable under a policy.

MMC 10-2-7: DISCHARGE OF TOWN MARSHAL OR DEPUTY TOWN MARSHAL

Sec. 7: No person who has been appointed as Town Marshal or as Deputy Marshal may be discharged unless the disciplinary and appeals procedure prescribed by Indiana law for city police departments is followed if the affected Marshal or Deputy Marshal:

- a. Has completed the minimum basic training requirements adopted by the Law Enforcement Training Board under IC 5-2-1-9; and
- b. Has been employed by the Town for more than 6 months thereafter.

However, this section does not affect and does not apply to any discharge occasioned by the Town Council's abolishing the Office of the Town Marshal to establish a Metropolitan Police Commission, to provide police protection through another municipal corporation under IC 36-1-7, the non-renewal of a contract, or similar reasons.

MMC 10-2-8: TERMINATION OF POWERS UPON DISCHARGE OR LEAVING OFFICE

Sec. 8: When any person has been appointed to and taken the oath of office as a Town Marshal, Deputy Town Marshal, or Reserve Deputy Town Marshal and is discharged from or leaves such office for any reason, such person shall thereupon automatically be relieved of such oath and shall cease to exercise any powers of such office.

ARTICLE 10, CHAPTER 3: VOLUNTEER FIRE DEPARTMENT

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| SECTION 1: | EXTENDED DUTIES OF VOLUNTEER FIRE DEPARTMENT |
| SECTION 2: | NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS) |

MMC 10-3-1: EXTENDED DUTIES OF VOLUNTEER FIRE DEPARTMENT

Sec. 1: The Montezuma/Reserve Township Volunteer Fire Department and its membership are authorized to perform the following extended duties, in addition to the normal fire-fighting, rescue and emergency medical duties:

- a. Participation in drills, practices, training sessions and pre-fire planning activities authorized by the Fire Chief and supervised by a qualified instructor, or a fire department officer.
- b. Participation in community celebrations, ceremonial observances and funerals for deceased fire fighters or other public figures, where such attendance is deemed appropriate by the Fire Chief. Out of Town participation must have prior approval of the Town Council.

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- c. Duties necessary to prepare the fire station for Fire Department fund raisers, as a distribution center, or a polling place for the primary and general elections. This is extended to include like services performed at other Municipal or School District buildings.
- d. Participation in parades provided that attendance has the prior approval of the Fire Department. Out of Town participation must have prior approval of the Town Council.
- e. Any public service functions performed for the welfare of the community, including recovery of animals, as long as these activities are responsibly supervised and are sanctioned by the Fire Department.
- f. Any and all public safety activities undertaken by Fire Department members to render care to the injured, prevent loss of life, provide comfort and security to victims, and limit or prevent damage to or loss of property as circumstances may dictate.
- g. Rendering assistance to police officers where such aid is specifically requested or is done without request to protect the public welfare from imminent danger, including fire/police duties.
- h. Participation in fire prevention activities, post-fire investigations, bomb searches, evacuation drills, and fire lane enforcement.
- i. Participating in public programs to promote health and safety, to enlist new members, or solicit community support, or conduct fund raising activities so long as no compensation is being paid to the member while engaged in the fund raising activity, 100% of the proceeds go to the Fire Department, and so long as each activity is sanctioned by the Fire Department.
- j. Performing maintenance and remodeling work on the Fire Department vehicle, buildings, grounds or equipment.
- k. Such other duties necessary for the efficient operation of the Volunteer Services as may, from time to time, be assigned by the Town Council and the officers of the Fire Department and as may be defined within the constitution and by-laws of the Fire Department.

MMC 10-3-2: NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS)

Sec. 2: In order to provide for the effective management of situations involving natural disasters, man-made disasters and/or acts of terrorism or other emergency, the Town of Montezuma hereby adopts the National Incident Management System (NIMS) for the prevention, response, recovery and mitigation of all disasters.

ARTICLE 10, CHAPTER 4: GENERAL TOWN REVENUE AND FINANCE

SECTION 1:	CUMULATIVE CAPITAL IMPROVEMENT FUND ESTABLISHED
SECTION 2:	CUMULATIVE CAPITAL DEVELOPMENT FUND ESTABLISHED
SECTION 3:	LEVY EXCESS FUND ESTABLISHED
SECTION 4:	FIREARMS TRAINING FUND ESTABLISHED

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SECTION 5:	PUBLIC SAFETY FUND ESTABLISHED
SECTION 6:	RAINY DAY FUND ESTABLISHED
SECTION 7:	INVESTMENT OF CIVIL TOWN MONIES AUTHORIZED
SECTION 8:	ADVANCED PAYMENT OF CERTAIN CLAIMS

MMC 10-4-1: CUMULATIVE CAPITAL IMPROVEMENT FUND ESTABLISHED

Sec. 1: There is hereby created a special fund to be known as the Cumulative Capital Improvement Fund of the Town of Montezuma into which the cigarette taxes allotted to the Town of Montezuma shall be deposited. Said funds shall be a cumulative fund and all of the monies deposited into said fund shall be appropriated and used solely for capital improvements as hereinafter defined and none of such monies shall accrue to the General Fund or be used for any purposes other than capital improvements. For purposes of this section, the term “capital improvements” means the construction or improvement of any property owned by the Town of Montezuma, including but not limited to streets, thoroughfares and sewers, and the retirement of general obligation bonds of the Town of Montezuma issued and the proceeds used for the purpose of constructing capital improvements. The term capital improvement shall not include salaries of any public officials or employees except those which are directly chargeable to a capital improvement.

MMC 10-4-2: CUMULATIVE CAPITAL DEVELOPMENT FUND ESTABLISHED

Sec. 2: There is hereby established a Cumulative Capital Development Fund. An ad valorem property tax levy will be imposed and the revenues from the levy will be retained in the Town of Montezuma Cumulative Capital Development Fund. The maximum rate of this levy will not exceed \$0.15 per \$100.00 in assessed valuation. Funds accumulated in the Montezuma Cumulative Capital Development Fund will be used for capital expenditures and projects as allowed under Indiana law including, but not limited to:

- IC 8-16-3 Cumulative Bridge Fund
- IC 13-2-31-26 Cumulative Building Fund-Levees
- IC 13-3-3-89 Cumulative Maintenance Fund - Channel Improvements
- IC 36-8-14 Cumulative Firefighting Building, Equipment, Police Radio Fund
- IC 36-9-16-2 Cumulative Building Funds
- IC 36-9-16-3 Cumulative Capital Improvement Fund
- IC 36-9-16-5 Cumulative Street Fund
- IC 36-9-17 General Improvement Fund
- IC 36-9-26 Cumulative Building Fund - Sewers
- IC 36-9-27-10 Cumulative Drainage Fund
- IC 36-10-3-21 Cumulative Building Fund - Parks
- IC 36-10-4-36 Cumulative Sinking and Building Fund - Parks

However, funds accumulated in the Cumulative Capital Development Fund may be spent for purposes other than the purposes state above to protect the public health, welfare or safety in an emergency situation which demands immediate action, but only after the Town Council President issues a declaration that the public health, welfare or safety is in immediate danger that requires the expenditures of money in this fund.

MMC 10-4-3: LEVY EXCESS FUND ESTABLISHED

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Sec. 3: In accordance with the requirements of IC 6-1.1-18.5-17, there is hereby established a "Levy Excess Fund" into which shall be received, in any tax year for which the Town's actual receipts from ad valorem property tax levies exceed 102% of the total nominal ad valorem levy as provided in the approved and certified Town budget, the lesser of the following amounts: the actual amount by which receipts exceed 102% of the nominal levy; or \$100.00. Monies deposited in the Levy Excess Fund may only be used for purposes authorized by the Indiana law, but may be invested and any earnings distributed in the same manner as for other Town monies.

MMC 10-4-4: FIREARMS TRAINING FUND ESTABLISHED

Sec. 4: Pursuant to IC 35-47-2-3(b), any person submitting an application to the Town Marshal for a license to carry a handgun, either qualified or unlimited, shall pay to the Town an application fee of \$10.00. This fee shall be immediately deposited in a special non-reverting fund to be known as the "Firearms Training Fund", which the Clerk-Treasurer shall establish and maintain. In the event the application is denied, \$5.00 of the fee shall be refunded to the applicant and may be paid by the Clerk-Treasurer out of the Firearms Training Fund without appropriation or allowance of a claim. Otherwise, monies credited to the Firearms Training Fund may only be budgeted, appropriated, and expended for firearms training or other training in law enforcement duties for personnel of the Town Marshal's Office, including Reserve Deputy Town Marshals.

MMC 10-4-5: PUBLIC SAFETY FUND ESTABLISHED

Sec. 5: The Public Safety Fund is hereby established. All tax distributions received from the Public Safety LOIT (Local Option Income Tax) shall be deposited in said Fund. Money in the Public Safety Fund may only be expended, after proper appropriation by the Town Council, for public safety purposes as defined by Ind. Code 6-3.5-1.1-25.

MMC 10-4-6: RAINY DAY FUND ESTABLISHED

Sec. 6. There is hereby established a "Rainy Day Fund" to receive transfers of unused and unencumbered funds raised by a general or special tax levy on taxable property within the Town whenever the purpose of such tax levy has been fulfilled and an unused and unencumbered balance remains. The funds on deposit in the Rainy Day Fund may be used for the operation of the Town and its various departments, including, but not limited to, salaries and wages, costs of services, supplies, equipment, capital improvements, repairs and similar expenditures.

On or before December 31st of each year, the Town Council shall determine the amount, if any, of any unused and unencumbered funds available to be transferred to the Rainy Day Fund, which transfer may not exceed more than ten percent (10%) of the Town's total budget for that fiscal year. In accordance with IC 36-I~8-5.1, the Town will deposit any special or supplemental distributions received from transfers of unused and unencumbered funds under (1) section 5 of IC 36-1-8-5.1; (2) IC 6-3.5-1.1-21.1; (3) IC 6-3.5-6-17.3; and (4) IC 6-3.5-7-17.3 in its Rainy Day Fund established by the adoption of this Ordinance.

The Town Council may authorize the expenditure of funds from the Rainy Day Fund by appropriations made in the same manner as other funds are appropriated that receive tax monies, upon making a finding that the proposed use of the funds is consistent with the intent of the fund.

MMC 10-4-7: INVESTMENT OF CIVIL TOWN MONIES AUTHORIZED

Sec. 7: Excepting for municipal utility funds, which may be invested in accordance with MMC 5-9-8, the Clerk-Treasurer may in accordance with this section invest any monies belonging to or on deposit with the civil Town and not required to be immediately expended. Such investments may be made in

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any security or investment instrument authorized by IC 5-13-1, but subject to any public depository distribution requirements as provided by IC 5-12-1-17(c), if applicable to the investment. Investment shall be made in instruments having sufficient liquidity to permit the Town to meet its expenditure requirements in a timely manner, and shall not be made in any security maturing in more than one year from the date of the investment unless the Clerk-Treasurer determines on a reasonable basis that all monies so invested are not likely to be required for a longer period of time. The Clerk-Treasurer may sell or otherwise liquidate an investment if the invested monies should prove to be needed to pay the expenses of the Town, in order to make a more advantageous investment, or to forestall principal devaluation. Unless otherwise provided by law, applicable state or federal administrative regulations, or Town ordinance, investments shall be made from total monies on deposit rather than by specific fund, and all net earnings or capital gains realized from the investment shall accrue to the General Fund, and only the amount of original principal shall be returned to the fund of origin. Any transaction charges applying when an investment is initially made shall be paid out of and considered part of the principal invested; any other administration fees or transaction charges which apply during the term of or by virtue of the, liquidation or conversion of the investment shall be payable from earnings and capital gains and deductible therefrom before distribution to the appropriate fund or funds, and are not obligations against the principal except to the extent that earnings and capital gains are inadequate to cover any such fees and charges. To the extent not inconsistent with the foregoing requirements of this section, monies from different funds may be combined and put in a single investment if a financial advantage to the Town would result. When any investment is made in accordance with this section and applicable laws, the Clerk-Treasurer shall not be held personally liable for any loss of principal which may incidentally result from the making or necessary sale or liquidation of the investment.

MMC 10-4-8: ADVANCED PAYMENT OF CERTAIN CLAIMS

Sec. 8: The Clerk-Treasurer may make claim payments in advance of a Town Council allowance for the following types of expenses:

- a. Property or services purchased or leased from:
 1. The United States government; or
 2. An agency or a political subdivision of the United States government.
- b. License fees or permit fees.
- c. Insurance premiums.
- d. Utility payments or utility connection charges.
- e. Federal grant programs if:
 1. advance funding is not prohibited; and
 2. the contracting party provides sufficient security for the amount advanced.
- f. Grants of state funds authorized by statute.
- g. Maintenance agreements or service agreements.

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- h. Lease agreements or rental agreements.
- i. Principal and interest payments on bonds.
- j. Payroll.
- k. State, federal, or county taxes.
- l. Expenses that must be paid because of emergency circumstances with prior approval of Council President.
- m. Expenses described in an ordinance.

Each payment of expenses under this section must be supported by a fully itemized invoice or bill and certification by the fiscal officer. The Town legislative body or the board having jurisdiction over the allowance of the claim shall review and allow the claim at the body's or board's next regular or special meeting following the preapproved payment of the expense.

