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TOWN OF BURNS HARBOR, INDIANA TOWN CODE

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CHAPTER 1 - GENERAL PROVISIONS

Sec. 1-1. HOW CODE DESIGNATED AND CITED.

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Town Code of Burns Harbor, Indiana," and may be so cited.

STATE LAW REFERENCE - Codification required, IC 36-1-5-3.

Sec. 1-2. RULES OF CONSTRUCTION AND DEFINITIONS.

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

Generally. All general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the Town Council may be fully carried out.

In the interpretation and application of any provisions of this Code, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the Code imposes greater restrictions upon the subject matter than another more general provision imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

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

Corporate limits, town limits. The term "corporate limits" or "town limits" shall mean the legal boundaries of Burns Harbor, except as otherwise provided by law.

Council, Town Council. The term "Council" or "Town Council" shall mean the Town Council of Burns Harbor.

County. The words "the county" or "this county" shall mean the County of Porter, in the

State of Indiana.

Delegation of Authority. Whenever a provision appears requiring the head of a department or some other town officer to do some act or perform some duty, it shall be construed to authorize the head of the department or other officer to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

Joint Authority. All words giving joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Month. The word "month" shall mean a calendar month.

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

Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one (1) person and thing, and a word importing the plural shall include the singular.

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

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

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

Personal property. Includes every species of property except real property, as herein described.

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

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

Public place. The term "public place" shall mean any street or highway, sidewalk, park,

school yard or open space adjacent thereto and any lake or stream.

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

Real property. shall include lands, tenements and hereditaments.

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

Shall, may. The word "shall" is mandatory; the word "may" is permissive.

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

Signature or subscription. Includes a mark when the person cannot write.

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

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

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

Town. The word "town" shall mean Burns Harbor, Indiana.

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

Year. The word "year" shall mean a calendar year.

Sec. 1-3. CATCHLINES OF SECTIONS.

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

Sec. 1-4. UNAUTHORIZED ALTERATION OR TAMPERING WITH CODE.

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

Sec. 1-5. RECORDING, PROOF OF PUBLICATION OF ORDINANCES.

All ordinances passed by the Town Council shall be recorded by the Town Clerk-Treasurer in a book of ordinances. The original shall be filed in the Clerk-Treasurer's office, and due proof of publication of all ordinances requiring publication, by the affidavit of the printer or publisher, shall be procured by the Clerk-Treasurer and attached thereto, or written and attested upon the face of such ordinances.

Sec. 1-6. EFFECTIVE DATE OF ORDINANCES.

All ordinances passed by the Town Council, requiring publication, shall take effect from and after the due publication thereof, unless therein otherwise expressly provided. Ordinances not requiring publication shall take effect from their passage and upon being signed attested to, unless otherwise expressly provided.

Sec. 1-7. EFFECT OF REPEAL OF ORDINANCES.

- (a) When any ordinance repealing a former ordinance, clause or provision shall be itself repealed, such repeal shall not be construed to revive such former ordinance, clause or provision unless it shall be therein so expressly provided.
- (b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed or cause of action arising under the ordinance repealed.
- (c) Wherever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the part of the ordinance thus repealed or modified shall continue in force until the due publication of the ordinance repealing or modifying the same, when such publication shall be required to give effect thereto.

When publication is not required, the repealing of modifying ordinance shall take effect immediately upon passage.

Sec. 1-8. SEVERABILITY OF PARTS OF CODE.

The sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional, invalid or unenforceable by the valid judgment or decree of a Court of

competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

Sec. 1-9. GENERAL PENALTY.

Wherever in this Code or in any ordinance of the town, or rule or regulation promulgated by an officer or agency thereof under the authority invested by law or ordinance, any act is prohibited or is made or declared to be unlawful or an offense, or the doing of any act is required, or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this Code, ordinance, rule or regulation shall be punished by a fine not to exceed two thousand five hundred dollars (\$2,500.00). Every day any violation of this Code or any such ordinance, rule or regulation shall continue shall constitute a separate offense.

STATE LAW REFERENCE - Fines, penalties and forfeitures for violation of ordinances, IC 36-1-3-8.

Sec. 1-10. OFFENSES PUNISHABLE UNDER SEPARATE PROVISIONS.

In all cases where the same offense may be made punishable, or may be created by different clauses or sections of the ordinances of the town, the prosecuting officer may elect under which to proceed, but not more than one (1) recovery shall be had against the same person for the same offense.

Sec. 1-11. ORDINANCES SAVED FROM REPEAL GENERALLY.

Nothing contained in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the following:

- (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effect date of this Code;
- (2) Any ordinance promising or guaranteeing the payment of money for the town, or authorizing the issuance of any bonds of the town or any evidence of the town's indebtedness, or any contract or obligation assumed by the town;
- (3) Any ordinance fixing salaries of officers or employees of town not inconsistent with such code;
- (4) Any appropriation ordinance;
- (5) Any right or franchise granted by the Town Council to any person, firm or corporation;

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- (6) Any ordinance dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening, vacating, or in any way affecting any street or public way in the town;
- (7) Any ordinance establishing and prescribing the street grades of any street in the town;
- (8) Any ordinance providing for local improvements or assessing taxes therefor;
- (9) Any ordinance dedicating or accepting any plat or subdivision in the town;
- (10) Any ordinance establishing traffic regulations for specific streets or portions thereof;
- (11) Any ordinance providing for the boundaries of the town or of any ward or district therein;
- (12) Any ordinance annexing property to the town;
- (13) Any zoning ordinance of the town;
- (14) Any ordinance levying taxes, not in conflict or inconsistent with the provisions of this Code;
- (15) Any ordinance enacted after October 8, 1985;
- (16) and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

Sec. 1-12. VIOLATIONS BUREAU

SECTION ONE: That the Town Council of the Town of Burns Harbor establishes pursuant to I.C. 33-6-3 et seq. as the same may be amended from time to time an Ordinance Violations Bureau. The Clerk-Treasurer or her designee shall be appointed Violations Clerk of the Ordinance Violations Bureau to be the administrator of the Bureau. The attached schedule of ordinance and code provisions of the Town of Burns Harbor that are subject to admission of violations before the Violations Clerk and the amount of civil penalty to be assessed a violator who elects to admit a violation under the provisions of this Ordinance is attached hereto and marked as Exhibit "A." All provisions of I.C. 33-6-3 Sections 1 through 5 as they exist now and as may be amended in the future are adopted as part of this ordinance as if the same were reprinted herein in its entirety. (*Ordinance 140, 7/28/1993*)

SECTION TWO: In the event a person charged with a Town Code Violation of Burns Harbor does not pay the appropriate fine set forth in Exhibit "A" within ten (10) days from the date said person is cited or enters a written denial with the Violations Clerk, the

matter shall be assigned to a Court of competent jurisdiction by the Town Attorney and the general penalty provisions of the Town Code, the same providing for a fine of \$1.00 to \$2,500 per day per violation shall apply. All fines set forth on Exhibit "A" shall apply only for the first and second offenses within a six (6) month period, starting the day the first violation occurred. More than two (2) violations within a six (6) month period of the same offense shall be filed in a Court of competent jurisdiction and/or written pursuant to state statute, if applicable. Any subsequent violation of the same ordinance by the same person shall be subject to the general penalty provisions of the Town Code which provide for a fine of \$1.00 to \$2,500 per day per violation. (*Ordinance 143, 7/13/1994*)

SECTION THREE: In the event a person charged with a traffic related violation elects to contest said violation in a Court of competent jurisdiction, the Town Marshal, prior to the assignment of the matter to said Court, may amend said traffic violation to a state statute violation. Thereafter, the amended violation shall be prosecuted, pursuant to state law, by the County Prosecutor. (*Ordinance 140, 7/28/1993*)

VIOLATIONS BUREAU EXHIBIT A				
<i>(Ord. 223, 7/8/2009, Ord. 304 4/14/2021, Ord. 319-2023)</i>				
<u>Animal Violations</u>				
<u>Town Code</u>	<u>State Statute</u>	<u>Violation Type</u>	<u>Fine</u>	
			1 st Offense/2 nd Offense	
Section 3-8(A)	15-2.1-21-8	Running at large	\$50	\$75
Section 3-15(B-1)3	5-46-3-1	Keeping, harboring, etc. noisy animals	\$50	\$75
<u>Building Violations</u>				
<u>Town Code</u>	<u>State Statute</u>	<u>Violation Type</u>	<u>Fine</u>	
			1 st Offense/2 nd Offense	
Section 15-4-7		Improper fence installation	\$75.00	\$100.00
Section 15-4-8		Address numbers not installed or installed incorrectly	\$50.00	\$100.00
Section 15-4-2(N)3		Unfenced swimming pool	\$100.00	\$200.00
Section 15-4-7(A)		Property maintenance- building materials and/or construction debris	\$100.00	\$200.00
Section 9-2(2,14)		Accumulation of debris/junk	\$50.00	\$100.00
Section 4-7		Performing work without permit	\$100.00	\$200.00

Section 15-5-4(D)		Building projects not completed within required time limits	\$250.00	\$500.00
<u>Health & Sanitation</u>				
<u>Town Code</u>	<u>State Statute</u>	<u>Violation Type</u>	<u>Fine</u>	
			1 st Offense/2 nd Offense	
Section 9-2(1)		Grass/weeds in excess of 8 inches	\$50.00	\$100.00
Section 9-2(3)	5-45-3-2	Illegal dumping	\$250.00	\$500.00
<u>License Violations</u>				
<u>Town Code</u>	<u>State Statute</u>	<u>Violation Type</u>	<u>Fine</u>	
			1 st Offense/2 nd Offense	
Section 6-1		Contractor's license violation	\$100.00	\$200.00
Section 6-1		Business license violation	\$100.00	\$200.00
Section 7-2		Peddling, soliciting, transient merchant license required	\$50.00	\$100.00
<u>Noise Control</u>				
<u>Town Code</u>	<u>State Statute</u>	<u>Violation Type</u>	<u>Fine</u>	
			1 st Offense/2 nd Offense	
Section 16-9	I.C. 36-8-2-4 I.C. 36-8-2-8	Noise Control	\$100.00	\$250.00
<u>Offenses & Miscellaneous Violations</u>				
<u>Town Code</u>	<u>State Statute</u>	<u>Violation Type</u>	<u>Fine</u>	
			1 st Offense/2 nd Offense	
Section 11-3		Disturbing the peace, per Town noise ordinance	\$50.00	\$100.00
Section 10-1		Curfew or parent allowing violation	\$50.00	\$50.00
Section 9-2		Littering	\$100.00	\$200.00

<u>Parks & Recreation</u>				
<u>Town Code</u>	<u>State Statute</u>	<u>Violation Type</u>	<u>Fine</u>	
			1 st Offense/2 nd Offense	
Section 11-7		Prohibited acts	\$50.00	\$100.00
Section 11-10(A)		Hours of operation	\$50.00	\$100.00
Section 11-7		Parking in unauthorized area	\$50.00	\$50.00
Section 11-7		Dogs not on leash	\$25.00	\$50.00
Section 11-11		Fishing where or when not permitted per park rules	\$50.00	\$50.00
<u>Motor Vehicle/Traffic Violations</u>				
<u>Town Code</u>	<u>State Statute</u>	<u>Violation Type</u>	<u>Fine</u>	
			1 st Offense/2 nd Offense	
Section 8-6	9-21-16-8	Parking in a no parking zone	\$50.00	\$50.00
Section 8-5		Violating 8-ton weight limit on Town Roads	\$2,500.00	\$7,500.00
Section 9-1(3)		Parking as to obstruct traffic	\$50.00	\$50.00
Section 8-3		Leaving vehicle on street over 72 hours	\$50.00	\$50.00
Section 8-1 8.4	9-22-1	Junk or abandoned vehicle	\$50.00	\$100.00
Section 9-2(13)		Common nuisance	\$50.00	\$50.00

VIOLATIONS OF TOWN CODES MAY BE WRITTEN FOR FIRST AND SECOND OFFENSES WITHIN A SIX MONTH PERIOD, STARTING THE DAY THE FIRST VIOLATION OCCURRED. MORE THAN TWO VIOLATIONS WITHIN A SIX MONTH PERIOD OF THE SAME OFFENSE, THE CITATION WILL BE WRITTEN UNDER STATE STATUTE. (*Ordinance 223, 7/8/2009*)

Sec. 1-13. DONATIONS

BE IT HEREBY ORDAINED by the Town Council of the Town of Burns Harbor, Porter County, Indiana, that Donation Funds be created within the General Fund and the Park Fund.

FURTHERMORE, each Department shall be required to issue a receipt for all monies donated to that Department. These donations shall be remitted to the Town's Fiscal Officer on at least a monthly basis at which time the Fiscal Officer shall issue an official receipt for the aforementioned donations. The Fiscal Officer shall receipt the donations

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into the individual Department and it shall be expended specifically for which it was donated or if unspecified, at the discretion of that Department Head; without appropriation. All expenditures made from these funds shall be processed, claimed, and allowed in the same manner as other claims of the municipality. (*Ordinance 148*)