

CHAPTER 7

BUILDING AND CONSTRUCTION REGULATIONS

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CHAPTER 7

BUILDING AND CONSTRUCTION REGULATIONS

ARTICLE 1. UNSAFE BUILDINGS.¹

Sec. 7-1 Short Title.

Under the provisions of *Indiana Code*, § 36-7-9, there is established the Greencastle Unsafe Building Law. (Ord. No. 1988-4, § 850-5, 5-24-88)

Sec. 7-2 Incorporation of *Indiana Code*, § 36-7-9-1, *Et Seq.*

Indiana Code, §§ 36-7-9-1 through 36-7-9-28 is incorporated by reference in the Greencastle Unsafe Building Law. All proceedings within the City of Greencastle for the inspection, repair, and removal of unsafe buildings shall be governed by said law and the provisions of this Article. In the event the provisions of this Article conflict with the provisions of *Indiana Code*, §§ 36-7-9-1 through 36-8-9-28, then the provisions of the state statute shall control. (Ord. No. 1988-4, § 850-10, 5-24-88)

Sec. 7-3 Purpose.

All buildings or portions thereof within the City of Greencastle which are determined after inspection by the Building Commissioner to be unsafe as defined in this ordinance are declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal. (Ord. No. 1988-4, § 850-15, 5-24-88)

Sec. 7-4 Administration and Enforcement.

The Greencastle Building Commissioner shall be authorized to administer and to proceed under the provisions of said law in ordering the repair or removal of any buildings found to be unsafe as specified therein or as specified hereafter. Wherever in the building regulations of the City of Greencastle or the Greencastle Unsafe Building Law, it is provided that anything must be done to the approval of or subject to the direction of the Building Commissioner, or any other officer of the City, this shall be construed to give such officer only the discretion of determination whether the rules and standards established by ordinance have been complied with; and no such provisions shall be construed as giving any officer discretionary powers as to what such regulations or standards shall be, power to require conditions not prescribed by ordinance, or to enforce ordinance provisions in an arbitrary or discretionary manner. (Ord. No. 1988-4, § 850-20, 5-24-88)

Sec. 7-5 Definition of "Unsafe Building".

The description of an unsafe building contained in *Indiana Code*, § 36-7-9-4 is supplemented to provide minimum standards for building condition or maintenance in the City of Greencastle, Indiana, by adding the following definition:

Unsafe Building means any building or structure which has any or all of the conditions or defects hereinafter described, provided that such conditions or defects exist to the extent that life, health, property, or safety of the public or its occupants are endangered:

¹ I.C., § 22-13-2-1, authorizes political subdivisions to exercise their statutory powers to regulate buildings structures, and other property.

- a. Whenever any door, aisle, passageway, or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.
- b. Whenever the waling surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.
- c. Whenever the stress in any materials, member, or portion thereof, due to all dead and live loads, is more than one and one-half ($1\frac{1}{2}$) times the working stress or stresses allowed for new buildings of similar structure, purpose, or location.
- d. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood, or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements for new buildings of similar structure, purpose, or location.
- e. Whenever any portion, member or appurtenance thereof is likely to fail, to become detached or dislodged, or to collapse and thereby injure persons or damage property.
- f. Whenever any portion of a building, or any member, appurtenance, or ornamentation on the exterior thereof is not of sufficient strength or stability or is not so anchored, attached, or fastened in place so as to be capable of resisting a wind pressure of one-half ($\frac{1}{2}$) of that specified for new buildings of similar structure, purpose, or location without exceeding the working stresses permitted for such buildings.
- g. Whenever any portion thereof has wracked, warped, buckled, or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
- h. Whenever the building or structure, or any portion thereof, because of 1) dilapidation, deterioration, or decay; 2) faulty construction; 3) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; 4) the deterioration, decay or inadequacy of its foundation; or 5) any other cause, is likely to partially or completely collapse.
- i. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
- j. Whenever the exterior walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity does not

fall inside the middle one-third ($1/3$) of the base.

k. Whenever the building or structure, exclusive of the foundation, shown thirty-three percent (33%) or more damage or deterioration of its supporting member or members, or fifty percent (50%) damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.

l. Whenever the building or structure has been so damaged by fire, wind, earthquake, or flood or has become so dilapidated or deteriorated so as to become 1) an unattractive nuisance to children, or 2) freely accessible to persons for the purpose of committing unlawful acts.

m. Whenever any building or structure has been constructed, exists, or is maintained in violation of any specific requirements or prohibition applicable to such building or structure provided by the building regulations of this City, or of any law or ordinance of this State or City relating to the condition, location, or structure of buildings.

n. Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances has in any non-supporting part, member, or portion less than fifty percent (50%), or in any supporting part, member, or portion less than sixty-six percent (66%) of the 1) strength, 2) fire-resisting qualities or characteristics, or 3) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height, and occupancy in the same location.

o. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the Putnam County Sanitarian to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease.

p. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction is determined by the Greencastle Fire Chief to be a fire hazard.

q. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public. (Ord. No. 1988-4, § 850-25, 5-24-88)

Sec. 7-6 Definition of "Substantial Property Interest".

The definition of "substantial property interest" set forth in *Indiana Code*, § 36-7-9-2, is incorporated by reference herein as if copied in full. (Ord. No. 1988-4, § 850-30, 5-24-88)

Sec. 7-7 Compliance with Standards and Practices.

All work for the reconstruction, repair, or demolition of buildings and other structures shall be performed in a good workmanlike manner according to the accepted standards and practices in the trade. The provisions of the building laws, as defined in *Indiana Code*, § 22-12-1-3, adopted as rules of the Fire Prevention and Building Safety Commissioner, shall be considered in orders issued pursuant to his ordinance by the Building Commission of the City of Greencastle, Indiana. (Ord. No. 1988-4, § 850-35, 5-24-88)

Sec. 7-8 Unsafe Building Fund.

An Unsafe Building Fund is established in the operating budget of the City in accordance with the provisions of *Indiana Code*, § 36-7-9-14. (Ord. No. 1988-4, § 850-40, 5-24-88)

Sec. 7-9 Violations and Penalties.

No person, firm, or corporation, whether as owner, lessee, sublessee or occupant, shall erect, construct, enlarge, alter, repair, move, improve, remove, demolish, equip, use occupy, or maintain any building or premises, or cause or permit the same to be done, contrary to or in violation of any of the provisions of this ordinance or any order issued by the Building Commission. Any person violating the provisions of this ordinance or *Indiana Code*, § 36-7-9-28, shall commit a Class C infraction for each day such violation continues. (Ord. No. 1988-4, § 850-45, 5-24-88)

Sec. 7-10 through Sec. 7-13 Reserved for Future Use.**ARTICLE 2. BUILDING CODE.²****Sec. 7-14 Title - Building Code.³**

This ordinance, and all ordinances supplemental or amendatory hereto, shall be known as the "Building Code of the City of Greencastle, Indiana", may be cited as such, and will be referred to herein as "this code". (Ord. No. 1989-2, § 845-5, 2-14-89; Ord. No. 1997-3, § 845-5, 3-11-97)

Sec. 7-15 Purpose.

The purpose of this code is to provide minimum standards for the protection of life, health, environment, public safety and general welfare, and for the conservation of energy in the design and construction of buildings and structures. (Ord. No. 1989-2, § 845-10, 2-14-89; Ord. No. 1997-3, § 845-10, 3-11-97)

Sec. 7-16 Authority of Building Commissioner.

The Building Commissioner is authorized and directed to administer and enforce all of the provisions of this code. Whenever in this code, it is provided that anything must be done to the approval of or subject to the direction of the Building Commissioner or any other representative of the City of Greencastle, this shall be construed to give such duly designated representative of the City only the discretion of determining whether this code has been complied with. No such

² *I.C.*, § 36-7-2-9, provides for such legislation.

³ *Editor's Note:* With the passage of Ord. No. 1989-2 and Ord. No. 1997-3, Ord. No. 1986-8 and Ord. No. 1988-5 were effectively repealed

provision shall be construed as giving any duly designated representative of the City discretionary powers as to what this code shall be, or power to require conditions not prescribed by ordinances or to enforce this code in an arbitrary or discriminatory manner. Any variance from adopted Building Rules are subject to approval under *Indiana Code*, § 22-13-2-7(b) as amended from time to time. (Ord. No. 1997-3, § 845-15, 3-11-97)

Sec. 7-17 Scope.

The provisions of this code apply to the construction, alteration, repair, use, occupancy, and addition to all buildings and structures, other than industrialized building systems or mobile structures certified under *Indiana Code*, § 22-15-4, as amended from time to time, in the City of Greencastle, Putnam County, Indiana. (Ord. No. 1997-3, § 845-20, 3-11-97)

Sec. 7-18 Adoption of Rules by Reference.

a. Building Rules of the Indiana Fire Prevention and Building Safety Commission, as set out in the following Articles of Title 675 of the *Indiana Administrative Code*, are incorporated by reference in this code and shall include later amendments to those Articles as the same are published in the *Indiana Register* or the *Indiana Administrative Code* with effective dates as fixed therein:

1. ***Article 12 - General Administrative Rules.***

2. ***Article 13 - Building Code.***

- a) Fire and Building Safety Standards.
- b) Indiana Building Code. (Including Chapter 7.31 - Accessibility).
- c) Indiana Building Code Standards.

3. ***Article 14 - One and Two Family Dwelling Code.***

Indiana One and Two Family Dwelling Code.

4. ***Article 16 - Plumbing Code.***

Indiana Plumbing Code.

5. ***Article 17 - Electrical Codes.***

- a) Indiana Electrical Code.
- b) Safety Code for Health Care Facilities.

6. ***Article 18 - Mechanical Code.***

Indiana Mechanical Code

7. ***Article 19 - Energy Conservation Code.***

- a) Indiana Energy Conservation Code.
- b) Modifications to the Model Energy Code.

8. ***Article 20 - Swimming Pool Code.***

Indiana Swimming Pool Code

b. Copies of adopted Building Rules, Codes and Standards are on file in the Office of the City of Greencastle Building and Planning Department. (Ord. No. 1997-3, § 845-25, 3-11-97)

Sec. 7-19 Application for Permits.

a. No building permits shall be issued for the foregoing purposes, unless the application for such permit is accompanied by a plat or sketch of the proposed location showing lot boundaries, legal description of the real property, plans and specifications showing the work to be done, and all of the information that may be required by the Building and Planning Department pertaining to such project.

b. In the event additional work is required or changes made that are not covered in full in the original application, the applicant shall submit additional applications to conform this Code and to the requirements of the Building and Planning Department before any actual work is begun or continued.

c. Any errors or omissions in the plans or specifications that do not comply with the intent of this Code shall be corrected on site. (Ord. No. 1997-3, § 845-30, 3-11-97)

Sec. 7-20 Permit Required - Fees.⁴

a. A permit shall be obtained before beginning construction, alteration, repair or maintenance of any building or structure in the City of Greencastle, for which the total value of work is in excess of five hundred dollars (\$500.00), using forms furnished by the City. All fees required by this code shall be paid to the City of Greencastle Clerk-Treasurer. (Ord. No. 1997-3, § 845-35A, 3-11-97)

b. All plans for building construction under the authority of the State of Indiana Department of Fire and Building Services shall be filed with that State Department. A copy of a

⁴ *Editor's Note:* The City directed the codifiers to increase the fee from \$250.00 to \$500.00 during the 1997 codification process.

Design Release for construction, issued by the State Building Commissioner and the State Fire Marshall, pursuant to *Indiana Code*, § 22-15-3-1, *et seq.* As amended from time to time, shall be provided to the Building Commissioner before issuance of a Permit for construction covered by such Design Release.

c. All applications for Building Permits in the City of Greencastle shall be on forms approved and prescribed by the Building and Planning Department.

d. All applications for Building Permits in the City of Greencastle shall be accompanied by the applicable fees as required by this Code, which fees shall be payable to the City of Greencastle. No application for Building Permit shall be released by the City Building and Planning Department until required fees are received. (Ord. No. 1997-3, § 845-35 B-D, 3-11-97)

Sec. 7-21 Other Ordinances.

a. All work done under any permit issued hereunder shall be in full compliance with all other ordinances, or parts of ordinances, pertaining thereto. In addition to the fees for Permits required to be paid under this Code, any and all fees prescribed and required to be paid under all other ordinances, or parts of ordinances, pertaining thereto, shall be paid.

b. Where any work, clause, phrase, sentence, section, or part of this Code conflicts with any other ordinance of the City of Greencastle, the most applicable shall apply, as determined by the City of Greencastle Building Commissioner. (Ord. No. 1997-3, § 845-40, 3-11-97)

[Rest of Page Reserved]

Sec. 7-22 Building Permit Fees and Single Inspection Fees.

Permits required by Section 7-20 shall be issued upon prior payment of inspection fees according to the following schedule:

APPENDIX A

<i>Type of Construction</i>	<i>Required Inspections</i>	<i>Single Inspection Fee</i>	<i>Permit Fee</i>
One or Two Family Dwelling	4	\$30.00	\$120.00 per unit**
Multi-Family Apartments, Hotels, Motels	3	\$30.00 per unit	\$90.00 per unit*
Business, Commercial, Public	6	\$30.00	\$180.00*
Educational, Institutional, Church	6	\$30.00	\$180.00*
Self-Storage, Shed, Industrial, Warehouse, Bulk Storage	4	\$30.00	\$120.00*
Mobile Homes, Temporary Structures	1	\$30.00	\$30.00
Accessory Buildings (Residential	1	\$30.00	\$30.00*
Additions/Alterations (Residential)	3	\$30.00	\$90.00
Electrical	1	\$30.00	\$30.00
Roof	1	\$30.00	\$30.00
Sign	2	\$30.00	\$60.00***
Demolition	1	\$25.00	\$25.00
Zoning	1	\$25.00	\$25.00
Certificate of Occupancy	1	\$10.00	\$10.00

*Plus \$.05 per square foot.

**Plus \$.05 per square foot over 1,000 square feet.

***Plus \$.050 per square foot of sign face.

(Ord. No. 1997-3, Appendix A, 3-11-97)

The minimum permit fee for any permit shall be thirty dollars (\$30.00). For unusually large or complex buildings or structures, the Building Commissioner shall have the power to increase the number of required inspections by fifty percent (50%). For additional inspections as may be required there shall be an additional fee of twenty dollars (\$20.00) each.⁵ The Building Commissioner shall, in all cases, designate the stage of construction when each required inspection must be requested by the permit holder. No concrete shall be placed for foundations without prior inspection. No electrical, mechanical, plumbing, or thermal insulation work shall be covered without prior inspection. Where additional inspections are required due to failure of permit holder to have work ready for inspection at a designated stage of construction, the Building Commissioner shall have the power to assess a reinspection fee of twenty dollars (\$20.00) for each such additional inspection. Reinspection fees shall be paid to the Clerk-Treasurer prior to the issuance of a certificate of occupancy. (Ord. No. 1997-3, Appendix A, 3-11-97)

Sec. 7-23 Permit Validity.

- a. Work must be started and have received an approved foundation inspection with three (3) months of permit issuance.
- b. An issued permit is valid for a period of one (1) year from date of issuance. All work must be completed within the one (1) year period, or the permit shall be required to be reviewed.
- c. *Exception:* Pool Permits are valid for sixty (60) days. All required fencing shall be required to be fully executed, installed and approved within ten (10) days after the completed pool is filled with water. In the event of non-compliance, the penalty and remedial provisions of this Code, as amended from time to time. (Ord. No. 1997-3, § 845-50, 3-11-97)

Sec. 7-24 Permit Extensions and/or Renewals.

- a. The permit expiration date may be extended for up to thirty (30) days for good cause, without additional fee, if the extension is requested prior to the normal expiration date.
- b. The Permit may be renewed once if the renewal is requested and the fee is paid prior to the initial expiration date of the permit.
- c. *Exception:* Pool Permits are not renewable.
The fee for Permit Renewal is as follows:

Full one (1) year Renewal - 80% of Original Building Fee

Six (6) months Renewal - 40% of Original Building Fee

Minimum Renewal Fee Shall Be Ten Dollars (\$10.00)

- d. Permits that have expired may be renewed once if the renewal is requested within thirty (30) days after its initial expiration and if the fee is paid as follows:

Full one (1) Year Renewal - Same as Original Building Fee

Six (6) Months Renewal - 75% of Original Building Fee

⁵

Editor's Note: The language included after "****" was added by the City during the 1997 codification process.

e Any Permit which has been expired for over thirty (30) days shall be considered null and void and a new Permit is required and cannot be issued until approved by the Building Commissioner, or his duly designated Representative.

f Permits obtained under this Code cannot be assigned, transferred, or sublet without the explicit approval of the Building Commissioner. Any Permit assigned, transferred, or sublet without this approval shall be considered null and void. (Ord. No. 1997-3, § 845-55, 3-11-97)

Sec. 7-25 Review of Application.

Prior to the issuance of any building permit, the Building Commissioner shall:

a. Review all building permit applications to determine compliance with the provisions of this code.

b. Review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding.

c. Review building permit applications for major repairs within the flood plain area having special flood hazards to determine that the proposed repair 1) uses construction materials and utility equipment that are resistant to flood damage, and 2) uses construction methods and practices that will minimize flood damage.

d. Review building permit applications for new construction or substantial improvements within the flood plain area having special flood hazards to assure that the proposed construction (including prefabricated and mobile homes) 1) is protected against flood damage, 2) is designed (or modified) and anchored to prevent flotation, collapse, or lateral movement of the structure, flood damage, and 3) uses construction methods and practices that will minimize flood damage.

e. Make necessary changes in plans and specifications to ensure full compliance with this Code.

f. Assume that the proposed construction utilizes construction methods, standards and practices that will minimize the threat to life, limb, health, environment, public safety and welfare. (Ord. No. 1997-3, § 845-60, 3-11-97)

Sec. 7-26 Inspections.

- a. After the issuance of any building permit hereunder, the owner or contractor, shall cause to be made such inspections of the work being done under such permit as are necessary to ensure full compliance with the intent of this Code and the terms of the permit.
- b. There shall not be less than four (4) inspections for every Residential Building Permit unless deemed not necessary by the Building Administrator. See Section 7-38 entitled "Appendix B" for descriptions.
- c. See Section 7-22 "Appendix A" for required inspections for other types of construction.
- d. *Reinspection.* There shall be an additional fee of twenty (\$20.00) dollars in the event an inspection is made and the work is not in conformance with the intent of this Code.
- e. Reinspection Fees are due at the time of issuance of the Certificate of Occupancy or Final Approval. (Ord. No. 1997-3, § 845-65, 3-11-97)

Sec. 7-27 Inspection Assistance.

The Chief of the Fire Department, or his designated representative, shall assist the Building Commissioner in the inspection of fire suppression, detection and alarm systems and shall provide reports of such inspection to the Building Commissioner. (Ord. No. 1989-2, § 845-60, 2-14-89; Ord. No. 1997-3, § 845-70, 3-11-97)

Sec. 7-28 Entry.

Upon presentation of proper credentials, the Building Commissioner or his duly authorized representatives may enter, at reasonable times, any building, structure or premises for which a permit has been obtained in the City of Greencastle to perform any duty imposed upon them by this code. (Ord. No. 2017-3, Ord. No. 1997-3, § 845-75, 3-11-97)

Sec. 7-29 Stop Order.

Whenever any work is being done contrary to the provisions of this code, as amended from time to time, the Building Commissioner or his duly authorized representatives, may order the work stopped by notice in writing served on any person engaged in the doing, or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the Building Commissioner, or his duly authorized representatives, to proceed with the work. (Ord. No. 1997-3, § 845-80, 3-11-97)

Sec. 7-30 Certificate of Occupancy.

No Certificate of Occupancy for any building or structure erected, altered, repaired or constructed after the adoption of this code shall be issued unless such building or structure was erected, altered, repaired or constructed in compliance with the provisions of this code. It shall be unlawful to occupy any such building or structure unless a Certificate of Occupancy has been issued by the Building Commissioner. (Ord. No. 1997-3, § 845-85, 3-11-97)

Sec. 7-31 Standards/Workmanship.

All work on the construction, alteration and repair of buildings and other structures in the City of Greencastle, shall be performed in a good and workmanlike manner according to accepted standards and practices in the trade. (Ord. No. 1997-3, § 845-90, 3-11-97)

Sec. 7-32 Violations.

It shall be unlawful for any person, firm, corporation or entity, whether as owner, contractor, subcontractor, developer, lessee, sub-lessee, or occupant to erect, construct, enlarge, alter, repair, improve, remove, convert, demolish, equip, use, occupy or maintain any building or structure, other than fences, in the City of Greencastle or cause or permit the same to be done, contrary to the provisions of this code as amended from time to time. (Ord. No. 2017-3, Ord. No. 1997-3, § 845-90, 3-11-97)

Sec. 7-33 Right of Appeal.

All persons, firms, corporations or entities shall have the right to appeal any order of the Building Commissioner, first through the City Board of Works and Safety and then to the Fire Prevention and Building Safety Commission of Indiana in accordance with the provisions of Indiana Code, §§ 22-13-2-7 and 4-21.5-3-7 each as amended from time to time. (Ord. No. 1997-3, § 845-100, 3-11-97)

Sec. 7-34 Remedies.

The Building Commissioner shall, in the name of the City of Greencastle, Putnam County, Indiana, bring actions in the Circuit Court or Superior Court of Putnam County, Indiana, for mandatory and injunctive relief in the enforcement of and to secure compliance with any order or orders made by the Building Commissioner, and any such action for mandatory or injunctive relief may be joined with an action to recover the penalties provided for in this code. (Ord. No. 2017-3, Ord. No. 1997-3, § 845-105, 3-11-97)

[Rest of Page Reserved]

Sec. 7-35 Enforcement and Appendix C.

a. Violations designated in "Appendix C" which is set forth herein, may be paid to the Violations Clerk upon acknowledgement of the violations and cessation of the violation. (Ord. No. 1997-3, § 845-107, 3-11-97)

b. *Appendix C*

APPENDIX C		
VIOLATIONS FINE SCHEDULE		
	First Offense	Additional Offenses
1. Construction Without a Permit	\$100.00	Up to \$2,500.00 per day
2. Failure to Call for an Inspection/Continuing Work Without a Proper Inspection and Approval of the Same	\$100.00	Up to \$2,500.00 per day
3. Occupying Dwelling (or portion under construction) Without a Certificate of Occupancy	\$100.00	Up to \$2,500.00 per day
4. Use of Swimming Pool without Final Inspection and Approval of Same	\$100.00	Up to \$2,500.00 per day
5. Alteration of Construction Drawings, Methods, and/or Materials Without Notification to Building Commissioner	\$100.00	Up to \$2,500.00 per day
6. Continuing Work After a Stop Order has been Issued	\$100.00	Up to \$2,500.00 per day
7. Failure to Allow Entry per 7-28 of this Ordinance	\$100.00	Up to \$2,500.00 per day

(Ord. 2017-3, Ord. No. 1997-3, Appendix C, 3-11-97, Ord. No. 2006-1)

Sec. 7-36 Penalties.

In the event any person, firm, corporation or entity shall violate any of the provisions of this code, or shall do any act prohibited herein, or shall fail to perform any duty lawfully enjoined, within the time prescribed by the Building Commissioner, or shall fail, neglect or refuse to obey any lawful order given by the Building Commissioner in connection with the provisions of this code for each such violation, failure or refusal, such person, firm, corporation or entity shall be fined in any sum not less than one-hundred dollars (\$100.00), nor more than two-thousand, five-hundred dollars (\$2,500.00) per day. Each day of the violation shall be considered a separate violation. The fines for violations may be cumulative; a person, firm, corporation or entity who commits a violation is subject to the fines for a second and subsequent violations, if the same or another violation is assessed. Such person, firm, corporation or entity shall further be required to pay any and all costs incurred by the City of Greencastle as a result of violations by said person, firm, corporation or entity of the provisions of this Code and ordinance as amended from time to time, including attorney fees and the like. (Ord. No. 2017-3, Ord. No. 1997-3, § 845-110, 3-11-97, Ord. No. 2006-1)

Sec. 7-37 Effective Date.

This code shall be in full force and effect from and after its adoption, approval by the Fire Prevention and Building Safety Commission of Indiana, and publication as required by applicable law. (Ord. No. 1997-3, § 845-125, 3-11-97)

Sec. 7-38 Appendix B - Residential Building Inspections.**APPENDIX B****RESIDENTIAL BUILDING INSPECTIONS**

1. FOOTING PRE-POUR.
2. PRE-BACKFILL - foundation walls have been poured and "stripped", drain tile, damproofing, insulation, venting and sump pit in place. Note: Depending upon whether structure has crawl space or basement, items will change.
3. ROUGH-IN - this inspection to be performed before insulation and drywall are installed. It includes framing, plumbing, HVAC, and electrical wiring. (Note: Electrical service can be done at this time; however, if scheduled for separate inspection there is a twenty dollar (\$20.00) fee.
4. FINAL INSPECTION - residence completed and ready for move in; however, must be performed **prior** to move in.
5. BASEMENT SLAB PRE-POUR ON ALL STRUCTURES THAT HAVE BASEMENTS - base stone in place, any rough mechanical in place (i.e., floor drains), vapor barrier in place - twenty dollar (\$20.00) fee.
6. TEMPORARY ELECTRIC - twenty dollar (\$20.00) fee. (Ord. No. 1997-3, Appendix B, 3-11-97)

Sec. 7-39 Reserved for Future Use.

ARTICLE 3. SMOKE DETECTORS.⁶**Sec. 7-40 Definitions.**

For purposes of this Article, the following definitions shall apply:

a. **Alarm Signal** - An audible signal indicating the detection of visible or invisible particles or products of combustion other than heat.

b. **Authority having jurisdiction** - The Greencastle Fire Department and the Building Commissioner of the City of Greencastle have enforcement responsibility for this Article.

c. **Class 1 Structure** - means any part of the following:

1. A building or structure that is intended to be or is occupied or otherwise used in any part by or for any of the following:

a) The public;

b) Three (3) or more tenants;

c) One (1) or more persons who act as the employee(s) of another;

d) Any structure that contains three (3) or more condominium units (as defined in *Indiana Code*, § 32-2-6-2) or other units that:

1) are intended to be or are used or leased by the owner of the unit; and

2) are not completely separated from each other by an unimproved space.

e) This does not include a building or structure that is intended to be or is used for an agricultural purpose on the land where it is located and is not used for retail trade.

2. Any class of buildings or structures that the building commissioner determines by rules to affect a building or structure described in Subdivision '1'.

3. Subsection '1'a'1' does not include Class 2 structures.

d. **Class 2 Structure** means any building or structure that is intended to contain or contains only one (1) dwelling unit or two (2) dwelling units unless any part of the building or structure is regularly used as a Class 1 structure.

⁶ *Editor's Note:* Ord. No. 1990-6 is also set forth in Sec. 6-58, *et seq.*, of this *Code*.

e. **Labeled** - Equipment or materials to which has been attached a label, symbol or other identifying mark of an organization acceptable to the "authority having jurisdiction".

f. **Listed** - Equipment or materials included in a list published by an organization acceptable to the "authority having jurisdiction" and which product meets appropriate standards or has been tested and found suitable for use in a specified manner.

g. **NFPA74** - Standard 74 of the National Fire Protection Association, which is located in Batterymarch Park, Quincy, MD 02239.

h. **Rental Agent** - Any person, partnership or corporation who rents, subleases, lets or otherwise grants for a consideration the right to occupy premises not owned by the occupant. This term shall not be construed to mean a real estate agent who is employed for the sole purpose of selling residential units.

i. **Sleeping Areas** - The area or areas of the family living unit in which the bedrooms (or sleeping rooms) separated by other use areas, such as kitchens or living rooms (but not bathrooms), shall be considered sleeping areas.

j. **Shall** - Indicates a mandatory requirement.

Smoke Detector - Shall be defined as a device which detects visible or invisible particles or products of combustion other than heat, as approved by Underwriters Laboratories, Inc. or Factory Mutual. The smoke detector shall produce an alarm signal upon detection of any visible or invisible particles or products of combustion. It may be either battery powered with a minimum nine (9) volt [battery] or it may be powered by a one hundred ten (110) volt alternating current. (Ord. No. 1990-6, § 415-5, 6-12-90)

Sec. 7-41 Basic Requirements.

All Class 1 and Class 2 structures within the corporate limits of the City of Greencastle, Indiana, shall be equipped with a minimum of one (1) functional, properly located, labeled and listed, smoke detector, or its equivalent or better as described in the NFPA74, within twelve (12) months from the date of passage of this Section. (Ord. No. 1990-6, § 415-10, 6-12-90)

Sec. 7-42 Installation; Location.

a. All smoke detectors must be installed according to the manufacturer's instructions and subject to the approval of the "authority having jurisdiction".

b. A minimum of one (1) smoke detector or its equivalent or better as described in NFPA74 shall be installed in each structure unit as defined in Sections 6-58 and 7-40 within the corporate limits of the City of Greencastle. The placement of this unit shall be at the direction of the Greencastle City Fire Department unless otherwise specified or designated by this *Code*.

c. The smoke detector shall be installed on or near the ceiling, not less than six (6) inches from any wall, or on a wall, not less than six (6) inches nor more than twelve (12) inches from the ceiling, and its installation shall be subject to approval by the "authority having jurisdiction". No detector shall be recessed into the ceiling.

d. A smoke detector shall be installed to protect the sleeping areas and shall be located outside of the bedrooms but in the immediate vicinity of the sleeping areas, within fifteen (15) feet of all rooms used for sleeping areas and at least one (1) on each additional story of the family living unit, including basements and excluding crawl spaces and unfinished attics.

e. All smoke detectors shall be accessible for servicing and testing.

f. If a smoke detector is A.C. powered, it must be directly attached to a junction box not controlled by any switch other than the main power supply. The installation of A.C. powered detectors shall conform to all usual electric trade standards. A smoke detector required under this Chapter shall be installed according to the directions and specifications of the manufacturer, but if in conflict with any City electrical standard, the City electric standard shall take precedence. (Ord. No. 1990-6, § 415-15, 6-12-90)

Sec. 7-43 Maintenance.

It shall be unlawful for any person to tamper with or remove any smoke detector, except when it is necessary for maintenance or inspection purposes. Any smoke detector removed for repair or replacement shall be reinstalled or replaced so that it is operable and in place during normal usage hours.

a. Rented units - Each smoke detector may be tested in accordance with manufacturer's recommendations, but shall be tested at six (6) month intervals in every individual unit, and maintained as necessary, to ensure it is in operable condition before the unit is re-occupied.

b. Owner-occupied units - Each smoke detector may be tested in accordance with manufacturer's recommendations, but shall be tested at six (6) month intervals, and maintained as necessary to ensure it is in operable condition. (Ord. No. 1990-6, § 415-20, 6-12-90)

Sec. 7-44 Duty of Property Owner, Manager, or Rental Agent.

Every owner, or the manager or rental agent of such owner, of any Class 1 or Class 2 structure shall be responsible for the installation of all smoke detectors. It is the responsibility of the tenant to maintain all such smoke detectors provided by the owner in good working order until said tenant vacates the premises unless said smoke detector requires A.C. power supply, then the responsibility shall be that of the owner, manager, or rental agent of the property. (Ord. No. 1990-6, § 415-25, 6-12-90)

Sec. 7-45 Enforcement of Provisions.

The Greencastle City Fire Department and the Building Commissioner shall be charged with the duty of enforcing the terms of this Article of this Chapter. (Ord. No. 1990-6, § 415-30, 6-12-90)

Sec. 7-46 Violation and Penalty.

a. Any person, firm or corporation violating any provisions of this Article of this Chapter, or who shall fail to comply with an order as affirmed or modified by the authority having jurisdiction shall be subject to a fine of fifty dollars (\$50.00).

b. Each day such violation is permitted to continue may be deemed to constitute a separate offense.

c. The violation and penalty as herein described in this Article shall not [be] subject to any other fine or penalty within this Article. (Ord. No. 1990-6, § 415-35, 6-12-90)

Sec. 7-47 through Sec. 7-49 Reserved for Future Use.**ARTICLE 4. DIGGING OR EXCAVATING IN STREET AND ALLEYS.⁷****Sec. 7-50 Requirement for and Acquisition of a Construction Permit.**

A. Prior to any work within the City of Greencastle's public rights-of-way (ROW), the property owner or contractor shall obtain a permit using the latest forms for requesting permission to construct in the public ROW. The property owner or the contractor employed by the owner may apply for permits. Applications for permits may be obtained from:

- a. Street Department at 502 North College Street
- b. City of Greencastle Website

C. At the completion of the work activity, the permittee shall close out the permit by requesting the Street Department inspect and approve the work activity. When the permit is closed, performance bonds may be released if requested, in writing.

a. **Individual Performance Bond:** the applicant shall post a surety to guarantee the quality of the work. Individual permits may be obtained by posting a performance bond or cashier's check as follows:

1. **Trench Excavations:**
 - a. 0 to 2 feet deep; \$4.80 per horizontal square foot.
 - b. 2 to 4 feet deep; \$6.40 per horizontal square foot.
 - c. 4 to 6 feet deep; \$7.00 per horizontal square foot.
 - d. 6 to 8 feet deep; \$7.60 per horizontal square foot.
 - e. Greater than 8 feet deep; \$8.60 per horizontal square foot.
2. **Driveway Construction:**
 - a. 0 to 12 lineal feet of driveway width; \$1,500.00
 - b. 12 to 24 lineal feet of driveway width; \$3,000.00
 - c. Greater than 24 feet of driveway width; \$4,500.00

Note: Driveways shall be located so as to result in no undue interference with, or hazard to, the free movement of normal vehicular traffic, as determined by the City Engineer, and so that areas of traffic congestions will not be created on the streets

⁷Ordinance 2006-16, passed January 9, 2006, amends Ordinances 1998-26, 1999-16 and 2003-4.

of the City.

C. In lieu of an Individual Performance Bond, persons or contractors that anticipate many projects within the right-of-way are encouraged to post an **Annual Performance Bond** in the amount of \$7,500.00. Annual Performance Bonds shall be presented to the City Clerk. Annual permits do not alleviate the contractor from obtaining a permit for individual work locations.

D. A fee of \$100 shall be paid per activity and shall be **non-refundable**.

E. The limits of liability for insurance shall provide the following coverages for not less than the following amounts or greater where required by Law:

1. **Worker's Compensation:**

- a. State: Statutory
- b. Employer's Liability: \$100,000.00/\$500,000.00/\$100,000.00.

2. **Contractor's Liability Insurance:**

- a. General Aggregate: \$2,000,000.00. The City of Greencastle shall be named as an additional insured with certificates of insurance to be provided to the City of Greencastle with a thirty (30) day cancellation provision.
- b. Products-Completed Operations Aggregate: \$2,000,000.00 "per job" aggregate
- c. Personal and Advertising Injury (Per Person/Organization): \$1,000,000.00
- d. Each Occurrence (Bodily Injury and Property Damage): \$1,000,000.00
- e. Property Damage liability insurance will provide
Explosion, Collapse and Underground coverage: \$1,000,000.
- f. Umbrella Liability
 1. General Aggregate: \$1,000,000.00
 2. Each Occurrence: \$1,000,000.00

Sec. 7-51 Notification to City of Time and Place of Construction Work

A. The permittee shall provide a minimum of three (3) business days before starting work. Failure to provide adequate notice may be grounds for revocation of permit and permittee may be disqualified from applying for and obtaining another permit for one (1) year.

B. If any or all of a street is expected to be blocked, the permittee is responsible for notifying the Putnam County 911 Dispatch Center. If this blockage is expected to occur during a school day, the Greencastle School Corporation Bus Barn shall also be contacted.

Sec. 7-52 Safety and Construction Requirements

A. **Standards:** The City has standard details and specifications for work that is to be completed within the right-of-way. All work within the right-of-way is required to conform to the latest version of these standards. Copies of these documents are available in the City Engineer's office, Street Department or on the City's website.

B. **Safety:** The permittee shall bear the sole responsibility for workers and traffic safety. At a minimum, the permittee shall comply with all applicable Indiana OSHA requirements and the Indiana Manual of Uniform Traffic Control Devices (IMUTCD). A copy of the IMUTCD is available in the City Engineer's office or the Street Department.

C. **Driveways:** Location of driveways may be subject to restriction by City Engineer and/or Street Commissioner. Contact City Engineer and/or Street Commissioner if location is in the

vicinity of an intersection or other traffic hazard. Failure to have location approved may result in permittee being required to remove driveway at permittee expense.

D. Utility Locates: Indiana Underground Plant Protection Services (IUPPS) aka Holey Moley will contact the City Sewer and Water Utilities as well as the local private utilities of Vectren Gas, Verizon Telephone, Duke Electric and Insight Communications Cable TV. Just call 800.382-5544 at least “2 full working days” but not more than 20 calendar days prior to the start of your excavation.

E. Flowable Fill: Unless a compaction and testing plan is pre-approved by the City Engineer and/or Street Commissioner, all excavations under pavement within the right-of-way is required to be backfilled with flowable fill. Flowable fill shall be manufactured, delivered, and installed in accordance with Indiana Department of Transportation (INDOT) specifications for either type 2 or type 3 flowable fill.

F. ADA Standards: The City has an ADA policy that includes work by private individuals in the public right-of-way. The City Engineer’s office and Street Department have information that pertains to the proper ADA specifications that will be enforced. This information includes slopes, textures, colors, and other pertinent data. Failure to comply with these standards may result in the rejection of the work and may result in permittee being required to remove or replace at permittee expense.

Sec. 7-53 Payment of City Repair Costs

A. After completion of the work to the satisfaction of the Street Commissioner and the City Engineer, the Street Commissioner shall file with the City Clerk-Treasurer, an itemized statement of the City’s costs in completing the construction work within the Right-of-Way, if any. The Costs shall be based upon the current schedule of rates for equipment, labor and materials on file with the Street Commissioner. The further sum of \$50.00 shall be retained by the City as compensation for the services rendered by the City; any balance of the Permit fee remaining after deduction of the above described costs shall be refunded to the permittee.

B. In the event the itemized statement of costs of completion of the construction work within the Right-of-Way, including the sum of \$50.00 to be retained by the City, exceeds the amount of Permit fee made, the permittee shall pay the additional amount to the City Clerk-Treasurer. Should the permittee fail to pay the additional amount within 60 days, the amount outstanding shall be filed as a lien upon the property, because of which the construction work was done, and the amount shall be certified to the County Treasurer and shall be collected by the County Treasurer as taxes are collected.

Sec. 7-55 Violations and Penalties

Any person violating the provisions of this chapter or who shall fail to comply with any of the requirements of this chapter commits a Class D Ordinance violation and shall be fined in any sum not exceeding \$100.00 for each day of violation of this chapter.

Sec. 7-56 through Sec. 7-59 Reserved for Future Use.

ARTICLE 5. UTILITY INSTALLATION.

Sec. 7-60 Utility Installation upon Improvement of Streets or Public Places.

a. Whenever any street, alley, or public place in the City of Greencastle is ordered improved

by paving with any kind of paving material, by a resolution of the Common Council of the City, it is made and it shall be the duty of the owner of any real estate abutting upon a street, alley, or public place so ordered to be improved, and of all persons, firms, corporations, and public utilities having the right so to do, to at once make and install all sewer, water, and gas mains or pipes and electric underground conduits and connections with the mains already in the street, alley, or public place to be so improved.

b. Any person, property owner, firm, corporation, or public utility failing to make any such installation or connection, as herein provided, shall be prohibited from making any such installation or connection in such street, alley, or public place after such paving is made, as provided in the resolutions for such improvement, and it shall be unlawful for them to do so until they first make written application to the Clerk-Treasurer of the City to excavate in such street, alley, or public place so paved and make the installation and connections aforesaid and deposit with the Clerk-Treasurer at the time of making such application fifty dollars (\$50.00).

c. The sum of fifty dollars (\$50.00) shall be held by the Clerk-Treasurer as a guarantee that the applicant will restore the street, alley, or public place in as good condition as the same can practically be done within five (5) days after such installation or connection is made in such street, alley, or public place. On failure to make such restoration within five (5) days, the sum of fifty dollars (\$50.00) shall be forfeited and go to the City of Greencastle, to be the money and property of the City, on account of such failure to make such restoration aforesaid. (1986 *City of Greencastle Code*, § 710-5)

Sec. 7-61 Liability Failure to Restore Street or Public Place.

Any person, property owner, firm, corporation, or public utility that shall have been granted a permit and has deposited the sum of fifty dollars (\$50.00) to make such installation and connection with any sewer, water, and gas mains or pipes and electric underground conduits in any street, alley, or public place in the City and has failed to restore the street, alley, or public place, as provided in this *Code*, then such person, property owner, firm, corporation, or public utility so failing to make such restoration of such street, alley, or public place shall be liable, in addition to the sum of fifty dollars (\$50.00), for the cost to restore the street, alley, or public place by repairing the same as required by Section 7-60. (1986 *City of Greencastle Code*, § 710-10)

Sec. 7-62 Violations and Penalties.

Any person, property owner, firm, corporation, or public utility that shall violate any of the provisions of this Article commits a Class D ordinance violation and shall be fined in any sum not exceeding one hundred dollars (\$100.00). (1986 *City of Greencastle Code*, § 710-15)

Sec. 7-63 through Sec. 7-67 Reserved for Future Use.

ARTICLE 6. OTHER PERMITS.**Sec. 7-68 Demolition Permit.**

a. No person, firm, or corporation shall demolish or cause to be demolished a building or structure in the City without obtaining, in advance, a demolition permit from the City.

b. The applicant shall file with the City Engineer a completed application on the form provided, with all information indicated on the application submitted in full and with all other required information.

Sec. 7-69 Bond Requirements.

The City shall not issue a demolition permit until the applicant files a ten thousand dollar (\$10,000.00) bond with the City Engineer, which bond must be approved by the same, indemnifying the City against all loss or damage to public ways, public places, and other public property during the course of the work under the demolition permit and further conditioning that the applicant will indemnify the City and pay any and all personal and property damages caused by any negligent act or omission in the demolition of such building or structure.

Sec. 7-70 Barricades and Other Safety Measures.

a. In all cases where traffic control may be necessary during the demolition work or whenever the building or structure to be demolished is adjacent to arterial streets, the City shall not issue a demolition permit without first obtaining the approval of the Board of Public Works and Safety for barricading and traffic control. The permit holder shall be liable upon his performance bond for the placement of any necessary traffic control devices, such as barricades, warning signs and lights.

b. The permit holder shall place any necessary devices such as barricades, warning signs, and lights when performing demolition work over, across, or upon public sidewalks.

c. The permit holder shall take all necessary precautions to protect public ways, public places, and other public property during the course of the work authorized by the demolition permit. The permit holder must repair or replace any public ways, public places, and other public property damaged during the demolition, to conform to current City specifications, with the work to be approved by the City Engineer.

d. The permit holder shall cut off the sewer service connection to the main sewer line by plugging the sewer line with concrete sufficient to prevent a back-up leak. The permit holder shall notify the Department to inspect the sewer line plug before he begins backfilling.

e. After removing all materials and debris from any basement of a building to be demolished, the permit holder shall break up the basement floor sufficiently to assure free drainage of storm water and shall top basement walls three (3) feet below the finished grade.

f. No fire shall be permitted on the demolition site for the disposition of material resulting from the demolition.

g. All debris and residue resulting from the demolition must be hauled away and deposited in an approved landfill before backfilling may begin; provided, however, that concrete and masonry from the top three (3) feet below grade level may remain if it is broken sufficiently to permit drainage and if it is put in the basement cavity area, with the maximum size pieces being two (2) feet square.

h. The permit holder shall fill to grade level and grade the lot with three (3) inches of top soil. Seeding must be done at the time the lot is graded; proved, however, that seeding shall not be required if a new building is scheduled to be constructed on the demolition site within six (6) months after completion of the demolition.

Sec. 7-71 through Sec. 7-74 Reserved for Future Use.

ARTICLE 7. STREET NUMBERING.

Sec. 7-75 through Sec. 7-79 Reserved for Future Use.

ARTICLE 8. FLOOD PLAIN REGULATIONS.

Sec. 7-80 Statutory Authorization.

The Indiana Legislature granted the power to local units of government (*Indiana Code*, § 36-7-4) to control land use within their jurisdictions in order to accomplish the following. (Ord. No. 1995-3, § 1, 3-14-95)

Sec. 7-81 Statement of Purpose.

The purpose of this ordinance is to guide development in the flood hazard areas in order to reduce the potential for loss of life and property, reduce the potential for health and safety hazards, and to reduce the potential for extraordinary public expenditures for flood protection and relief. Under the authority granted to local units of government to control land use within their jurisdiction, which includes taking into account the effects of flooding, the Greencastle City Council adopts the following floodplain management regulations in order to accomplish the following:

- a. to prevent unwise developments from increasing flood or drainage hazards to others;

- b. to protect new buildings and major improvements to buildings from flood damage;
- c. to protect human life and health from the hazards of flooding;
- d. to lessen the burden on the taxpayer for flood control projects, repairs to flood-damaged public facilities and utilities, and flood rescue and relief operations;
- e. to maintain property values and a stable tax base by minimizing the potential for creating flood blighted areas; and
- f. to make federally subsidized flood insurance available for structures and their contents in the City by fulfilling the requirements of the National Flood Insurance Program. (Ord. No. 1995-3, § 2, 3-14-95)

Sec. 7-82 Definitions.

For the purpose of this ordinance, the following definitions are adopted:

- a. **Building** – see "structure".
- b. **Development** – any man-made change to improved or unimproved real estate including but not limited to:
 - 1. construction, reconstruction, or placement of a building or any addition to a building;
 - 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 one hundred eighty (180) days;
 - 3. installing utilities, erection of walls and fences, construction of roads, or similar projects;
 - 4. construction of flood control structures such as levees, dikes, 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 buildings 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 buildings.

c. **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 this ordinance.

d. **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).

e. **FHBM** means Flood Boundary and Floodway Map.

f. **FEMA** means Federal Emergency Management Agency.

g. **FHBM** means Flood Hazard Boundary Map.

h. **FIRM** means Flood Insurance Rate Map.

i. **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.

j. **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 floodway fringe districts.

k. **Flood Protection Grade** or the "FPG" means the elevation of the regulatory flood plus two (2) feet at any given location in the SFHA.

l. **Floodway** means the channel of a river or stream and those portions of the flood plains 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.

m. **Floodway fringe** means those portions of the floodplain lying outside the floodway.

n. **Letter of Map Amendment (LOMA)** means an amendment to the currently effective FEMA map that establishes that a property is not located in a Special Flood Hazard Area (SFHA). A LOMA is only issued by FEMA.

o. **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.

p. **Lowest Floor** means the lowest of the following:

1. the top of basement floor;
2. the top of garage floor, if the garage is the lowest level of the building;
3. the top of first floor of buildings elevated on pilings or constructed on a crawl space with permanent openings; or

4. The top of floor level of any enclosure below an elevated building where the walls of the enclosure provide any resistance to the flow of flood waters unless:

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) having a total area of one (1) square foot for every two (2) square feet of enclosed area subject to flooding. The bottom of all such openings shall be no higher than one (1) foot above grade.

b) such enclosed space shall be usable for the parking of vehicles and building access.

q. **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".

r. **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 this ordinance.

s. **Recreation vehicle** means a vehicle which is:

1. built on a single chassis;
2. four hundred (400) square feet or less when measured at the largest horizontal projections;
3. designed to be self-propelled or permanently towable by a light duty truck; and
4. designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

t. **Regulatory Flood** means the flood having a one (1%) percent probability of being equalled or exceeded in any given year, as calculated by a method and procedure which is acceptable to and approved by the Indiana Natural Resources Commission. The regulatory flood elevation at any location is as defined in Section 7-84 of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood".

u. **SFHA or Special Flood Hazard Area** means those parts of unincorporated Putnam County that are within the extraterritorial jurisdiction of the City that may be annexed

into the City are generally identified as such on the Flood Insurance Rate Map prepared for Putnam County by the Federal Emergency Management Agency and dated October 1, 1992.

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

w. **Substantial Improvement** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50%) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "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". (Ord. No. 1995-3, § 3, 3-14-95)

Sec. 7-83 Duties of the Administrator.

The City Engineer shall implement this ordinance and hereinafter be referred to as the Zoning Administrator. The Zoning Administrator for the City of Greencastle is appointed to review all development and subdivision proposals to ensure compliance with the ordinance, including but not limited to the following duties:

a. Ensure that all development activities within the SFHAs of the jurisdiction of the City meet the requirements of this ordinance.

b. Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques.

c. Ensure that construction authorization has been granted by the Indiana Natural Resources Commission for all development projects subject to Section 7-86 of this ordinance, and maintain a record of such authorization (either copy of actual permit or letter of recommendation).

d. Maintain a record of the "as built" elevation of the lowest floor (including basement) of all new and/or substantially improved buildings constructed in the SFHA. Inspect before, during and after construction.

e. Maintain a record of the engineer's certificate and the "as built" floodproofed elevation of all buildings subject to Section 7-87 of this ordinance.

f. Cooperate with state and federal floodplain management agencies to improve base flood and floodway data and to improve the administration of this ordinance. Submit reports as required for the National Flood Insurance Program.

g. Maintain for public inspection and furnish upon request regulatory flood data, SFHA maps, Letters of Map Amendment (LOMA), Letters of Map Revisions (LOMR), copies of DNR permits and letters of recommendation, federal permit documents, and "as built" elevation and floodproofing data for all buildings constructed subject to this ordinance.

h. Notify adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA. (Ord. No. 1995-3, § 4, 3-14-95)

Sec. 7-84 Regulatory Flood Elevation.

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 Department of Natural Resources for review and approval.

a. The regulatory flood elevation and floodway limits for the SFHAs of those parts of unincorporated Putnam County as delineated on the Flood Insurance Rate Map for Putnam County dated October 1, 1992, that are within the extraterritorial jurisdiction of the City or that may be annexed into the City shall be according to the best data available as provided by the Department of Natural Resources. (Ord. No. 1995-3, § 4, 3-14-95)

Sec. 7-85 Improvement Location Permit.⁸

No person, firm, corporation, or governmental body not exempted by state law shall commence any "development" in the SFHA without first obtaining an Improvement Location Permit from the Zoning Administrator. The Zoning Administrator shall not issue an Improvement Location Permit if the proposed "development" does not meet the requirements of this ordinance.

- a. The application for an Improvement Location Permit shall be accompanied by the following:
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 lowest floor (including basement) of all proposed development. Elevation should be in National Geodetic Vertical Datum of 1929 (NGVD) or

⁸

Editor's Note: Ord. No. 1995-3 labelled both "Regulatory Flood Elevation" and "Improvement Location Permit" as Section 5.

North American Vertical Datum (NAVD). In either case the conversion formula should be included.

b. Upon receipt of an application for an Improvement Location Permit, the Zoning Administrator shall determine if the site is located within an identified floodway, floodway fringe or within the floodplain where the limits of the floodway have not yet been determined.

1. If the site is in an identified floodway, the Zoning Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources and apply for a permit for construction in a floodway.

Under the provisions of *Indiana Code*, § 13-2-22 a permit from the Natural Resources Commission 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 building.

No action shall be taken by the Zoning Administrator until a permit has been issued by the Natural Resources Commission granting approval for construction in the floodway. Once a permit has been issued by the Natural Resources Commission, the Zoning Administrator may issue the local Improvement Location Permit, provided the provisions contained in Sections 7-86 and 7-87 of this ordinance have been met. The Improvement Location Permit cannot be less restrictive than the permit issued by the natural Resources Commission.

2. If the site is located in an identified floodway fringe, then the Building Official may issue the local Improvement Location Permit provided the provisions contained in Section 7-86 and 7-87 of this ordinance have been met. The key provision is that the lowest floor of any new or substantially improved structure shall be at or above the Flood Protection Grade (FPG).

3. If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined and the drainage area upstream of the site is greater than one (1) square mile, the Zoning Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources for review and comment.

No action shall be taken by the Zoning Administrator until either a permit for construction in the floodway or a letter of recommendation citing the 100 year flood elevation and the recommended Flood Protection Grade has been received from the Department of Natural Resources.

Once the Zoning Administrator has received the proper permit or letter of recommendation approving the proposed development, an Improvement Location Permit may be issued provided the conditions of the Improvement Location Permit are not less restrictive than the conditions received from Natural Resources and the provisions contained in Section 7-86 and 7-87 of this ordinance have been met. (Ord. No. 1995-3, § 5, 3-14-95)

Sec. 7-86 Preventing Increased Damages.

No development in the SFHA shall create a damaging or potentially damaging increase in flood heights or velocity or threat to public health and safety.

a. Within the floodway identified on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map or engineering analysis as provided in Section 7-85 b.,4., the following standards shall apply:

1. No development shall be allowed which acting alone or in combination with existing or future development, will cause any increase in the elevation of the regulatory flood; and

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

b. Within all SFHAs identified as A Zones (no 100 year flood elevation and/or floodway/floodway fringe delineation has been provided) the following standard shall apply:

1. The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood elevation more than one-tenth (0.1) of one (1) foot and will not increase flood damages or potential flood damages.

c. Public Health Standards in all SFHAs

1. No development in the SFHA shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants, or other hazardous or toxic materials below the Flood Protection Grade, unless such materials are stored in floodproofed storage tank or building constructed according to the requirements of Section 7-87 of this ordinance.

2. New and replacement sanitary sewer lines and on-site waste disposal systems may be permitted providing all manholes or other above ground openings are located below the FPG, or those which are located below the FPG are watertight. (Ord. No. 1995-3, § 7, 3-14-95)

Sec. 7-87 Protecting Buildings.

In addition to the damage prevention requirements of Section 7-86 all buildings to be located in the SFHA shall be protected from flood damage below the FPG.

- a. This building protection requirement applies to the following situations:
 1. construction or placement of any new building having a floor area greater than four hundred (400) square feet;
 2. structural alterations made to:
 - a. an existing (previously unaltered) building, the cost of which equals or exceeds fifty percent (50%) of the value of the pre-altered building (excluding the value of the land);
 - b. any previously altered building.
 3. reconstruction or repairs made to a damaged building that are valued at or more than fifty (50%) percent of the market value of the building (excluding the value of the land) before damage occurred;
 4. 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; and
 5. installing a travel trailer or a recreational vehicle on a site for more than one hundred eighty (180) days.
- b. This building protection requirement may be met by one of the following methods. The Zoning Administrator shall maintain a record of compliance with these building protection standards as required in Section 7-83 of this ordinance.
 1. A residential or nonresidential building may be constructed on a permanent land fill in accordance with the following:
 - a) The fill shall be placed in layers no greater than one (1) foot deep before compacting to ninety five percent (95%) of the maximum density obtainable with the Standard Proctor Test method.
 - b) The fill should extend at least ten (10) feet beyond the foundation of the building before sloping below the FPG.
 - c) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than three (3) horizontal to one (1) vertical.
 - d) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.

e) The top of the lowest floor including basements,(see definition of lowest floor in Section 7-82 Definitions) shall be at or above the FPG.

2. A residential or nonresidential building may be elevated in accordance with the following:

a) The building or improvements shall be elevated on posts, piers, columns, extended walls, or other types of similar foundation provided:

1) Walls of any enclosure below the elevated floor shall be designed to automatically equalize hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, through providing a minimum of two (2) openings (in addition to doorways and windows) having a total area of one (1) square foot for every two (2) square feet of enclosed floor area subject to flooding. The bottom of all such opening shall be no higher than one (1) foot above grade.

2) Any enclosure below the elevated floor is used for storage of vehicles and building access.

b) The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to known hydrodynamic forces such as buoyancy, current, waves, ice and floating debris.

c) All areas below the FPG shall be constructed of materials resistant to flood damage. The top of the lowest floor (including basement) and all electrical, heating, ventilating, plumbing, and airconditioning equipment and utility meters shall be located at or above the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.

3. Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one (1) of the following anchoring requirements:

a) The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site;

1) outside a manufactured home park or subdivision;

2) in a new manufactured home park or subdivision;

3) in an expansion to an existing manufactured home park or subdivision; or

4) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood.

b) 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. The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than thirty-six (36) inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

4. Recreation vehicles placed on a site shall either:

- a) be on the site for less than one hundred eighty (180) consecutive days;
- 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
- c) meet the requirements for "manufactured homes" in paragraph 3 of this section.

5. A non-residential building may be floodproofed to the FPG (in lieu of elevating) if done in accordance with the following:

a) a Registered Professional Engineer shall certify that the building 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 building design shall take into account flood velocities, duration, rate of rise, hydrostatic pressure, and impacts from debris or ice.

b) Floodproofing measures shall be operable without human intervention and without an source of electricity. (Ord. No. 1995-3, § 8, 3-14-95)

Sec. 7-88 Other Development Requirements.

a. The Zoning Administrator shall review all proposed subdivisions to determine whether the subdivision lies in a flood hazard area as defined elsewhere by ordinance. If the Zoning Administrator finds the subdivision to be so located, the Zoning Administrator shall forward plans and materials to the Indiana Department of Natural Resources for review and comment. The Zoning Administrator shall require appropriate changes and modifications in order to assure that:

1. it is consistent with the need to minimize flood damages;
2. all public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage;
3. adequate drainage is provided so as to reduce exposure to flood hazards;
4. onsite waste disposal systems, if provided, will be so located and designed to avoid impairment of them or contamination from them during the occurrence of the regulatory flood.

b. Developers shall record the 100 year flood elevation on all subdivision plats containing lands (identified elsewhere by ordinance) as within a flood hazard area prior to submitting the plats for approval by the Plan Commission.

c. All owners of manufactured home parks or subdivisions located within the SFHA identified as Zone A on the community's FHMB or FIRM develop an evacuation plan for those lots located in the SFHA and file it with the local Plan Commission and have it filed with and approved by the appropriate community emergency management authorities.(Ord. No. 1995-3, § 9, 3-14-95)

Sec. 7-89 Variances.

a. The Board of Zoning Appeals may consider issuing a variance to the terms and provisions of this ordinance provided the applicant demonstrates that:

1. There exists a good and sufficient cause for the requested variance;
2. The strict application of the terms of this ordinance will constitute an exceptional hardship to the applicant, and
3. The granting of the requested variance will not increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

b. The Board of Zoning Appeals may issue a variance to the terms and provisions of this ordinance subject to the following standards and conditions:

1. No variance or exception for a residential use within a floodway subject to Section 7-86 'a' or 'b' of this ordinance may be granted.
2. Any variance or exception granted in a floodway subject to Section 7-86 'a' and 'b' of this ordinance will require a permit from Natural Resources.
3. Variances or exceptions to the Building Protection Standards of Section 7-87 may be granted only when a new structure is to be located on a lot of one-half ($1/2$) acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
4. Variance or exception may be granted for the reconstruction or restoration of any structure individually listed on the Register of Historic Places or the Indiana State Survey of Historic Architectural, Archaeological and Cultural Sites, Structures, Districts, and Objects;
5. All variances shall give the minimum relief necessary and be such that the maximum practical flood protection will be given to the proposed construction; and
6. The Board of Zoning Appeals shall issue a written notice to the recipient of a

variance or exception that the proposed construction will be subject to increased risks to life and property and could require payment of excessive flood insurance premiums.(Ord. No. 1995-3, § 10, 3-14-95)

Sec. 7-90 Disclaimer of Liability.

The decree 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 community, 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. (Ord. No. 1995-3, § 11, 3-14-95)

Sec. 7-91 Violations.

Failure to obtain an Improvement Location Permit in the SFHA or failure to comply with the requirements of a 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 Zoning Code for the City of Greencastle. All violations shall be punishable by a fine not exceeding one hundred dollars (\$100.00) per day.

a. A separate offense shall be deemed to occur for each day the violation continues to exist.

b. The Greencastle Planning Commission shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.

c. Nothing herein shall prevent the City from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible. (Ord. No. 1995-3, § 12, 3-14-95)

Sec. 7-92 Abrogation and Greater Restrictions.

This ordinance repeals and replaces other ordinances adopted by the City to fulfill the requirements of the National Flood Insurance Program including Chapter 840 Flood Damage Prevention Title 8 Planning, Development, Land Use and Zoning. However, this ordinance does not repeal the original resolution or ordinance adopted to achieve eligibility in the Program. Nor does this ordinance repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where this ordinance and other ordinance easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall take precedence. In addition, the City shall assure that all National Flood Insurance Program regulations and laws (310 IAC 6-1-1, *Indiana Code*, §§ 13-2-22 and 13-2-22.5) are met. (Ord. No. 1995-3, § 13, 3-14-95)

Sec. 7-93 through Sec. 7-99 Reserved for Future Use.

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