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As amended through March 28, 2012 (bnk)

As amended through December 31, 2014 (jar)

 **TOWN OF ETNA GREEN CODE OF 1982**

Adopted May 17, 1982, by the Board

of Trustees of the Town of Etna Green, Indiana, pursuant

to Indiana Code 36‑1‑5‑3.

**TITLE I: GOVERNMENT STRUCTURE AND ADMINISTRATION**

CHAPTER 1. Creation of capital improvement fund

Section 1. There is hereby created a cumulative capital improvement fund for the Town of Etna Green, Indiana.

Section 2. The Clerk‑Treasurer shall credit such fund with all receipts received from the State of Indiana, as the Town of Etna Green's share of the cigarette tax fund, such fund to be cumulative and expended as may hereafter by law or by the Board of Trustee provided.

Chapter 2: Salary of Town Superintendent.

Section 1. The Town of Etna Green, Kosciusko County, Indiana shall establish annually by salary ordinance the salary of the Town Superintendent. That salary ordinance shall establish the annual salary and benefits for said position, and shall determine the proportion of funds and accounts from which said salary and benefits shall be paid.

Section 2. The Town Superintendent shall be entitled to one week of vacation during his first year of employment, two weeks of vacation during his second, third, fourth and fifth years of his employment, and three weeks of vacation every year after employment as Town Superintendent. All such weeks provided for in this section shall be paid vacation.

Section 3. The Town Superintendent shall have the following paid holidays:

A. New Years Day

B. Memorial Day

C. Independence Day (or another day of his choice as substitution)

D. Labor Day

E. Thanksgiving Day

F. Christmas Day

Section 4. The Town Superintendent shall devote an average of 40 hours per week during the term of his employment with the Town of Etna Green. He shall be responsible for maintaining the 40 hour weekly average, and his hours are flexible and are to be set by him in accordance with the requirements of his job.

CHAPTER 3. SALARY OF CLERK‑TREASURER

Section 1. That the Town of Etna Green, Kosciusko County, Indiana, does hereby establish this ordinance for the purpose of determining and fixing the salary of the Clerk‑Treasurer, and to establish the proportions of pay of the Clerk‑Treasurer between the General Fund of the Town and the Municipal electric and Water Company.

Section 2. That said Clerk‑Treasurer shall be paid, effective January 1, 2012, an annual salary of Twenty-Two Thousand Four Hundred Fifty-Eight Dollars Eighty Cents ($22,458.80), which said salary shall be paid in part from the General Fund of the Town, the Municipal Electric Utility Account, and the Municipal Water Utility Account. Said payments from the General Fund of the Town shall be in an amount not less than 40% of the annual salary and the balance to be paid from the Electric, Sewer and Water Utility Accounts as may be determined from time to time by the Town Board by resolution.

Section 3. That the Clerk‑Treasurer shall notify the Town Council regarding periods of her vacation and of any extended illness, and that the Town Council shall have the right to employ a temporary Clerk‑Treasurer to assume the responsibilities of the regular Clerk‑Treasurer. The rate of pay for the temporary Clerk‑Treasurer shall be established from time to time by the Town Council as the need for such employment arises, and the source of the funds for that temporary Clerk‑Treasurer shall be in the same proportion as the salary of the regular Clerk‑Treasurer.

CHAPTER 4. Salary of Town Council

Section 1. That the Town of Etna Green, Kosciusko County, Indiana, does hereby establish this ordinance for the purpose of determining and fixing salary of the members of the Town Council said Town.

Section 2. Each of said members of the Town Council shall be paid, effective January 1, 2012, an annual salary of Twelve Hundred Twenty-Four Dollars ($1,224.00), which said salary shall be paid in part from the General Fund of the Town or in an amount not less than 30% and the balance to be paid from the Electric, Sewer and Water Utility accounts or may be determined from time to time by the Town Council by resolution.

Chapter 5: Salary of Street and Sewer Superintendent

Section 1. The Town of Etna Green, Kosciusko County, Indiana shall establish annually by salary ordinance the salary of the Town Superintendent of Waste Water. That salary ordinance shall establish the annual salary and benefits for said position, and shall determine the proportion of funds and accounts from which said salary and benefits shall be paid.

Section 2. The Town Superintendent of Waste Water shall be entitled to one week of vacation during his first year of employment, two weeks of vacation during his second, third, fourth and fifth years of his employment, and three weeks of vacation every year after employment as Town Superintendent of Waste Water. All such weeks provided for in this section shall be paid vacation.

Section 3. The Town Superintendent of Waste Water shall have the following paid holidays:

A. New Years Day

B. Memorial Day

C. Independence Day (or another day of his choice as substitution).

D. Labor Day

E. Thanksgiving Day

F. Christmas Day

Section 4. The Town Superintendent of Waste Water shall devote an average of 40 hours per week during the term of his employment with the Town of Etna Green. He shall be responsible for maintaining the 40 hour weekly average, and his hours are flexible and are to be set by him in accordance with the requirements of his job.

CHAPTER 6. Salary and Raises of Part-time Town Employees:

Section 1: That the Town of Etna Green, Kosciusko County, Indiana, shall establish by annual salary ordinance wage rate and schedule raises for part-time employees of the Town, including, custodial, maintenance, mowing, and part-time utility clerks.

Section 2: Said employees are part-time, and those employees shall not receive benefits, including but not limited to insurance and/or retirement or savings plans normally available to full-time Town employees.

CHAPTER 7. Duties of the Town Superintendent.

Section 1: If no Town Marshall is employed by the Town of Etna Green, Indiana, all references to the duties and/or responsibilities of the Town Marshall of Etna Green and/or designated police officers of the Town in the Town Code of the Town of Etna Green, Indiana, shall be performed by the Towns Superintendent.

CHAPTER 8. Payment of Claims Prior to Board Meetings

Section 1: The Clerk Treasurer may pay the following types of claims prior to the regular monthly Town Board meetings:

1. (Property or services purchased from the US Government)

2. (License or permit fees),

3. (Insurance premiums),

4. (Utility payments or connection charges),

5. (General grant programs where advanced refunding is not prohibited and the contracting party posts sufficient security to cover the amount advanced),

6. (Grants of state funds),

7. (Maintenance or service agreements),

8. (Leases or rental agreements),

9. (Bond or coupon payments),

10. (Payroll),

11. (State, federal or county taxes),

12. (Expenses that must be paid because of emergency circumstances),

13. (A product for service for which the city legislative body has accepted a bid),

14. (Expenses that are paid on a routine monthly basis; and,

15. (Expenses described in an ordinance);

however the Town Board shall review all payments of such claims at the next scheduled Board meeting.

CHAPTER 9. Salary of Part-time Janitorial Personnel.

Section 1: That the Town of Etna Green, Kosciusko County, Indiana does hereby establish this ordinance for the purpose of determining and fixing the wage rate for part-time janitorial personnel.

Section 2: That any part-time janitorial personnel shall be paid, effective January 1, 1997, at an hourly rate of $8.00 per hour, which payment shall be paid from the general fund of the Town when the salary is paid for janitorial services for the Town Hall and from the Park fund of the Town when the salary is paid for janitorial services for the parks.

CHAPTER 10. Election of Board of Trustees.

Section 1. The Board of Trustee or the Town of Etna Green shall be elected at large by the voters of the whole Town of Etna Green, Indiana.

Section 2. This ordinance shall be in full force and effect from and after its passage and supersedes any other ordinance specifying the method by which the Board of Trustees are elected by the voters of the Town of Etna Green.

CHAPTER 11. Fringe Benefit Policy.

Section 1: Application of Provisions: This Chapter and Fringe Benefit Policy shall govern and apply to all full-time salaried employees; however, it shall not apply to elected officials or members of boards and commissions of the Town.

Section 2: Definition of Full-Time Employee: A full-time employee is defined as any employee of the Town who is continuously employed for thirty-five (35) or more working hours in any one calendar week consisting of seven (7) days.

Section 3: Sick Leave: Each full-time salaried employee of the Town shall be entitled to a maximum of five (5) days of sick leave each calendar year. Sick days shall not be carried over to the subsequent calendar year.

Section 4: Vacation Days: The number of vacation days for full-time salaried employees shall be stated in the employees individual contracts with the Town. Any unused vacation days per calendar year of full-time salaried employees of the Town can be carried over and used during the first six months of the subsequent calendar year or the employee may opt to be paid for the unused vacation days.

Section 5: Compensatory Time and Vacation Time: A full time employee may receive payment for overtime, unused compensatory time, and/or unused vacation time as approved by the Town Council. This payment may be over and above the stated salaries of any such employee as provided in the Annual Salary Ordinance.

Section 6: Retirement Account: All full-time employees of the Town of Etna Green shall receive in addition to their regular salary and compensation Two Thousand Dollars ($2,000.00) to be paid toward a retirement account designated by the full-time employee, accruing monthly at the rate of $166.65 per month of service.

CHAPTER 12. Public Purchasing.

Section 1: The Town of Etna Green, Kosciusko County, Indiana, does hereby establish this Ordinance for the purpose of designating a governmental body, purchasing agency and purchasing agent and to establish a procedure for the purchase of supplies and services in accordance with Indiana Code 5-22.

Section 2: The Board of Trustees for the Town of Etna Green is hereby designated as the governmental body and purchasing agent for the Town of Etna Green, with all of the powers and duties authorized under Indiana Code 5-22. The Clerk Treasurer for the Town of Etna Green is hereby designated as the purchasing agent for the Town of Etna Green. The purchasing agency may also designate in writing additional purchasing agents as necessary.

Section 3: Each agency and/or department for the Town of Etna Green may purchase services in whatever manner the purchaser determines to be reasonable.

Section 4: The purchasing agent may purchase supplies with an estimated cost of less than Twenty-five thousand dollars ($25,000.00) without inviting or receiving quotes or bids in a manner the purchasing agent determines to be reasonable.

Section 5: Supplies manufactured in the United States shall be specified and purchased unless the Town of Etna Green determines that:

(a) The supplies are not manufactured in the United States in reasonably available quantities.

(b) The price of the supplies manufactured in the United States exceeds by an unreasonable amount the price of available and comparable supplies manufactured outside of the United States.

(c) The quality of the supplies is substantially less than the quality of the comparably priced available supplies manufactured outside the United States.

(d) The purchase of supplies manufactured in the United States is not in the public interest.

Section 6. Any procedure adopted by the Town of Etna Green for public purchasing shall not be inconsistent with Indiana Code 5-22.

Section 7. The effective date of this Chapter shall be July 1, 1998.

CHAPTER 13. Salary of Part-time Utility Personnel.

Section 1: The Town of Etna Green, Kosciusko County, Indiana does hereby establish this Ordinance for the purpose of determining and fixing the wage rate for the part-time pressure-filtered certified water operator.

Section 2: That any part-time certified water operator shall be paid, at a rate of $30.00 per hour as consultant/operator and $600.00 per month as operator in responsible charge, which payment shall be paid from the water depreciation fund of the Town, and/or funds from the Electric fund.

CHAPTER 14: Creation of General Cash Reserve Fund.

Section 1: There is hereby created a Cash Reserve Fund of the Town of Etna Green, Indiana.

Section 2: The Cash Reserve Fund in the Towns General Fund is established to receive payment from surplus funds of the Towns Electric Fund in order to establish a cash reserve in the Towns General Fund for the Towns required local match for the D.O.C. grant for the Towns Water Project.

CHAPTER 15: Town Attorney.

Section 1. The Council may appoint an attorney duly admitted to the practice of law in the State of Indiana as the Town Attorney.

Section 2. The Town Attorney shall serve at the pleasure of the Council.

Section 3. The basic annual compensation of the Town Attorney shall be fixed by the council.

Section 4. For the basic annual compensation, the Town Attorney shall:

(a) Attend the meetings of the Council unless otherwise excused.

(b) Give legal advice to the officers, departments, boards, commissions, and other agencies of the Town.

(c) Maintain custody of the records of his office and turn them over to his successor in office.

(d) Report, in writing, to the Council all matters that he considers important.

Section 5. The basic annual compensation paid to the Town Attorney shall not include compensation for the following services:

(a) The representation in or trial of any litigated matter in any court or before any local, state or federal administrative agency.

(b) Prosecution of violators of Town ordinances.

(c) Representation of the Town with regard to any economic development, revenue or other type of bond issue.

(d) Representation with regard to any grant or loan from any federal or state agency or department.

(e) Any other matters agreed to in advance by and between the Council and the Town Attorney.

CHAPTER 16: Collection Procedures for Payment to Town.

Section 1. The Clerk-Treasurer is authorized to accept personal checks in payment of debts owed to the Town. If any checks shall be returned due to a closed account or insufficient funds, and not honored by the financial institution upon which it is drawn, an additional $25 fee shall be imposed upon the person or entity owing the money represented by the check. In such circumstances, if full payment of the amount owed, plus the collection fee for the returned check, is not paid within ten (10) days of written notice to the payor, the Town Clerk-Treasurer is authorized to submit to the Prosecuting Attorney the check for collection under I.C. 36-1-8-13.

CHAPTER 17. Ordinance Inspector.

Section 1. The Town of Etna Green shall from time to time appoint an Ordinance Inspector.

Section 2. The Ordinance Inspector shall have all rights, powers and duties provided under the Town Code to a Town Marshall or a Town Superintendent for purposes of code enforcement within the town for ordinances under Tittle III and Title IV of this Etna Green Town Code.

Section 3. The position of Ordinance Inspector is a volunteer position; no compensation or enumeration shall be provided. The Ordinance Inspector shall serve at the pleasure of the Town Council.

Section 4. Nothing in this section shall be construed so as to take any right, powers and duties from either Town Marshall or a Town Superintendent, or restricting their authority for purposes of code enforcement.

CHAPTER 18. Credit Card Usage.

Section 1. *Credit card issuance*.

A. The Clerk-Treasurer is hereby authorized to make application for credit cards for use by city officials and employees for official city business limited to travel and educational expenses and public purchases.

B. Credit cards issued for travel and educational expenses shall have a maximum limit of $2,000.

C. Credit cards issued for public purchases shall have a maximum limit of $5,000.

Section 2. *Credit card use policies and procedures.*

A. When not in use, the credit cards shall be secured in the office of the Clerk-Treasurer.

B. Upon request by a city official or employee, the Clerk-Treasurer or Clerk-Treasurer designee shall issue the credit card for use and shall keep a record showing the name and position of the individual requesting use of the card, date of issuance, date of return, and purpose of use.

C. City officials and employees shall use credit cards for the purpose of city travel and educational expenses limited to the following:

i. Hotel or motel room.

ii. Hotel or motel room charges for telephone calls pertaining to city business.

iii. Meals, including a maximum twenty percent (20%) gratuity.

iv. Fees or costs associated with attending schools, conventions, seminars, and the like.

v. Gasoline, if using a city-owned vehicle.

vi. Excluded charges include alcoholic beverages, room service, non-business telephone calls, except for one daily telephone call to the home of the city official or employee, in-room movies, and cash advances.

D. City officials and employees shall use credit cards for the purpose of city public purchases limited to the following:

i. Supplies.

ii. Materials.

iii. Small tools and minor equipment.

E. Accounts payable vouchers (claims) filed in connection with the use of credit cards shall be submitted to the Clerk-Treasurer for processing within 72 hours of use and shall be properly itemized and documented as provided in I.C. 5-11-10 before approved and paid. The credit card account will be paid in full every billing cycle. Improperly itemized and documented items as well as all interest, carrying charges or penalties shall be the personal responsibility of the individual user.

CHAPTER 19. Reimbursement of Travel Expenses.

Section 1. From time to time, it may be necessary for officers and/or employees of the Town of Etna Green, Indiana, to travel outside of the Town boundaries on business.

Section 2. Employees shall be reimbursed mileage at the rate

established by the state of Indiana for reimbursement of mileage for its employees.

Section 3. Other travel expenses shall be reimbursed if the travel is previously approved by the Town Council.

Section 4. In an emergency situation, the Town Council may approve the travel and its expenses after such are incurred.

Section 5. All receipts for expenses incurred must be provided to the Clerk/Treasurer along with a signed claim form before the officer or employee may be reimbursed.

CHAPTER 20. Employee Hiring Policy. (passed as Chapter 19, codified as Chapter 20)

Section 1. The hiring of any employees on a full- or part-time basis for the Town or its utilities shall be the responsibility of the Town Council.

Section 2. The Council President may fill any existing vacancies in employment positions with the Town for a period not to exceed thirty (30) days, or until the next regularly scheduled meeting of the Town Council, whichever comes first. The Council at that time shall have the right to affirm or reject the action taken by the President.

CHAPTER 21. Copying Charges and Requests.

 Section 1. The Policy of the Town of Etna Green is that all residents and interested person shall have access to records of the town, but that the cost for those providing records shall be reimbursed at a reasonable rate.

 Section 2. Copies of all public documents may be obtained by any citizen of the town of Etna Green or any interested person, at the rate of 10 cents per page.

 Section 3. At the discretion of the clerk-treasurer, the clerk-treasurer may require that a request be made in writing, and may require a deposit in the sum of $50 as an advance payment for any copying. That $50 shall be credited against the 10 cent per page copying rate listed above.

CHAPTER 22: Blanket Bonds.

 Section 1. The town clerk-treasure is authorized to purchase a blanket bond annually, with aggregate coverage sufficient to provide coverage amounts for all employees and officers of the town to cover the faithful performance of their duties.

 Section 2: Any such bond purchased must otherwise conform with applicable state law.

**TITLE II: PLANNING AND DEVELOPMENT**

CHAPTER 1. Annexation of Contiguous Territory of March 17, 1969

Section 1. NOW, THEREFORE, BE IT ORDAINED by the Board of Trustees of the Town of Etna Green, Indiana, that the following described real estate, to‑wit:

A tract of land in the Southeast Quarter of Section 27, Township 33 North, Range 4 East, Kosciusko County, Indiana, better described as follows:

Beginning at the center of said Section 27; thence North 89 degrees 48 minutes East along the East‑West Half Section Line of said Section 976.7 feet to a railroad spike; thence South 0 degrees 18 minutes West to an iron post on the North right‑of‑way line of U. S. Highway 30; thence Northwesterly along the said North right‑of‑way line of U. S. Highway 30, 1038.7 feet to the North‑South Half Section Line of said Section 27; thence North along the said North‑South Half Section Line of Section 27 to the place of beginning. Contains 38.0 acres, more or less,

be and the same hereby annexed to and made a part of the corporate area of the Town of Etna Green, Indiana.

CHAPTER 2. Annexation of Contiguous Territory of May 5, 1969

Section 1. NOW, THEREFORE, BE IT ORDAINED by the Board of Trustees of the Town of Etna Green, Indiana, that the following described real estate, to‑wit:

A tract of land in the Southeast Quarter of Section 27, Township 33 North, Range 4 East, Kosciusko County, Indiana, better described as follows:

Beginning at the center of said Section 27; thence North 89 degrees 48 minutes East along the East‑West Half Section Line of said section 976.7 feet to a railroad spike; thence South 0 degrees 18 minutes West 392.2 feet to an iron pipe for a principal place of beginning; thence South 65 degrees 31 minutes East along the South right‑of‑way line of the

U. S. 30 By‑Pass 1405.2 feet to an iron pipe; thence South 89 degrees 34 minutes West 1281.6 feet to an iron post; thence North 18 degrees East 594 feet to the principal place of beginning,

be, and the same hereby is annexed to and made a part of the corporate area of the Town of Etna Green, Indiana.

CHAPTER 3. Annexation of Contiguous Territory of January 21, 1974

Section 1. That Triton School Corporation, a school corporation organized and existing under the laws of the State of Indiana, with its principal place of business in Bourbon, Indiana, has petitioned the Board of Trustees of the Town of Etna Green to annex certain lands owned by it, namely:

A tract of land in the Northeast Quarter of the Northwest Quarter of Section 34, Township 33 North, Range 4 East, in Kosciusko County, Indiana, more accurately described as follows:

Beginning at the North Quarter post of said Section 34; thence West along the North line of said Section 34, 917.5 feet to a point; thence South and parallel to the North and South open line of said Section 34, 484.5 feet to a point; thence East and parallel to the North line of said Section 34, 917.5 feet to a point on the North and South open line of said Section 34; thence North along said North and South open line 484.5 feet to the Place of Beginning and containing 10.2 acres, more or less,

to the Town of Etna Green, and that the Board of Trustees, being advised that said lands are contiguous to the Corporate Limits of the Town of Etna Green and believing it to be in the best interests of said lands, and of the Town, that said land be annexed, desires to grant said petition.

Section 2. That the above‑described real estate situate in Kosciusko County, Indiana, contiguous to the present corporate limits of the Town of Etna Green, Indiana, be and the same hereby is annexed to the Town of Etna Green.

CHAPTER 4. Building Set‑Back Lines for Residential Property

Section 1. This ordinance shall apply to residential property within the corporate boundaries of the Town of Etna Green, Indiana, and for purposes of this ordinance "residential" shall be defined as single or two family dwellings and building accessory thereto.

Section 2. Setback building lines. No building or structure or any portion thereof, excepting steps and uncovered porches less than ten feet in width in any of the mentioned, shall be erected within twenty‑five (25) feet of the right‑of‑way side line of any road or street. If there is no established right‑of‑way side line for any road or street, such side line shall be deemed to be fifteen (15) feet from the center of the road or street.

Section 3. Side yards. For every building, residential building or dwelling erected, there shall be a minimum side lot clearance on each side of such building of not less than five (5) feet, which space shall remain open and unoccupied by any building or structure. Attached garages or accessory buildings connected with the main building by a breeze way or other permanently constructed connection shall be construed to be part of the main building for the purposes of this section. All other accessory buildings shall have a minimum side lot clearance of five (5) feet.

Section 4. Rear Yards. For every residential building or dwelling or accessory building thereto, there shall be a minimum real lot clearance at the rear of the building of at least five (5) feet, which space shall remain opened and unoccupied by any building or structure. If an alley exists along the real lot line, said clearance shall be measured from the right‑of‑way side line of such alley. If there is no established right‑of‑way side line for any such alley, such side line shall be deemed to be five feet from the center of the alley.

Section 5. Corner lots. The setback building line on a corner lot shall be in accordance with the provisions governing the road or street on which the building faces.

Section 6. It shall be unlawful to construct, reconstruct, enlarge or change any building within the Town of Etna Green without first obtaining a building permit from the Clerk‑Treasurer, and the application for such permit shall be accompanied by a sketch or diagram showing the location of such building to be constructed, reconstructed, enlarged or changed and the distance of same from the property lines. The Clerk‑Treasurer may charge a fee not to exceed Ten Dollars ($l0.00) for the issuance of such permit, the amount of which fee shall be established from time to time by the Board of Trustees. Any person violating the preceding section, by constructing, reconstructing, enlarging or changing any building subject to this ordinance without first obtaining a permit, shall suffer forfeiture of money in the sum of Ten Dollars ($l0.00) per day, together with the costs of any action filed to recover said forfeiture. Each day any violation is committed or permitted to continue shall constitute a separate offense and shall render the person responsible for such offense subject to a forfeiture for each such day.

It shall be unlawful to construct, reconstruct, enlarge or change any building in violation of this ordinance and the setback provisions thereof. Any person violating any of the sections of this ordinance as to setbacks for buildings shall suffer a forfeiture of money in the sum of not less than Ten Dollars ($l0.00) nor more than One Hundred Dollars ($l00.00), together with the costs of any action filed to recover said forfeiture. Each day any violation is committed or permitted to continue shall constitute a separate offense and shall render the person responsible for such offense subject to a forfeiture for each such day.

Section 7. Variances. Any person wishing to construct a building or structure which would violate the building set back lines contained in this chapter may apply to the Board of Trustees of the Town of Etna Green for a variance of the set back provisions contained in this chapter. The person or persons requesting such a variance shall attend a regular or special meeting of the Board of Trustees of the Town of Etna Green to request the variance, and a variance may be granted by the Board of Trustees on a majority vote of the Board.

Section 8. Separability. The Board of Trustees of the Town of Etna Green declares and intends that each section and clause of this ordinance shall be separable from and independent of any provision thereof that may be found invalid, if possible to be carried out without the invalid section or sections and that it would have so ordained, regardless of such elimination of any such provision so found invalid.

CHAPTER 5. Numbering System for Buildings

Section 1. Numbers required for all buildings. All dwelling houses and business or other buildings situated in said town and fronting on any public street thereof shall be numbered.

Section 2. Numbering base stated. The base or starting point for the numbering of all buildings which shall be numbered in said town shall be the intersection of Broadway Street and Walnut Street in said town, Broadway Street shall be the east and west base street and Walnut Street shall be the north and south base street. For the purpose of this ordinance and for said numbering, each street or part of street in said town north of said Broadway Street and running north and south shall have the word "North" prefixed to its name; and each street or part of street in said town south of said Broadway Street and running north and south shall have the word "South" prefixed to its name; each street or part of a street in said town east of Walnut Street and running east and west shall have the word "East" prefixed to its name; each street or part of a street in said town west of said Walnut Street and running east and west shall have the word "West" prefixed to its name.

Section 3. Block numbering designated. For the purpose of this ordinance and for said numbering the first block or square on any street in each direction from either of said base streets shall be numbered 100, and the second block shall be numbered 200, and from thereon to the end of said street each consecutive block shall be numbered 100 higher than the block next nearer to said base street.

Section 4. Odd‑even designation. In each block each 22 feet shall constitute one number. On all streets and parts of streets lying east of said Walnut Street and running east and west, the odd numbers shall be on the north side of said streets and the even numbers on the south side of said streets; and on all streets and parts of streets lying west of said Walnut Street and running east and west, the odd numbers shall be on the south side of said streets and the even numbers shall be on the north side of said streets; on all streets and parts of streets lying north of said Broadway Street and running north and south of the odd numbers shall be on the west side of said street and the even numbers shall be on the east side of said street; on all streets and parts of streets lying south of said Broadway Street and running north and south the odd numbers shall be on the east side of said street and even numbers shall be on the west side of said street.

The first 22 feet in each block nearest the base street shall constitute number 1 or number 2 according to which side of the street the same is located on, as herein provided, and from thereon to the end of said block each consecutive 22 feet shall be numbered 2 numbers higher than the 22 feet next nearest said base street. In each case in determining the number of any building, the number of the block in which it is situated, the same being 100 or any multiple thereof, and the number of the 22 feet on which it is located shall be added together.

Section 5. Block length variations. That for the purpose of this ordinance and for said numbering, a block on any street shall be from one intersecting street to the next intersecting street, whether the same be shorter or longer than an ordinary city block, and whether the said intersecting streets or either of them shall cross said street or only enter into and not cross the same. If any of such blocks are longer than 1,100 feet then the numbering of each 22 feet shall continue as herein provided until the next multiple of 100 is reached, from which point the said blocks shall take the number of the next succeeding multiple of 100 and the numbering of each 22 feet shall again start as is in the beginning of a block.

Section 6. Directional designation. That for the purpose of this ordinance and for said numbering diagonal streets shall be considered north and south streets or east and west streets as the case may be, according to whether their course lies nearest north and south or east and west; those whose course lies nearest north and south shall be considered north and south streets, and those whose course lies nearest east and west shall be considered east and west streets. Streets lying at an angle of 45 degrees shall be considered north and south streets.

Section 7. Vacation and extension numbering procedure. In case of the establishment, extension or vacation of any street or part of street in said town, the numbering on a part of or whole of said street as the case may be, shall be made or remade to conform to this ordinance.

Section 8. Duty of Property Owners. It shall be the duty of each owner of any building in said Town fronting on any street thereof to number said building to conformity with this ordinance within 60 days of the publication of this ordinance.

Section 9. Size and type of numbering. It shall be the duty of each owner to place in a conspicuous place upon the outside of the building so owned or controlled by him, the number of said building as specified in this ordinance. The number or numbers shall be in a contrasting color to the color of the building immediately surrounding said numbers, and the figures of said numbers shall be at least 3 inches high.

Section 10. Notices of violation. After 60 days have elapsed since the publishing of this ordinance, it shall be the duty of the Town to notify the owner or the agent of the owner of each building in said town who is in violation of this ordinance. Said notice shall be in writing and the number of the building shall be specified therein. Said notice shall be served upon said owner personally or upon said agent personally, or by leaving a copy thereof at the last and usual place of residence or said owner or agent, or if any person who is the owner of any building to be numbered in said town be a non‑resident of said town and has no agent therein, a notice left upon the premises to be numbered shall be deemed a good and sufficient notice to said non‑resident.

Section ll. Property owners to comply ‑ Time limit. That within 30 days after the receipt of a notice by the owner or agent of any building to be numbered in said town, or in case of a non‑resident of said town, with no agent therein, by the leaving of a copy of said notice upon the premises to be numbered, it shall be the duty of said owner or agent to place upon said building the number of said building as designated and required by this ordinance.

Section l2. Violation ‑ Penalty. That if any person being the owner or agent of any building in said town and having received a notice as provided in this ordinance, shall fail, refuse, or neglect to number the building so owned or controlled by him in the manner and form and within the time specified in this ordinance, the same shall be a violation of this ordinance. Any owner or agent of any building to be numbered, who shall be in violation of any of the sections of this ordinance shall suffer a forfeiture of money in the sum of $l0, together with the costs of any action filed to recover said forfeiture . Each day any violation is committed or permitted to continue shall constitute a separate offense and shall render the person responsible for such offense subject to a forfeiture for each day.

Section l3. Separability. The Board of Trustees of the Town of Etna Green, Indiana declares and intends that each section and clause of this ordinance shall be separable from and independent of any provision thereof that may be found invalid, if possible to be carried out without the latter, and that it would have so ordained, regardless of such elimination of any such provisions so found invalid.

CHAPTER 6. Consent Of Town For Issuance Of Liquor Retailer's Permit Of July 6, l965.

Section l. BE IT ORDAINED, by the Board of Trustees of Etna Green, that the consent of said town be and the same is hereby given and granted unto the proper legal authorities of the State of Indiana, to issue liquor retailer's permits for the sale of alcoholic, spirituous beverages to applicants otherwise duly qualified to premises within said town, all agreeable to the provisions of section eighteen (l8) of an Act of the General Assembly of the State of Indiana entitled "AN ACT concerning alcoholic beverages, liquids and substances, and to promote temperance, repealing laws and parts of laws and declaring an emergency," approved March ll, l935.

CHAPTER 7. Annexation of Territory of August 12, 1997.

Section 1. NOW, THEREFORE, BE IT ORDAINED by the Board of Trustees of the Town of Etna Green, Indiana, that the following described real estate, to-wit:

Part of the Southwest Quarter (SW-1/4) of Section Twenty-six (26) and also Section Twenty-seven (27), Township thirty-three (33) North Range Four (4) East, Etna Township, Kosciusko County, Indiana, being more particularly described as follows: Commencing at a railroad spike marking the Southeast corner of the Southwest Quarter (SW-1.4) of section 26, Township 33 North, Range 4 East, Etna Township, Kosciusko County, Indiana; thence North 89 degrees 33 minutes 30 seconds West (basis of bearing from Deed Record 144, page 316) along the South line of said Southwest Quarter (SW-1/4), also being the centerline of County Road 300 N, a distance of 1500.00 feet to a P.K. Nail with collar at the BEGINNING of this description; thence continuing North 89 degrees 33 minutes 30 seconds West along said centerline and South line, a distance of 278.91 feet to a P.K. Nail with collar; thence North 70 degrees 34 minutes 34 seconds West along the centerline of Old U.S. #30, a distance of 409.95 feet to a P.K. Nail with collar; thence North 70 degrees 42 minutes 31 seconds West, along said centerline a distance of 498.07 feet to a P.K. Nail with collar; thence North 00 degrees 00 minutes 00 seconds West along the West line of said SW 1/4, a distance of 1060.88 feet to a rebar with P.E.I. Cap; thence North 65 degrees 10 minutes 00 seconds West a distance of 726.10 feet to a rebar with P.E.I. Cap; thence North 89 degrees 54 minutes 00 seconds East, a distance of 237.21 feet to a rebar; thence South 65 degrees 10 minutes 00 seconds East, along the South right-of-way of U.S. #30, a distance of 464.72 feet to a rebar with P.E.I. Cap; thence continuing along said South right-of-way, South 65 degrees 04 minutes 20 seconds East a distance of 896.88 feet to a rebar with P.E.I. Cap; thence South 67 degrees 20 minutes 54 seconds East, along said South right-of-way; a distance of 348.92 feet to a rebar; thence South 00 degrees 00 minutes 00 seconds East, a distance of 962.03 feet to the BEGINNING. Containing 29.96 acres more or less.

be and the same hereby is annexed to and made a part of the corporate area of the Town of Etna Green, Indiana.

CHAPTER 8. Annexation of Territory of December 8, 1998:

Section 1. Now, therefore, be it ordained by the Board of Trustees of the Town of Etna Green, Indiana, that the following described real estate, to-wit:

Part of the West Half of the Northeast Quarter of Section 34, Township 33 North, Range 4 East, Kosciusko County, Indiana, more particularly described as follows, to-wit:

Beginning at a railroad spike found at the Southwest corner of said Northeast Quarter; thence North 00 degrees 00 minutes East, on and along the West line of said Northeast Quarter, being within the right-of-way of County Road 1050 West, a distance of 1312.2 feet to a P.K. nail found; thence North 90 degrees 00 minutes East, a distance of222.0 feet to an iron pin; thence North 00 degrees 00 minutes East, parallel to said West line, a distance of 274.0 feet to an iron pin; thence North 90 degrees 00 minutes East, a distance of 99.0 feet to an iron pin; thence North 00 degrees 00 minutes East, a distance of 555.4 feet to an iron pin thence South 90 degrees 00 West, a distance of 321.00 feet to a P.K. nail on the West line of said Northeast Quarter; thence North 00 degrees 00 minutes East, on and along said West line, being within the right-of-way of County Road 1050 West, a distance of 350.1 feet to a P.K. nail found, said P.K. nail being situated South 00 degrees 00 minutes West, a distance of 162.0 feet from a railroad spike found at the Northwest corner of said Northeast Quarter; thence South 89 degrees 31 minutes 17 seconds East, on and along a line established by monuments found, a distance of 771.60 feet to the East face of a concrete post, said point also being situated South 00 degrees 37 minutes 53 seconds West, a distance of 164.9 feet (recorded 161.3 feet) from a P.K. nail found on the North line of said Northeast Quarter; thence South 00 degrees 27 minutes 19 seconds West, on and along a line established by an existing line fence and monuments found, a distance of 376.6 feet to a point situated 0.75 feet South of an angle iron post, said point also being situated South 00 degrees 30 minutes 35 seconds West, a distance of 532.5 feet from said P.K. nail on the North line of said Northeast Quarter; thence South 89 degrees 44 minutes 12 seconds East, parallel to the North line of said Northeast Quarter, a distance of 557.32 feet (recorded 555.0 feet) to a point on the East line of the West half of said Northeast Quarter, said point being situated 0.4 feet South of and 2.3 feet East of an angle iron post found, said point also being situated South 00 degrees 03 minutes 02 seconds West, a distance of 532.5 feet from a railroad spike at the Northeast corner of the West Half of said Northeast Quarter; thence South 00 degrees 03 minutes 02 seconds West, on and along the East line of the West half of said Northeast Quarter, a distance of 2117.8 feet to a P.K. nail found at the Southeast corner of said West half; thence North 89 degrees 53 minutes West, on and along the South line of said Northeast Quarter, being within the right-of-way of County Road 250 North, a distance of 464.1 feet to a P.K. nail found; thence North 00 degrees 07 minutes East, a distance of 229.26 feet to an iron pin; thence North 89 degrees 53 minutes West, parallel to said South line, a distance of 380.0 feet to an iron pin; thence South 00 degrees 07 minutes West, a distance of 229.26 feet to a P.K. nail on the South line of said Northeast Quarter; thence North 89 degrees 53 minutes West, on and along said South line, being within the right-of-way of County Road 250 North, a distance of 480.0 feet to the point of beginning,

be and the same hereby is annexed to and made a part of the corporate area of the Town of Etna Green, Indiana.

Chapter 9. Adoption of Kosciusko County Area Planning Ordinances:

Section 1. The Town of Etna Green hereby declares its desire to participate in the activities and be subject to the jurisdiction of the Kosciusko County Area Plan Commission, and the Comprehensive Plan, Zoning Ordinance, Subdivision Control Ordinance, Mobile Home Park Ordinance, Flood Control Ordinance, and Storm Water and Erosion Control Ordinances as certified by the Kosciusko County Area Plan Commission are hereby adopted effective upon approval.

Section 2. The Town of Etna Green reserves the right, at its discretion, to withdraw from Area Plan Commission jurisdiction in the future, should it desire to do so.

Chapter 10. Establishment of the Redevelopment Commission

Section 1. The Town of Etna Green hereby establishes a board of five members to be known as the “Etna Green Redevelopment Commission” for the purposes of redevelopment of blighted areas under Indiana Code 36-7-14.

Section 2. The members of the Commission shall have such

responsibilities and duties, and be subject to such qualifications, as provided under Indiana Code 36-7-14-1 et. seq.

**TITLE III: PUBLIC HEALTH AND SAFETY**

CHAPTER l. Required cutting and removal of weeds and grass on real property within the town.

Section l. Weeds Declared Nuisance. Any weeds such as jimson, burdock, ragweed, thistle, cocklebur, or other weeds of a like or similar nature, or any other grass or plants which shall exceed the height of 12 inches, other than trees, bushes, flowers or other ornamental plants, are hereby declared to be a nuisance, and it shall be unlawful to permit any such weeds, grass or plants to grow or remain in the town.

Section 2. Enforcement. The town street superintendent shall have responsibility for the administration of the ordinance.

Section 3. Service. It shall be the duty of the town street superintendent to serve or caused to be served a notice in writing on the owner of record of real property with a single owner, or at least one of the owners of real property with multiple owners, notice via first class United States mail, or equivalent service as permitted under Indiana code 1-1-7-1, to the last known address of the owner for the property as indicated in the records of the County Auditor on the date of the notice.

Section 4. Continual Notice for Multiple Violations. If during any calendar year, the owner of record has received a notice pursuant to section 3, the town street superintendent may post on the property a continual abatement notice which will serve as notice to the owner of the property that the subsequent violation during the same year for which the initial notice of the violation has already been provided may be abated by the municipality.

Section 5. Abatement of Nuisance. It shall be the duty of the owner to abate the nuisance within 10 days after service of the notice. It shall further be the duty of the owner to contact the town street superintendent, who shall investigate to confirm that the nuisance has been abated by the owner.

Section 6. Abatement by Municipality. If the nuisance has not been abated within the time period provided in the original notice, the town may abate the violation of the ordinance on its own by entry onto the property.

Section 7. Cost of Abatement. If the town shall be required to abate the violation, the cost incurred in abating the violation, included administrative and removal costs, shall be contained on a bill sent to the owner, and the owner shall have 10 days from the date of service of that bill to abate the ordnance. The minimum charge for such abatement, including administrative and removal costs, shall be $125.00, which sum has been determined based upon the cost of equipment and the time of town employees.

Section 8. Failure to Pay Bill. Should the owner of the real property fail to pay a bill issued pursuant to this chapter within the time period specified here, the town street superintendent shall certify to the County Auditor the amount of the bill, plus any additional administrative costs incurred in the certification. The Auditor shall place the total amount certified on the tax duplicate for the property affected, and the total amount, including any accrued interest, shall be collected as delinquent taxes are collected and shall be disbursed to the general fund of the town.

Section 9. Alternative Enforcement of Payment. Should the town street superintendent in his discretion believe it appropriate, in lieu of following the procedures in section 8 above, the town may bring an action in an appropriate court to collect the amount of the bill, plus any additional cost incurred in the collection, including court costs and reasonable attorney fees, by transmitting that information to the town attorney for suit. If the town obtains a judgment under this section, the town may obtain a lien in the amount of judgment on any real or personal property of the owner.

Section 10. Appeal. Should any owner wish to appeal the decision of the town street superintendent as to issuance of a notice of initial violation, a continuing violation, or issuance of a bill for cost of abatement by the Town, the owner shall file a written objection with the President of the Town Council within 10 days of receipt of the notice, posting of the continuing abatement notice or issuance of the bill. That written objection shall provide any basis by which the owner believes that he has been aggrieved or otherwise objects to the notice, continuing abatement notice, or bill. The Town Council President shall then rule on the objection. The Town Council President may obtain additional information from all parties concerned before issuing a ruling, may summarily respond to the appeal, or may conduct a hearing at which both the town street superintendent and the allegedly aggrieved owner of real property may attend and provide evidence.

Section 11. Individual Property Owners Responsibilities. Property owners are responsible for maintaining and mowing their property which shall include the maintenance and mowing of adjacent unimproved public right-of-ways, including streets and alleys, to the centerline of such unimproved right-of-way. Unimproved right-of-ways on the margin or edge of plat shall be maintained and mowed by the sole adjacent property owner.

Section 12. Mowing costs. For purposes of this chapter, and for any litigation concerning any nuisance of grass, weeds, or other growing plants in the Town of Etna Green, the minimum charge for mowing costs by the town and its employees shall be $125.00.

CHAPTER 2. Prohibition of Dogs Running at Large and Provisions for Impoundment and Disposal of Same

Section 1. Definitions used in this ordinance unless the context otherwise indicates:

(a) "Owner" shall mean a person who is the owner, keeper or custodian of any dog.

(b) "Public premises" means any public right‑of‑way, street, highway, alley, park, or other state, county or municipally owned property.

Section 2. The owner of any dog in the Town is hereby required to restrain such dog from running at large, and it shall be unlawful to suffer or permit any dog to run at large on any of the public premises within the limits of the Town of Etna Green.

Section 3. Any dog found in the Town running at large is hereby declared to be a nuisance and shall be impounded as hereafter provided.

Section 4. It shall be the duty of the Town Marshall and other lawfully designated police officers of the Town to take into custody any dog found to be running at large and to place such dog in the temporary custody of said Town Marshall.

Section 5. Upon impounding any dog running loose in the Town of Etna Green, the Town Marshall shall immediately inspect said dog to the extent that his safety allows for any identification of the owner of the dog. If the dog has any such identification, the Town Marshall shall contact the owner of such dog and give such owner the opportunity to reclaim the dog within a period of two hours. If the owner of any such dog impounded hereunder and being notified hereunder elects to reclaim the same, such owner shall pay a fee of Twenty Dollars ($20.00) which shall be imposed upon the owner of all impounded dogs, and such fee shall be paid in full in order to secure the release and reclamation of any impounded dog. If no owner identification is found upon a dog, the Town Marshall shall convey such dog at his earliest convenience to the Kosciusko Humane Association Dog Pound and leave such dog in the custody of said Humane Association Dog Pound. Upon conveyance of any dog to said County Dog Pound, the Town Marshall shall post a notice upon the Etna Green Town Building giving the date of his conveyance of such dog to the County Pound and a brief description of the dog so conveyed.

CHAPTER 3. Regulation of Abandoned Vehicles

Section 1. Definitions. As used in this ordinance unless the context otherwise indicates:

(a) "Vehicle" means an automobile, motorcycle, truck, trailer, semitrailer, tractor, truck trailer, bus, school bus, recreational vehicle, or motorized bicycle.

(b) "Abandoned Vehicle" is any vehicle that meets any of the following definitions:

(1) Any vehicle located on public property illegally.

(2) Any vehicle left on public property without being moved for three (3) days.

(3) Any vehicle located on public property in such a manner as to constitute a hazard or obstruction to the movement of pedestrian or vehicular traffic on a public right‑of‑way.

(4) Any vehicle that has remained on private property without the consent of the owner or person in control of that property for more than forty-eight (48) hours.

(5) Any vehicle from which the engine, transmission, or differential has been removed or that is otherwise partially dismantled or inoperable and left on public property.

(6) Any vehicle that has been removed by a towing service or public agency upon request of an officer enforcing a statute or an ordinance other than this chapter if the impounded vehicle is not claimed or redeemed by the owner or the owners agent within twenty (20)days after the vehicles removal.

(7) Any vehicle that is at least three model years old, is mechanically inoperable, and is left on private property continuously in a location visible from public property for more than twenty (20) days.

(c) "Public premises" means any public right‑of‑way, street, highway, alley, park, or other state, county or municipally owned property.

(d) "Private premises" means all privately owned property which is not classified within the definition of public premises.

(e) "Person" means all natural persons, firms, partnerships and corporations.

(f) "Officer means any member of the Indiana State Police, the Kosciusko County Sheriffs Department, a Town Marshall or Town Marshall Deputy of the Town of Etna Green, Indiana, the Ordinance Inspector of the Town of Etna Green, Indiana, or any other person who may be specifically designated from time to time by other ordinance of the Town of Etna Green.

(g) "Bureau" shall mean the Bureau of Motor Vehicles of the State of Indiana.

(h) "Owner" means the last known record title holder of a vehicle according to the records of the Bureau under the provisions of IC 9-17.

(i) "Public agency" means the department of local government which is denominated the local responsibility for removal, storage, and disposal of abandoned vehicles by ordinance of the Board of Trustees.

(j) "Disposal Facility" means any person, firm, corporation or other legal entity that in the course of business engages in the acquisition and dismantling or demolition of motor vehicles, motorcycles, semi-trailers or recreational vehicles or their remains for the benefit of reusable components and parts or recyclable materials.

(k) "Commissioner" means the commissioner of the Bureau.

(l) "Parts" means all component parts of a vehicle which are in a state of disassembly or are assembled with other vehicle component parts, but which in their state of assembly do not constitute a complete vehicle.

Section 2. Prohibition. No person shall abandon his vehicle on any public premises or private premises in a location which is visible from public premises.

Section 3. Removal and disposal.

(a) The Ordinance Inspector of the Town of Etna Green is the authorized agency assigned the responsibility for removing abandoned vehicles.

(b) Any officer who finds a vehicle or parts believed to be abandoned shall attach in a prominent place a notice tag containing the following information:

(1) The date, time, officers name, public agency, and address and telephone number to contact for information.

(2) That the vehicle or parts are considered abandoned.

(3) That the vehicle or parts will be removed after seventy-two (72) hours.

(4) That the person who owns the vehicle will be responsible for all costs incidental to the removal, storage, and disposal of the vehicle.

(5) That the person who owns the vehicle may avoid those costs by removal of the vehicle or parts within seventy-two (72) hours.

(c) If a vehicle or parts tagged under subsection (b) of this section are not removed within the seventy-two (72) hour period. After the (72) hour period, the officer shall prepare a written abandoned vehicle report of the vehicle or parts, including information on the condition, missing parts, and other facts that might substantiate the estimated market value of the vehicle or parts. Photographs shall be taken to describe the condition of the vehicle or parts.

(d) If in the opinion of the officer the market value of the abandoned vehicle or parts determined above is less than $500.00, the officer shall immediately dispose of the vehicle to a disposal facility. A copy of the abandoned vehicle report and photographs relating to the abandoned vehicle shall be forwarded to the bureau. The public agency disposing of the vehicle shall retain the original records and photographs for at least two years.

(e) If in the opinion of the officer the market value of the abandoned vehicle or parts determined is at least $500.00, the officer, before placing a notice tag on the vehicle or parts, shall make a reasonable effort to ascertain the person who owns the vehicle or parts or who may be in control of the vehicle or parts. After seventy-two (72) hours, the officer shall require the vehicle or parts to be towed to a storage area.

(f) Within seventy-two (72) hours after removal of an abandoned vehicle to a storage area, the public agency or towing operator shall prepare and forward to the bureau an abandoned vehicle report containing a description of the vehicle, including make, model, identification number and number of license plate, and shall request that the bureau advise the public agency or towing operator of the name and most recent address of the person who owns or holds a lien on the vehicle. The officer shall then make all arrangements for disposal at an appropriate disposal facility of the abandoned vehicle or parts if said vehicle or parts are valued in excess of $500.00.

Section 4. Abandoned Vehicle Fund. There is hereby created the Town of Etna Green Abandoned Vehicle Fund which shall be a revolving fund, and all monies paid to the Town for the cost of removal, storage and disposal of abandoned vehicles shall be placed in said fund and in no other place. Said fund shall also have added to it such monies as may be appropriated from time to time by the Town Council, and such monies also shall not revert but shall remain in the Abandoned Vehicle Fund. This fund shall replace the fund previously known as the Junk Vehicle Fund.

Section 5. Penalties. Any person violating any of the provisions of this ordinance shall be fined in an amount not to exceed $50.00. Each day such violation is committed or propounded to continue shall constitute a separate offense and shall be punishable as such here under.

Section 6. Charges are allowed for the towing of abandoned vehicle or parts, not to exceed the sum of $75.00, and storage costs shall be permitted, not to exceed $20.00 per day, up to a maximum of $300.00. All vehicles and parts shall be disposed of in accordance with I.C. 9-22 and as otherwise permitted under this chapter.

CHAPTER 4. Regulation of Billiard Tables and Related Devices

Section 1. Be it ordained by the Board of Trustees of the Town of Etna Green, Indiana, that it shall be unlawful for any person or persons, to have or keep for gain or profit within the limits of the Town of Etna Green any billiard table, pool table, bagatelle, pigeon‑hole table, ten‑ball table, shooting gallery or public dance hall without having first obtained a license therefor.

Section 2. The license required under Section One of this ordinance for each and every billiard table, pool table, bagatelle, pigeon‑hole table, ten‑ball table, or shooting gallery shall be the sum of Twenty Dollars ($20.00) per year for each and every device so enumerated.

Section 3. The license required under Section One of this ordinance for public dance halls shall be Ten Dollars ($10.00) for each and every day, or part of a day, that such hall is used for such purpose.

Section 4. Any person violating any section of this ordinance or any section or clause thereof shall upon conviction be fined in a sum from Ten Dollars ($l0.00) to One Hundred Dollars ($l00.00).

CHAPTER 5. Registration of Peddlers

Section 1. Be it ordained by the Board of Trustees of the incorporated Town of Etna Green, Indiana, that it shall be unlawful for any street peddler, hawker or other itinerant dealer in goods, wares and merchandise, or other articles of value, whether an individual or an association of persons to sell or deliver goods, wares and merchandise directly to a consumer within the limits of the Town of Etna Green without having first obtained a license therefor.

Section 2. This license shall not apply to persons who sell goods to merchants or dealers who purchase the same for purposes of resale.

Section 3. The license required by Section One of this ordinance shall be the sum of Ten Dollars ($10.00) for each and every day, and said license shall not be transferable.

Section 4. Any person violating any of the provisions of this ordinance shall, upon conviction, be fined in any sum not less than Ten Dollars ($10.00) or more than One Hundred Dollars ($100.00) for each offense and each day's continuance of such violation shall constitute a distinct and separate offense.

CHAPTER 6. Regulation of Parking of Mobile Homes and House Trailers

Section 1. No person, organization, corporation or entity of any type shall park within the corporate limits of the Town of Etna Green, Indiana, any mobile home or house trailer without the written permit of the Board of Trustees of said Town, except upon land which has prior to the effective date of this Ordinance been commonly used as a mobile home park, and for which all state licenses and permits are in full force and effect.

Section 2. No permit for the parking of any mobile home or house trailer shall be issued by the Board, except for a temporary permit as hereinafter provided, unless and until the Board determines that such mobile home or house trailer shall meet the following requirements and limitations:

(a) The mobile home or house trailer shall be at least 14 feet in width or shall contain a minimum of 840 square feet under one roof.

(b) The mobile home or house trailer shall be located on a lot of not less that 5,000 square feet in size.

(c) The mobile home or house trailer shall be connected to its own separate septic system and shall have its own separate water supply and its own separate utilities.

(d) The tongue or pulling ring for any such mobile home or house trailer shall be removed and placed beneath said mobile home or house trailer or in such other place so as to not be visible from any public way, or permanently covered so as not to be visible from any public way.

(e) The mobile home or house trailer shall be placed upon a permanent foundation or a cement slab, with its wheels removed, and such slab shall be at least the same size as the mobile home or house trailer and at least 3‑1/2 inches thick.

(f) The mobile home or house trailer shall have a full skirting on all sides, consisting of metal, fiberglass or similar construction material.

(g) The mobile home or house trailer shall be tied down in accordance with the requirements of the State of Indiana.

(h) There shall be provision made for off‑street parking for at least two motor vehicles on the lot on which the mobile home or house trailer is located.

(i) In addition to the foregoing requirements and limitations, a storage shed containing a minimum of 100 square feet and placed on a concrete slab or foundation at least as large as the storage building shall be placed on the lot on which the mobile home or house trailer is located.

Section 3. The board of Trustees of the Town of Etna Green, Indiana, may grant a temporary parking permit for a mobile home or house trailer not to exceed thirty (30) days for the parking of a mobile home or house trailer upon any land located within the Town of Etna Green, if upon investigation the Board of Trustees finds that good and sufficient sanitary facilities will exist for said mobile home during said temporary period; provided, however, that only one of such temporary permits shall be issued to the owner of any land within the Town of Etna Green each year.

Section 4. No existing lot in the Town of Etna Green may be divided into an additional lot or lots for the purpose of locating a mobile home on any such lots.

Section 5. No owner or occupant of any dwelling within the corporate limits of the Town of Etna Green shall park upon his land, or suffer to be parked upon his land, any mobile home or house trailer, which is connected to the water, sewer and/or utility facilities of the dwelling so owned or occupied by such owner, without having obtained the prior written permit of the Board of Trustees.

Section 6. This ordinance shall not apply with respect to any mobile home or house trailer parked or located within the corporate limits of the Town of Etna Green prior to the passage of this ordinance. However, if any such mobile home or house trailer is removed from the lot on which it is located, this ordinance shall apply to any new or replacement mobile home or house trailer to be located on such lot.

Section 7. Any mobile home or house trailer parked in the corporate limits of the Town of Etna Green in violation of this ordinance shall be deemed a nuisance and may be abated as such by the Town or any person or persons injured thereby, and the person, corporation or any other entity violating this ordinance shall be subject to a penalty of $10.00 for each day that said mobile home or house trailer remains so parked, which penalty shall be recoverable in any court of competent jurisdiction.

Section 8. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance. It is expressly declared that this ordinance and each section, subsection, paragraph, sentence, clause and phrase would have been adopted regardless of the fact that any one or more sections, subsections, paragraphs, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 9. This ordinance shall be in full force and effect from and after its passage.

Section 10. Upon passage of this Ordinance, Title III, Chapter 6, "Regulation of Parking of Mobile Homes and House Trailers", Sections 1 though 6 inclusive, Town of Etna Green Code of 1982, are hereby repealed. This Ordinance shall be substituted as Title III, Chapter 6, Sections 1 through 10 of the Town of Etna Green Code of 1982.

CHAPTER 7. General Regulations Concerning Animals

Section 1. No person shall cruelly treat any animal in the Town of Etna Green, Indiana, in any way; any person who inhumanely beats, under feeds, overloads or abandons any such animal within the Town of Etna Green, Indiana, shall be deemed guilty of a violation of this Section.

Section 2. It shall be unlawful to permit any dangerous animals or vicious animals of any kind to run at large within the Town of Etna Green, Indiana; exhibition, parading or harboring of animals which are ferae naturae in the eyes of the law may be conducted or done only upon securing a written permit from the Board of Trustees of the Town of Etna Green, Indiana.

Section 3. It shall be unlawful to harbor or keep any animals which disturb the peace by loud noises at any time of day or night.

Section 4. It shall be unlawful to permit any cattle, horse, swine, sheep, goats, rabbits or poultry or similar animals to run at large within the Town of Etna Green. It shall further be unlawful to picket or tie any such animal in any of the streets of the Town of Etna Green.

Section 5. The Town Marshall or any Deputy Marshall of Etna Green, Indiana, are authorized to kill any dangerous animals of any kind when it is necessary for the protection of any person or property.

Section 6. No domestic animal affected with a contagious or infectious disease shall be allowed to run at large, or to be exposed in any public place whereby the health of man or beast may be affected; nor shall such diseased animal be shipped or removed from the premises of the owner thereof, except under the supervision of the Town Marshall.

Section 7. No person shall cause or allow any place where any animal is or may be kept to become unclean or unwholesome, and it shall be unlawful to keep or have any swine, pigs, sheep, goats, cattle, horses, ponies, burros, donkeys, mules, fowl (except hens), or other similar animals anywhere within the Town of Etna Green. It shall be further unlawful to keep more than six (6) hens on any parcel of land. Any person who shall lawfully maintain any number of hens must keep them in a coop, pen, cage or other suitable enclosure designed for such purpose.

Section 8. No dog shall be permitted to run at large within the Town of Etna Green, Indiana, at any time; and it shall be the duty of the registered owner of every dog to keep said dog safely confined to the premises of the registered owner of said dog.

Section 9. No person owning any dog shall suffer or permit such dog to disturb the peace and quiet of the neighborhood by barking, making other loud or unusual noises, or by running through or across cultivated gardens or fields, or lawns.

Section 10. Whenever any dog or other animal bites a person, the owner of said dog or the person that has been bitten shall immediately notify the Town Marshall who shall order that the dog or other animal be held on the owner's premises or shall have it impounded for a period of two weeks. The dog or other animal shall be examined immediately after it has bitten anyone and again at the end of the two week period. If at the end of the two weeks a veterinarian is convinced that the dog is then free from rabies, the dog shall be released from quarantine or from the pound as the case may be. If the dog dies during said two week period, it then shall be sent to the State Department of Heath for examination for rabies.

Section 11. It shall be unlawful to keep or harbor any dog over the age of six months within the Town of Etna Green, Indiana, unless such dog has been inoculated against rabies by a licensed veterinarian within the preceding year.

Section 12. It shall be unlawful to stand or park any vehicle containing livestock at any place in the Town of Etna Green, Indiana, for a period of time longer than one half () hour, except for loading or unloading of said vehicle.

Section 13. Penalties. Any person violating any of the sections of this ordinance shall suffer a forfeiture of money in a sum of not less than $10.00 nor more than $100.00, together with the costs of any action filed to recover said forfeiture. Each day any violation is committed or permitted to continue shall constitute a separate offense and shall render the person responsible for such offense subject to a forfeiture for each day.

Section 14. Separability. The Board of Trustees of the Town of Etna Green declares and intends that each section and clause of this ordinance shall be separable from and independent of any provision thereof that may be found invalid, if possible to be carried out without the latter, and that it would have so ordained, regardless of such elimination of any such provision so found invalid.

Chapter 8. Regulations concerning trash pick-up

Section 1. The residents of Etna Green shall pay a charge of $13.25 per month per dwelling located in the Town of Etna Green. This charge shall be for the curbside pick-up of trash within the town boundaries. Section 2. The charges for trash pick-up shall be included with the monthly utility bill sent to the residents of the Town of Etna Green and such charges and payments shall be handled in a fashion similar to that of Etna Green.

Section 3. The effective date of this chapter shall be January 1, 2015,

 CHAPTER 9. Burning Within Town Limits.

Section 1. No person shall burn leaves, branches, twigs, or weeds on any paved street or on any public sidewalk located in the Town of Etna Green.

Section 2. Any person violating the provisions of this Chapter shall, upon conviction, be fined in any sum not less than $10.00 or more than $100.00 for each offense.

Section 3. The effective date of this chapter shall be July 1, 1988.

CHAPTER 10. Loud, Continuing Noises Declared Nuisance.

Section 1. The making of or continuing or causing or aiding to be made or continued, any loud, unnecessary or unusual noises whatsoever, which either annoy, injure, or endanger the comfort, repose, health or safety of others, unless the making or continuing of the same is necessary for the protection or preservation of property, or the health, safety, life or limb of some person, is unlawful and declared to be a per se public nuisance.

Section 2. Any person violation the provisions of this chapter shall suffer a forfeiture of money in a sum of not less than Ten Dollars ($10.00) and no more than One Hundred ($100.00), together with the costs of any action filed to recover said forfeiture. Each day any violation is committed or permitted to continue shall constitute a separate offense and shall render the person responsible for such offense subject to a forfeiture for each day.

Section 3. Effective date of this chapter shall be May 10, 1994.

CHAPTER 11. Parks and Recreation.

Section 1. Public Accessibility to Town owned parks. All park grounds and recreation facilities now owned or later owned by the Town will not be accessible to the public between the hours of 10 p.m. and 7 a.m.

Section 2. Exceptions. The previously referenced restrictions placed upon the accessibility of City owned parks and recreation facilities shall not be held applicable to individuals satisfying the following conditions: (a) Any individual or other legal entity renting any City owned park or recreation facility shall have access to such park and/or recreation facility during the hours established with the oral agreement entered into between such individuals or legal entities and the Town. (b) Any individuals granted permission by the appropriate agent of the Town to have access and/or permission to remain within the Town owned parks or recreation facilities when the general public is denied access thereto.

Section 3. Penalties. Any person violating any of the sections of this Ordinance shall suffer a forfeiture of money in the sum of not less than $10.00 nor more than $25.00, together with the cost of any action filed to recover said forfeiture.

Section 4. The effective date of this Chapter shall be September 13, 1994.

CHAPTER 12. Public Health and Safety.

Section 1. It shall be the duty of the owner of each lot, part of a lot or parcel of ground in the Town of Etna Green to trim the trees and shrubbery along the sidewalks adjacent thereto cutting the limbs and branches thereof in such a manner that the overhanging foliage and branches thereof shall not at any time be less than ten (10) feet above the ground or sidewalk.

Section 2. It shall be the duty of the Town of Etna Green to trim, remove, and/or destroy any trees or shrubs which are dead and/or are causing or may cause a hazard or risk to the public safety of the town.

Section 3. Any person desiring to plant, remove, or destroy any tree, or to plant any shrub or hedge, in or along a public right-of-way within the Town shall first make a written application to the Clerk Treasurer of the Town. Such application shall set forth the name and address of the applicant, the name and address of the person, firm or corporation doing the work and such other information as the Clerk Treasurer may require. At the time of making such application, the applicant shall agree in writing to indemnify and protect the Town and the public at all times in connection with such work under such permit, and to do such work in conformance with the specifications set forth by the Town.

Section 4. Any person violating the provisions of this chapter shall suffer a forfeiture of money in a sum of not less than ten dollars ($10.00) and not more than one hundred ($100.00) each day any violation is committed or permitted to continue shall constitute a separate offense and shall render the person responsible for such offense subject to a forfeiture for each day.

CHAPTER 13. Required Clean Up of Lots Within The Town.

Section 1. Refuse declared nuisance. It shall be unlawful for anyone to permit the dumping of refuse, junk of any kind, or piling of leaves, grass clippings, garbage, or other similar piles of refuse, or to allow any such conditions to remain on any lot or tract of land in the town of Etna Green, and the allowance of such a condition to remain upon any lot or tract of land is hereby declare a nuisance.

 Section 2. Clean up of Lots. It shall be the duty of the town street superintendent to serve a notice in writing on the owner or occupant of any premises upon which refuse or junk is allowed to accumulate in violation of the provisions of this ordinance, and notice so served shall demand the abatement of the notice within 10 days from date of service.

 Section 3. Method of Service of Notice. Notice of violation of this ordinance shall be made in writing and shall be delivered either personally or by first class mail or an equivalent service permitted under Indiana code 1-1-7-1 to the owner of record of real property with a single owner, or at least one of the owners of real property with multiple owners, at the last address of the owner for the property as indicated in the records of the county auditor on the date of the notice.

 Section 4. Abatement of Nuisance. It shall be the duty of the persons served to abate the notice within 10 days after service of the notice. It shall further be duty of the persons served to contact the town street superintendent who shall investigate to confirm that the nuisance has been abated.

 Section 5. Enforcement. If the nuisance has not been abated within the time stated in the original notice, the town street superintendent may:

 (a) Provide the owner or occupant of the offending premises an extension of time no greater than 30 days within which to complete the abatement of the nuisance, or

 (b) Refer the offending premises to the Town Council for further decision regarding enforcement action.

 Section 6. Violation. Any person violating the provisions of this chapter shall suffer a fine in the amount of $25.00. Each day any violation is committed or permitted to continue shall constitute a separate offence and shall render the person responsible for such offence subject to a fine for every day, from and after the date that the owner or occupant is served with the original notice regarding the violation of this chapter, together with the cost of any action filed to recover said penalties. If any such action is filed to recover said penalties, the town shall also be compensated for its administrative cost and attorney fees.

 Section 7. Individual Property Owners Responsibilities. Property owners are responsible for maintaining and mowing their property, which shall include the maintenance and mowing and adjacent on improved public right of ways, including streets and alleys, to the center line of such unimproved right of way. Unimproved right of ways on the margin or edge of plat shall be maintained and mowed by the adjacent property owner.

Section 8. Should any owner wish to appeal the decision of the town street superintendent as to an issuance of a notice of initial violation, a continuing violation, or issuance of a bill for costs of abatement, the owner shall file a written objection with the President of the Town Council within 10 days of receipt of the notice, posting of the continuing abatement notice or issuance of the bill. That written objection shall provide any bases for which the owner believes that he has been aggrieved or otherwise objects to the notice, continuing abatement notice, or bill. The Town Council President shall then rule on the objection. The Town Council President may obtain additional information from all parties concerned before issuing a ruling, may summarily respond to the appeal, or may conduct a hearing which both the town street superintendent and the allegedly aggrieved owner of real property may attend and provide evidence.

**TITLE IV: PUBLIC WORKS, TRANSPORTATION AND TRAFFIC REGULATION**

CHAPTER 1. Regulation of Automobile Parking

Section 1. That Walnut Street in said town from a point fifty feet North of the North line of old United States Highway Number 30 to a point fifty feet South of the South line of old United States Highway Number 30 be declared a preferential district.

Section 2. That it shall be unlawful to park any automobile on either side of said Walnut Street within said district.

Section 3. That the penalty for the violation of this ordinance shall be Twenty Dollars ($20.00) for each and every time that an automobile is parked in said district.

Section 4. Be it ordained by the Board of Trustees of the Town of Etna Green, Indiana, that portion of Walnut Street in the Town of Etna Green lying between the alley running East and West through Block 8, if the same were extended to the opposite side of Walnut Street on the North to the alley running through Block 9, if the same were extended to the opposite side of Walnut Street, and that portion of Broadway Street beginning at the intersection of Walnut Street on the East and extending to the alley running North and South through Block 9, if the same were extended to the opposite side of Broadway Street, is hereby declared to be a limited zone with reference to the parking of automobiles and motor driven vehicles.

Section 5. That it shall be unlawful to park motor driven vehicles on either side of Walnut and Broadway Streets in the areas designated in the immediately preceding Section, other than indicated by the curb markings, and so that any part of parts of any such motor driven vehicle shall extend into the street more than fourteen feet at right angles, measured from the inside of the curb line on Walnut Street and the street side edge of the sidewalk on the side where said vehicle is parked.

Section 6. That it shall be unlawful to park any automobile along the north side of East Railroad Street.

Section 7: Any person or persons, firm or corporation violating the provisions of Section 5 and/or 6 of this act shall upon conviction thereof be fined in the amount of Twenty dollars ($20.00) for each and every offense.

CHAPTER 2. Establishment of Stop Streets and Signs

Section 1. South Walnut Street is hereby designated a through street and all vehicles shall stop before enter or crossing the same.

Section 2. The intersection of Spring Street and Walnut Street is hereby designated a stop intersection and all vehicles entering said intersection from the east and west entrances shall stop before entering the same.

Section 3. The intersection of High Street and Walnut Street is hereby designated a four-way stop intersection and all vehicles entering said intersection from the east, west, north and south entrance shall stop before entering the same.

Section 4. The intersection of the County Highway at the South Corporate boundary of the Town of Etna Green with Walnut Street is hereby designated a stop intersection and all vehicles entering said intersection from the west entrance shall stop before entering the same.

Section 5. That the Town of Etna Green, Indiana, does now establish that the intersection of Spring Street and Pearl Street within said Town shall henceforth be a four‑way top intersection, and that a stop sign so indicating a four‑way stop shall be placed at said intersection and on either side of it on Spring Street and also on either side of it on Pearl Street, so indicating such traffic control for said intersection.

Section 6. At the intersection of Pleasant Street and Pearl Street, a stop sign shall be erected for traffic on Pleasant Street, requiring traffic on Pleasant Street to stop at the intersection of Pleasant Street with Pearl Street, in both directions of traffic on said Pleasant Street, requiring such traffic on Pleasant Street to come to a complete stop before proceeding across Pearl Street.

Section 7. At the intersection of Main Street and Broadway Street, a stop sign shall be erected for traffic on Main Street, requiring traffic on Main Street to stop at the intersection of Main Street with Broadway Street, in both directions of traffic on said Main Street, requiring such traffic on Main Street to come to a complete stop before proceeding across Broadway Street.

Section 8. At the intersection of Cherry Street and Pearl Street, a stop sign on the north side of Cherry Street for all vehicles entering the intersection from the east to stop before entering the intersection.

Section 9. On Railroad Street at the intersection with Etna Drive, for traffic to stop on Railroad Street before entering Etna Drive.

Section 10. On Broadway Street at the intersection with Etna Drive, for traffic to stop on Broadway Street before entering Etna Drive.

Section 11. The intersection of Spring Street and Walnut Street is hereby designated a stop intersection and all vehicles entering said intersection from the south and north entrances shall stop before entering the same.

CHAPTER 3. Prohibited Truck Traffic and Designated Truck Routes

Section 1. Truck routes within the Town of Etna Green, Indiana, shall be Old U. S. Highway Number 30 and Indiana State Highway Number 19, as presently located or as they may in the future be relocated.

Section 2. "Truck" as used in the Ordinance shall be any motor vehicle designed, used or maintained primarily for the transportation of property, except that "pickup" trucks of a rating of three‑quarter ton or less and with a single rear axle shall be exempt from this Ordinance.

Section 3. No truck shall be moved upon any street or alley within the Town of Etna Green except upon a truck route, except that such truck may drive upon any street in the town which lies upon the most direct route of a truck from a truck route to a point at which it is to deliver or pick up cargo, or to its place of garagement, or to a place of repair for repairs, or at the direction of a Police Officer or in following a duly marked detour of a truck route.

Section 4. Any person, partnership or corporation who violates or permits the violation of any Section of this Ordinance shall, upon conviction, be fined in any sum not less than Twenty‑five Dollars ($25.00) nor more than One Hundred Dollars ($100.00) for each offense.

CHAPTER 4. Regulation of Parking

Section 1. North Walnut Street from its intersection with Broadway Street to its intersection with Amtrak Railroad tracks shall be limited and restricted to parallel parking on both the east side and west side of said Walnut Street.

Section 2. South Walnut Street for its first one‑half block south of its intersection with Broadway Street shall be restricted as to parking, and parking shall be permissible as follows:

(a) On the west side of said half block section of Walnut Street, parallel parking only; and,

(b) On the east side of said half block of South Walnut Street, angle parking only.

Section 3. That it shall be unlawful to park motor‑driven vehicles on either side of Walnut Street in the areas designated in the immediately preceding Sections, other than indicated by said Sections, and other than indicated by curb markings and, if present, as indicated by painted markings of parking areas.

Section 4. Any person or persons, firm or corporation violating the provision of the foregoing Sections of this Chapter shall suffer a forfeiture of money in the amount of Twenty Dollars ($20.00), together with the costs of any action filed to recover said forfeiture. Each violation shall constitute a separate offense and shall render the person responsible for such offense subject to a forfeiture for each such offense.

CHAPTER 5. Regulation of Truck Parking on City Owned Property.

Section 1. This Chapter and the provisions and restrictions hereof shall apply to the following property and parking areas owned and maintained by the Town of Etna Green:

(a) All property maintained as the Town Park, located on the south side of the town, and known as the former school property, including parking lots thereon and maintained portions of said property adjacent to town streets; and

(b) Any parking lot or parking area maintained in central Etna Green for purposes of the fire station.

(c) The parking area commonly known as the "circle" which is a dead end street at the east end of Broadway Street, being that portion of Broadway Street lying directly east of the Walnut Street intersection with Broadway Street.

Section 2. As to the property of the Town of Etna Green described in Section 1, it shall be unlawful to park trucks at any place upon said property; except from 10:00 a.m. to 1:00 p.m. as to the "circle" described in Section 1.

(c) As used herein, the term "truck" shall mean every motor vehicle designed, used or maintained primarily for the transportation of property, but shall exclude pick‑up trucks used for personal transportation. Said definition shall include, as to semi‑trailers, both the tractor portion of said vehicle and the trailer portion of said vehicle, either together or separately.

Section 3. Any person or persons, firm or corporation violating the provision of the foregoing sections of this Chapter shall suffer a forfeiture of money in the amount of Twenty Dollars ($20.00) together with the costs of any action filed to recover said forfeiture. Each violation shall constitute a separate offense and shall render the person responsible for such offense subject to a forfeiture for each such offense. In the event of a truck remaining parked for a period of time during more than one (1) day, each day or part thereof shall constitute a separate offense and shall render the person responsible for such offense subject to a forfeiture for each such offense.

Section 4. This ordinance shall become effective 3 days after its last publication.

CHAPTER 6. Vehicles in Town Parks

Section 1. It shall be unlawful for any person to operate any snowmobiles, ATVs, off road vehicles, or any other motorized vehicles not licensed for operation on the streets and highways of the State of Indiana within the confines of any park areas owned by the Town of Etna Green.

Section 2. No automobiles, motorcycles, trucks or other vehicles normally licensed for operation on the streets and highways of the State of Indiana may be operated in the confines of the park property the Town of Etna Green except on designated streets, roads, and in designated parking areas within the park.

Section 3. Any person or persons, firm or corporation violating the provision of the foregoing sections of this chapter shall suffer a forfeiture of money in the amount of $20.00 together with the costs of any action filed to recover said forfeiture. Each violation shall constitute a separate offense and shall render the person responsible for the such offense and shall render the person responsible for such offense subject to a forfeiture for each such offense.

Section 4: This ordinance shall become effective seven (7) days after its last publication in accordance with the laws and regulations of the State of Indiana.

CHAPTER 7. Speed Zones

Section 1. On Etna Street, from Railroad Street to Spring Street, the speed limit shall be 20 miles per hour.

Section 2. On Spring Street, from Etna Street to Main Street (SR 19) the speed limit shall be 10 miles per hour.

Section 3. On Railroad Street, from Pearl Street to Etna Street the speed limit shall be 20 miles per hour.

Section 4. The speed limit through Heritage Park shall be 10 miles per hour.

CHAPTER 8. Obstruction of Thoroughfares

Section 1. No person shall obstruct, by the persons presence, or the presence of any objects, free passage on any sidewalks or driveways of the town, whether such activity shall be part of that persons business, hobby, or for any other purpose whatsoever.

Section 2 The Town Council has the authority to suspend the operation of this ordinance should a person make application to the town for a permit for a sidewalk sale, town festival or celebration, or other appropriate temporary purpose. Such a suspension should be for a specific period of time with specific dates and times noted on the request. No such suspension shall be granted for a period greater than five days.

Section 3 Violation of this ordinance shall be punishable by a fine of no less than $10.00 and no more than $100.00.

CHAPTER 9 Off-Street Parking

Section 1. Short Title. This ordinance shall be hereafter known and cited as the Off‑Street Parking Ordinance.

Section 2. ‑ Definitions. "Motor Vehicle" shall mean, when used in this ordinance, any automobile, truck, trailer, semi‑trailer, truck trailer, van, bus, school bus, house car, motorcycle, moped, minibike or other similar devices.

Section 3. ‑ Parking Prohibited. It shall be unlawful for any person to park a motor vehicle on the West side of North Walnut Street in front of 103, 107, 109 and 111 North Walnut Street; on the East side of North Walnut Street in front of 104, 106 and 120 North Walnut Street, or on either side of South Walnut Street from its intersection with Broadway Street to its intersection with High Street, between the hours of midnight and 6:00 a.m. Any motor vehicle parked in violation of this ordinance is hereby declared to be a nuisance.

Section 4. ‑ Impoundment. It shall be the duty of the Street Superintendent and other designated officials of the Town of Etna Green, Indiana, to impound any motor vehicle found in violation of this ordinance. Such officer may remove such vehicle or cause it to be removed to the town garage or to a private garage or place as may be authorized by the Board of Trustees of the Town of Etna Green, Indiana, pursuant to a contract with such private garage or place.

Section 5. Impoundment at Risk of Owner. The removal of a motor vehicle pursuant to this ordinance shall be accomplished with reasonable care, but otherwise shall be at the risk of the owner.

Section 6. ‑ Expenses to be Born by Owner and Payment Prerequisite to Release. The expenses of and resulting from the removal and storage of a motor vehicle pursuant to this ordinance shall be born by the owner and before surrendering such vehicle, such expenses shall be paid by or for such owner for the use and benefit of the Town of Etna Green, Indiana; said expenses to be determined by the expense incurred by the town in the impoundment of said motor vehicle pursuant to this ordinance and any storage costs for storage of such impounded vehicle.

Section 7. ‑ Release. Vehicles impounded pursuant to this ordinance shall be released only upon order of the Street Superintendent, who is hereby authorized to make such a release, or by any other such person who may be from time to time authorized by resolution of the Board of Trustees of the Town of Etna Green, Indiana, to make such a release. In lieu of impoundment pursuant to this statute, the Street Superintendent of the Town of Etna Green, Indiana may issue a citation upon the owner or operator or any motor vehicle parked in violation of this ordinance. Upon citation, the owner or operator of any motor vehicle in violation of this ordinance shall be subject to a forfeiture in an amount not less than Fifty Dollars ($50.00) nor greater than One Hundred Dollars ($l00.00) for each violation of this ordinance. Each period between the hours of midnight and 6:00 o'clock a.m. during any part of which a vehicle unlawfully is parked in violation of this ordinance shall constitute a separate offense of this ordinance.

Section 8. ‑ Temporary Parking. It shall not be unlawful for any person to park a motor vehicle on any street of the Town of Etna Green, Indiana, between the hours of midnight and 6:00 o'clock a.m. if such person, or the owner or occupant of the premises in front of which such motor vehicle is parked, shall have first secured the permission of the Street Superintendent or other designated official of the Town of Etna Green, Indiana, to park such vehicle on the public premises of the Town of Etna Green, Indiana, during said hours. Such permission may be granted for a limited time only, not to exceed two consecutive days.

Section 9. ‑ Separatability. If any section, sub‑section, sentence, clause, phrase or portion of this ordinance shall be for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed a separate, distinct and independent provision of such holding and shall not affect the validity of the remaining portions hereunder.

Section l0. ‑ Effective Date. An emergency is declared, and the Clerk‑Treasurer of the Town of Etna Green, Indiana, shall cause this ordinance to be posted in one public place in each ward of the Town of Etna Green for ten (l0) days, and this ordinance shall take effect immediately upon the termination of said ten day period.

CHAPTER 10. Golf Carts

Section 1. Golf cart means a four-wheeled motor vehicle originally and specifically designed and intended to transport one or more individuals and golf clubs for the purpose of playing the game of golf on the golf course.

Section 2. Golf carts may be operated on the streets and highways within the Town of Etna Green.

Section 3. Golf carts that are operated on the streets and highways of the Town of Etna Green:

a. May only be operated by an individual with a valid drivers license.

b. Shall display either a slow moving vehicle emblem in accordance with I.C. 9-21-9-3 or a red or amber flashing lamp in accordance with I.C. 9-21-9-4.

c. May only be operated between sunrise and sundown.

Section 4. Nothing in this Ordinance shall be construed to conflict with or eliminate the operator of a golf cart from compliance with applicable state or federal law.

Section 5. Golf carts may not be operated on State Road 19 within the Town limits except to cross it at any intersection at an angle 90 degrees to State Road 19.

Section 6. The number of occupants of a golf cart shall be limited to six persons. The operator and occupants shall be properly seated at all times and no part of the body of the operator or occupants shall extend outside the perimeter of the golf cart while the golf cart is in operation; provided however, the operator shall use proper traffic hand signals when required. No one under the age of two (2) years shall be permitted to be an occupant of a golf cart.

Section 7. Violation of this chapter shall be punishable by a fine of up to $50.00 per violation. Each day that the golf cart is operated in violation of this chapter shall be considered a separate violation for purposes of imposition of a fine.

**TITLE V: RECREATION, CULTURE AND COMMUNITY ACTIVITIES**

CHAPTER 1. Cable Television Franchise

Section 1. Purpose.

A. The purpose of this chapter is to provide regulatory provisions of Cable television system in the Town.

B. The ordinance codified in this chapter shall be known and may be cited as the "Etna Green Cable Television Ordinance."

Section 2. Definitions. For the purpose of this chapter, the following terms, phrases, words and derivations shall have the meaning given in this section. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

A. "Company" means Oak Cable Systems, Inc. maintaining its offices in Kouts, Indiana the grantee of rights under the cable television ordinance codified in this chapter.

B. "Federal Communications Commission" or "FCC" means that federal agency constituted by the Communication Act of l934 as amended.

C. "Gross subscriber revenues" means only those revenues derived from the monthly service charges paid by subscribers located within the Town for regular cable television reception service, which service includes only the transmission of broadcast signals and the programming presented on the required access and originations channels, if any. Gross subscriber revenues shall not include any revenues received:

l. As reimbursement of expense in the operation of any access channels;

2. As advertising payments;

3. From the leasing of cable channels;

4. From programs for which a per‑channel, per‑program, or tier charge is made; and

5. From furnishing other communications and nonbroadcast services either directly or as a carrier for another party or any other income derived from the system. Gross subscriber revenues shall also not include revenues received as installation charges and fees for reconnections, inspections, repairs or modifications of any installments.

D. "Person" means any person, firm, partnership, association, corporation, company or organization of any kind.

E. "System" means the lines, fixtures, equipment, attachments and appurtenances thereto which are used in the construction, operation and maintenance of the community antenna television system authorized in this chapter.

Section 3. Findings‑‑Granting of Franchise. The cable television ordinance codified in this chapter which grants to Oak Cable Systems, Inc. the non exclusive right to construct, operate and maintain in a cable television system in the Town, was passed and adopted by the Town Board after full, open and public proceeding. Said proceeding was held after public notice was given and afforded all interested parties the opportunity to comment upon the legal, character, financial, technical and other qualifications of the company. Having received at said proceeding all comments regarding the qualifications of the company, the Town finds that the company possesses the necessary legal, technical, character, financial and other qualifications and that the company's construction arrangements are adequate and feasible. Therefore, the Town grants to the company a nonexclusive franchise, right and privilege to construct, erect, operate modify and maintain, in, upon, among, across, above and over and under the highways, streets, alleys, sidewalks, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto, in the Town, poles, wires, cables, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation in the Town of a cable television system for the purpose of distributing television and radio signals, and other electronic impulses in order to furnish television and radio programs, and various communications and other electronic services to the public. The right so granted includes the right to use and occupy said streets, alleys, public ways and public places and all manner of easements for the purposes set forth in this chapter.

Section 4. Compliance‑‑Required Generally. The company shall, at all times during the life of the cable television ordinance codified in this chapter, be subject to all lawful exercise of the police power by the Town and to such reasonable regulation as the Town shall hereafter by resolution or ordinance provide. The construction, operation and maintenance of the system by the company shall be in full compliance with such portions of the National Electrical Safety Code as may be applicable and as the same may be amended and revised from time to time, and in full compliance with all other applicable rules and regulations now in effect or hereinafter adopted by the Federal Communications Commission, the Town or any other agency of the state or the United States, which may hereafter acquire jurisdiction of the operations of the company authorized in this chapter.

Section 5. Compliance‑‑National Electrical Safety Code. All facilities and equipment of the company shall be constructed and maintained in accordance with the requirements of the National Electrical Safety Code.

Section 6. Compliance‑‑FCC Rules and Regulations. The company shall, at all times, comply with the rules and regulations governing CATV operations promulgated by the FCC.

Section 7. Modification of FCC Rules. Consistent with the requirements of Rule 76.3l (a) (6) of the FCC, any modification of Rule 76.3l resulting from amendment thereto by the FCC and shall be incorporated in this chapter by specific amendments thereto by lawful action of the Town Board within one year from the effective date of the FCC's amendment or at the time of renewal of the ordinance codified in this chapter, whichever occurs first.

Section 8. Transfer. The franchise shall not sell or transfer its system to another, nor transfer any rights under this chapter to another without written notice and approval by the Town; provided, that such approval shall not be unreasonably withheld if the vendee, assignee or lessee has filed with the appropriate official of the Town an instrument duly executed, reciting the fact of such sale, assignment or lease, accepting the terms of this chapter and agreeing to perform all conditions thereof.

Section 9. Company Rules and Regulations. The company shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the company to exercise its rights and perform its obligations under this chapter, and to assure an uninterrupted service to each and all of its customers.

Section l0. Franchise‑‑Term. The franchise granted the company in this chapter shall terminate twenty‑five (25) years from date of grant, subject to renewal for additional twenty‑five (25) year periods of duration on the same terms and conditions as contained in this chapter, and as are consistent with the requirements of Rule 76.3l of the FCC. If company has reasonably performed to the requirements and conditions of this franchise, the Town will not unreasonably withhold granting a renewal of this franchise.

Section ll. Franchise‑‑Renewal. The company shall be a party to any such proceedings and any other proceedings in which its rights, privileges or interest would be affected and shall be fully entitled to such due process rights as may be available under applicable laws, ordinances, rules and regulations.

Section l2. System Construction, Maintenance and Procedures.

A. Upon grant of the ordinance codified in this chapter to construct and maintain a cable television system in the Town, and in furtherance of the company's execution of contracts with public utility companies, the company may obtain right‑of‑way permits from appropriate states, county and federal officials necessary to cross highways or roads under their respective jurisdictions, to supply main trunk lines from the company's receiving antennas. The company shall construct its cable system using material of good and durable quality, and all work involved in the construction, installation, maintenance and repair of the cable system shall be performed in a safe, thorough and reliable manner. Any municipal property damaged or destroyed shall be promptly repaired or replaced by the company and restored to serviceable condition.

B. In the event that at any time during the period of the ordinance codified in this chapter the Town lawfully elects to alter or change the grade of any street, alley or other public way, the company, upon reasonable notice by the Town shall remove, relay or relocate its poles, wires, cables underground conduits, manholes and other fixtures at its own expense.

C. The company shall, on the request of any person holding a building moving permit issued by the Town, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same and the company shall have the authority to require such payment in advance. The company shall be given not less than forty‑eight (48) hours advance notice to arrange for such temporary wire changes.

D. The company shall provide, upon request and without charge, service to any municipal buildings owned and operated by the Town and to any public elementary or secondary school. This shall mean only an energized cable to such building. The cost of any internal wiring shall be borne by the institution.

Section l3. Construction Schedule. The company shall accomplish significant construction at least twenty percent (20%) within one (l) year after receiving FCC certification and other necessary federal approvals, and shall thereafter reasonably make cable service available to all residents of the Village, subject to the line extension provisions of Section l4, within two (2) years after receiving above federal approval.

Section l4. Line Extension.

A. It shall be the obligation of the company to serve all residents of the Town except to the extent that density of homes, adverse terrain or other factors render providing service impracticable, technically unfeasible or economically noncompensatory. For purposes of determining compliance with the provisions of this section, the company shall extend service to new subscribers at the normal installation charge and monthly rate for customers of that classification where there are an average of forty‑five (45) homes per each linear mile of new cable construction.

B. In the event the requirements of subsection A are not met, extensions of service shall be required only on a basis which is reasonable and compensatory to the company.

Section l5. Town Rights

A. Town Rules. The right is reserved by the Town to adopt, in addition to the provisions contained in this chapter and existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of the police power; provided, that such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the rights granted in this chapter, and shall not be in conflict with the applicable laws of the state or the United States.

B. Emergency or Disaster. In the case of any emergency or disaster, the company shall, upon request of the Town make available its facilities to the Town for emergency use during the disaster period.

C. Liability. The Town shall not be liable for any damage occurring to the property of the company caused by employees of the Town in the performance of their duties, except for damage caused to the company's facilities by the negligence of the Town's employees. The Town shall not be liable for the interruption of service by actions of Town employees in the performance of their duties, nor shall the Town be held liable for the failure of the company to be able to perform normal services due to acts of God or other factors beyond the control of the Town.

D. No Property Right. Nothing in this chapter shall grant to the company any right of property in the Town‑owned property.

E. Construction Approval by Town. The Town shall have and maintain the right to inspect the construction, operation and maintenance of the system by the company to insure the proper performance of the terms of the cable television ordinance.

F. Correction of Defects. In the event the company should violate any of the terms of the cable television ordinance codified in this chapter, the Town shall immediately give to the company sixty (60) day's written notice to correct such violation and in the event the company does not make such correction within sixty (60) days from the receipt of such written notice, the Town may make such correction itself and charge the cost of same to the company, and the company shall pay such charges within thirty (30) days after the receipt of a statement for such charge from the Town.

Section l6. Publication Costs and Legal Fees. The company shall assume the costs of the publication of the ordinance codified in this chapter if such publication is required by law. A bill for publication costs shall be presented to the company by the appropriate town officials upon the company's filing of its acceptance of the ordinance codified in this chapter and the said publication costs shall be paid at that time by the company. The Town shall assume the costs of the Town Attorney and associated legal fees.

Section l7. Payments to the City.

A. The company shall, commencing one (l) year from the date of the first service, and during each year of operation under this chapter, pay to the Town three percent (3%) of the annual gross subscriber revenues received by the company for regular monthly cable television services rendered to customers located within the Town. At the time of this annual payment, the company shall furnish the Town with an operating report showing the company's annual gross subscriber revenues during the preceding year.

B. All payments as required by the company to the Town shall be made semi‑annually and shall be due forty‑five (45) days after the close of the six (6) month period.

Section l8. Rates and Charges‑‑Designated.

A. Except as otherwise provided the grantee shall have the right, privilege and authority to charge the rates and charges fixed in this section to its subscribers for its services.

B. At system turn on single‑user rates and charges may be as follows: Description: Installation‑‑Not to exceed $20.00 per standard installation. Basic Service Charge‑‑Initial Outlet‑Not to exceed $10.00 monthly.

C. Multi‑user rates and charges may be negotiated between the grantee and the subscriber, but in no event shall the multi‑user rates and charges for any subscriber exceed the aggregate rates and charges which would be charged to the multi‑user if computed on the basis of single‑user rates and charges.

D. In addition to the specified monthly service rate, the company may add to that rate, taxes or fees imposed upon the company's gross subscriber revenues by town, state or federal governmental or legislative bodies and fees or charges imposed upon the company for the use and distribution of copyrighted program material.

E. Grantee may, at its own discretion, waive, reduce or suspend connection fees for promotional purposes.

Section 19. Rates and Charges‑‑Change.

A. For the purpose of this section, "basic monthly cable television service is the provision of television broadcast signals and access and origination channels, if any, and does not include advertising services, rental of studios or equipment, provision of program production services, tiered channels, per‑channel or per‑program charges to subscribers ("pay cable"), rental of channels, sale of channel time, provision of commercial services such as security systems, or any other services of the system, the rates and charges for which shall not require approval by the Town.

B. In consideration for the services rendered to the subscribers, grantee may have the right to charge and collect reasonable and just compensation which shall reflect, among other things, the grantee's need to attract new capital and provide a reasonable return on invested capital. The Company, from time to time, may alter these rates at its discretion.

C. Before instituting any increase, grantee will furnish to the Town Board a copy of the proposed new rates and charges, as well as information regarding Bureau of Labor Statistics figures on the Consumer Price Index. Such notification shall precede any increase by not less than thirty (30) days.

D. In no event shall rates be increased for a period of one (1) year following award of franchise for basic service.

Section 20. Recordkeeping. The company shall keep full, true, accurate and current records, maps, plans, and other like materials, and shall be made available for inspection by the Town.

Section 21. Service Procedures. During the term of the ordinance codified in this chapter, and any renewal thereof, the company shall maintain within the Town a nearby business office or agent for the purpose of receiving and resolving all questions regarding the quality of service, equipment, malfunctions and similar matters. The provisions of this section shall be complied with if company may be reached by a toll‑free telephone call to receive complaints regarding quality of service, equipment malfunctions and similar matters. The office shall be open to receive inquiries or complaints from subscribers during normal business hours, and in no event less than nine a.m. (9:00) to five p.m. (5:00), Monday through Friday.

A. Any complaints from subscribers shall be investigated and acted upon as soon as possible, but at least within five (5) business days of their receipt. The company shall keep a maintenance service log which will indicate the nature of each service complaint, the date and time it was received, the disposition of said complaint and the time and date thereof.

B. The company shall appropriate means, such as a card or brochure, as subscribers are connected or reconnected to the system, furnish information concerning the procedures for making inquiries and/or complaints, including the name, address and telephone number of the company.

C. The equipment installed by the Company on behalf of the subscriber shall remain the property of the Company, and shall be subject to reasonable inspection and service by the Company at reasonable hours, and removal upon non‑payment or termination of the service.

D. In the event that any subscriber shall fail to meet his obligations according to the rate schedule and to meet reasonable Company rules and regulations, the Company shall have the right to withhold or deny services to such subscriber.

Section 22. Protection of Privacy.

A. Grantee shall not permit the installation of any special terminal equipment in any subscriber's premises that will permit transmission from subscriber's premises of two‑way services utilizing aural, visual or digital signals without first obtaining written permission of the subscriber.

B. It is unlawful for any person to attach or affix or cause to be attached or affixed any equipment or device which allows access or use of the cable television services without payment to the grantee for same.

Section 23. Program Content Restrictions. In addition to providing basic cable television service consisting of broadcast and automated signals, the company may offer subscribers optional services on a per‑program or per‑channel basis. However, the company shall not display X‑rated motion pictures either as part of its basic cable or pay cable services.

Section 24. Employment‑‑Discrimination Prohibited. The Company shall not refuse to hire, nor discriminate against any person regarding compensation, terms, conditions, or privileges of employment because of sex, age, race, color, creed or national origin. The Company shall take affirmative action to insure that employees are treated, during employment, without regard to their sex, age, race, color, creed or national origin.

Section 25. Liability and Indemnification. The company shall indemnify the Town, and hold it harmless from all liability, damage, cost or expense arising from claims of injury to persons or damage to property occasioned by reason of any conduct undertaken pursuant to this chapter. The Town shall notify the company's representative within fifteen (15) days after the presentation of any claim or demand to the Town, either by suit, or otherwise, made against the Town on account of any negligence or contract as aforesaid on the part of the company.

A. Company shall carry Workmen's Compensation insurance with statutory limits, and Employers' Liability insurance with limits of not less than One Hundred Thousand Dollars ($100,000.00), which shall cover all operations to be performed by company as a result of this chapter.

B. The amounts of insurance to be carried for liability due to property damage shall be Five Hundred Thousand Dollars ($500,000.00) as to any one occurrence and against liability due to injury or death of persons, Five Hundred Thousand Dollars ($500,000.00) as to any one person and One Million Dollars ($1,000,000.00) as to any one occurrence.

C. Company's Workmen's Compensation, Comprehensive General Liability and Comprehensive Automobile Liability insurance shall be written by an insurance company authorized to do business in the State of Indiana, and company agrees to furnish Town with certificates of insurance of said policies, which shall provide that insurance shall not be canceled unless ten (10) days prior written notice first be given to Town.

Section 26. Activities Prohibited.

A. The company shall not allow its cable or other operations to interfere with television reception of persons not served by the company, nor shall the system interfere with, obstruct or hinder in any manner, the operation of the various utilities serving the residents of the Town.

B. The company shall not, as to rates, charges, service facilities, rules, regulations or in any other respect, make or grant any preference or advantage to any person, nor subject any person to any prejudice or disadvantage; provided, that nothing in this chapter shall be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules to which any customer coming within such classification would be entitled.

C. 1. No person, whether or not a subscriber to the cable system may intentionally or knowingly damage, or cause to be damaged, any wire, cable, conduit, equipment or apparatus of the company, or commit any act with intent to cause such damage, or to tap, tamper with, or otherwise connect any wire or device to a wire, cable, conduit, equipment and apparatus, or appurtenances of the company with the intent to obtain a signal or impulse from the cable system without authorization from or compensation to the company, or to obtain cable television or other communications service with intent to cheat or defraud the company of any lawful charge to which it is entitled.

2. Any person convicted of violating any provision of this section is subject to a fine of not less than Fifty Dollars ($50.00), nor more than Five Hundred Dollars ($500.00) for each offense. Each day's violation of this section shall be considered a separate offense.

Section 27. Violation‑‑Penalty. Should the company, its successors or assigns violate any of the provisions of this chapter or any reasonable rules and regulations established by the Town pursuant hereto and should such violation continue for more than sixty (60) days after the Town has given the company written notice of such violation, failure or default, the same shall be cause for the forfeiture or revocation of the ordinance codified in this chapter and termination of all rights hereunder; provided, however, any delay in correcting such violation which is caused by factors beyond the control of the company shall not be included in computing the length of the continuance of such violation.

Section 28. Repealer. That all ordinances in conflict herewith are hereby repealed. They are: Cable Television Franchise Ordinance granted to TeleNational Investment Corporation.

Section 29. Severability Clause. If any section provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 30. When Effective. This ordinance shall be in effect after its final passage, approval, publication, or posting as provided by law.

Passed and adopted this 13th day of August, 1985.

CHAPTER 2. Cable Television Franchise

Section 1. Purpose.

A. The purpose of this chapter is to provide regulatory provisions of Cable television system in the City.

B. The ordinance codified in this chapter shall be known and may be cited as the "Etna Green Cable Television Ordinance."

Section 2. Definitions. For the purpose of this chapter, the following terms, phrases, words and derivations shall have the meaning given in this section. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

A. "Company" means Midwest CATV Engineering, Inc. maintaining its offices in Mishawaka, Indiana, the grantee of rights under the cable television ordinance codified in this chapter.

B. "Federal Communications Commission" or "FCC" means that federal agency constituted by the Communication Act of l934 as amended.

C. "Gross subscriber revenues" means only those revenues derived from the monthly service charges paid by subscribers located within the City for regular cable television reception service, which service includes only the transmission of broadcast signals and the programming presented on the required access and originations channels, if any. Gross subscriber revenues shall not include any revenues received:

l. As reimbursement of expense in the operation of any access channels;

2. As advertising payments;

3. From the leasing of cable channels;

4. From programs for which a per‑channel, per‑program, or tier charge is made; and

5. From furnishing other communications and nonbroadcast services either directly or as a carrier for another party or any other income derived from the system. Gross subscriber revenues shall also not include revenues received as installation charges and fees for reconnections, inspections, repairs or modifications of any installments.

D. "Person" means any person, firm, partnership, association, corporation, company, or organization of any kind.

E. "System" means the lines, fixtures, equipment, attachments and appurtenances thereto which are used in the construction, operation and maintenance of the community antenna television system authorized in this chapter.

Section 3. Findings‑‑Granting of Franchise. The cable television ordinance codified in this chapter which grants to Midwest CATV Engineering, Inc. the non exclusive right to construct, operate and maintain in a cable television system in the City, was passed and adopted by the City Board after full, open and public proceeding. Said proceeding was held after public notice was given and afforded all interested parties the opportunity to comment upon the legal, character, financial, technical and other qualifications of the company. Having received at said proceeding all comments regarding the qualifications of the company, the City finds that the company possesses the necessary legal, technical, character, financial and other qualifications and that the company's construction arrangements are adequate and feasible. Therefore, the City grants to the company a nonexclusive franchise, right and privilege to construct, erect, operate modify and maintain, in, upon, among, across, above, and over, and under the highways, streets, alleys, sidewalks, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto, in the City, poles, wires, cables, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation in the City of a cable television system for the purpose of distributing television and radio signals, and other electronic impulses in order to furnish television and radio programs, and various communications and other electronic services to the public. The right so granted includes the right to use and occupy said streets, alleys, public ways and public places and all manner of easements for the purposes set forth in this chapter.

Section 4. Compliance‑‑Required Generally. The company shall, at all times during the life of the cable television ordinance codified in this chapter, be subject to all lawful exercise of the police power by the City and to such reasonable regulation as the City shall hereafter by resolution or ordinance provide. The construction, operation and maintenance of the system by the company shall be in full compliance with such portions of the National Electrical Safety Code as may be applicable and as the same may be amended and revised from time to time, and in full compliance with all other applicable rules and regulations now in effect or hereinafter adopted by the Federal Communications Commission, the Town or any other agency of the state or the United States, which may hereafter acquire jurisdiction of the operations of the company authorized in this chapter.

Section 5. Compliance‑‑National Electrical Safety Code. All facilities and equipment of the company shall be constructed and maintained in accordance with the requirements of the National Electrical Safety Code.

Section 6. Compliance‑‑FCC Rules and Regulations. The company shall, at all times, comply with the rules and regulations governing CATV operations promulgated by the FCC.

Section 7. Modification of FCC Rules. Consistent with the requirements of Rule 76.3l (a) (6) of the FCC, any modification of Rule 76.3l resulting from amendment thereto by the FCC and shall be incorporated in this chapter by specific amendments thereto by lawful action of the City Board within One (1) year from the effective date of the FCC's amendment or at the time of renewal of the ordinance codified in this chapter, whichever occurs first.

Section 8. Transfer. The franchise shall not sell or transfer its system to another, nor transfer any rights under this chapter to another without written notice and approval by the City; provided, that such approval shall not be unreasonably withheld if the vendee, assignee or lessee has filed with the appropriate official of the City an instrument duly executed, reciting the fact of such sale, assignment or lease, accepting the terms of this chapter and agreeing to perform all conditions thereof.

Section 9. Company Rules and Regulations. The company shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the company to exercise its rights and perform its obligations under this chapter, and to assure an uninterrupted service to each and all of its customers.

Section l0. Franchise‑‑Term. The franchise granted the company in this chapter shall terminate twenty‑five (25) years from date of grant, subject to renewal for additional twenty‑five (25) year periods of duration on the same terms and conditions as contained in this chapter, and as are consistent with the requirements of Rule 76.3l of the FCC. If company has reasonably performed to the requirements and conditions of this franchise, the City will not unreasonably withhold granting a renewal of this franchise.

Section ll. Franchise‑‑Renewal. The company shall be a party to any such proceedings and any other proceedings in which its rights, privileges or interest would be affected and shall be fully entitled to such due process rights as may be available under applicable laws, ordinances, rules and regulations.

Section l2. System Construction, Maintenance and Procedures.

A. Upon grant of the ordinance codified in this chapter to construct and maintain a cable television system in the City, and in furtherance of the company's execution of contracts with public utility companies, the company may obtain right‑of‑way permits from appropriate states, City, and federal officials necessary to cross highways or roads under their respective jurisdictions, to supply main trunk lines from the company's receiving antennas. The company shall construct its cable system using material of good and durable quality, and all work involved in the construction, installation, maintenance and repair of the cable system shall be performed in a safe, thorough and reliable manner. Any municipal property damaged or destroyed shall be promptly repaired or replaced by the company and restored to serviceable condition.

B. In the event that at any time during the period of the ordinance codified in this chapter the City lawfully elects to alter or change the grade of any street, alley or other public way, the company, upon reasonable notice by the City shall remove, relay or relocate its poles, wires, cables underground conduits, manholes and other fixtures at its own expense.

C. The company shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same and the company shall have the authority to require such payment in advance. The company shall be given not less than forty‑eight (48) hours advance notice to arrange for such temporary wire changes.

D. The company shall provide, upon request and without charge, service to any municipal buildings owned and operated by the City and to any public elementary or secondary school. This shall mean only an energized cable to such building. The cost of any internal wiring shall be borne by the institution.

Section l3. Construction Schedule. The company shall accomplish significant construction at least Twenty percent (20%) within One (l) year after receiving FCC certification and other necessary federal approvals, and shall thereafter reasonably make cable service available to all residents of the City, subject to the line extension provisions of Section l4, within two (2) years after receiving above federal approval.

Section l4. Line Extension.

A. It shall be the obligation of the company to serve all residents of the Town except to the extent that density of homes, adverse terrain or other factors render providing service impracticable, technically unfeasible or economically noncompensatory. For purposes of determining compliance with the provisions of this section, the company shall extend service to new subscribers at the normal installation charge and monthly rate for customers of that classification where there are an average of forty‑five (45) homes per each linear mile of new cable construction.

B. In the event the requirements of subsection A are not met, extensions of service shall be required only on a basis which is reasonable and compensatory to the company.

Section l5. Town Rights

A. Town Rules. The right is reserved by the Town to adopt, in addition to the provisions contained in this chapter and existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of the police power; provided, that such regulations, by agreements or otherwise, shall be reasonable and not in conflict with the rights granted in this chapter, and shall not be in conflict with the applicable laws of the state or the United States.

B. Emergency or Disaster. In the case of any emergency or disaster, the company shall, upon request of the Town make available its facilities to the Town for emergency use during the disaster period.

C. Liability. The Town shall not be liable for any damage occurring to the property of the company caused by employees of the Town in the performance of their duties, except for damage caused to the company's facilities by the negligence of the Town's employees. The Town shall not be liable for the interruption of service by actions of Town employees in the performance of their duties, nor shall the Town be held liable for the failure of the company to be able to perform normal services due to acts of God or other factors beyond the control of the Town.

D. No Property Right. Nothing in this chapter shall grant to the company any right of property in the Town‑owned property.

E. Construction Approval by Town. The Town shall have and maintain the right to inspect the construction, operation and maintenance of the system by the company to insure the proper performance of the terms of the cable television ordinance.

F. Correction of Defects. In the event the company should violate any of the terms of the cable television agreement codified in this chapter, the Town shall immediately give to the company sixty (60) day's written notice be certified mail to correct such violation and in the event the company does not make such correction within Sixty (60) days from the receipt of such written notice, the City may make such correction itself and charge the cost of same to the company, and the company shall pay such charges within Thirty (30) days after the receipt of a statement for such charge from the City.

Section l6. Publication Costs and Legal Fees. The company shall assume the costs of the publication of the agreement codified in this chapter if such publication is required by law. A bill for publication costs shall be presented to the company by the appropriate City officials upon the company's filing of its acceptance of the agreement codified in this chapter and the said publication costs shall be paid at that time by the company. The City shall assume the costs of the City Attorney and associated legal fees.

Section l7. Payments to the City.

A. The company shall, commencing One (l) year from the date of the first service, and during each year of operation under this chapter, pay to the City, Three Percent (3%) of the annual gross subscriber revenues received by the company for regular monthly cable television services rendered to customers located within the City. At the time of this annual payment, the company shall furnish the City with an operating report showing the company's annual gross subscriber revenues during the preceding year.

B. All payments as required by the company to the City shall be made semi‑annually and shall be due Forty‑five (45) Days after the close of the Six (6) month period.

Section l8. Rates and Charges‑‑Designated.

A. Except as otherwise provided, the grantee shall have the right, privilege, and authority to charge the rates and charges fixed in this section to its subscribers for its services.

B. At system turn on, single‑user rates and charges may be as follows: Description: Installation‑‑Not to exceed Twenty (20) Dollars per standard installation. Basic Service Charge‑‑Is by discretion of company pursuant to deregulation by FCC.

C. Multi‑user rates and charges may be negotiated between the grantee and the subscriber, but in no event shall the multi‑user rates and charges for any subscriber exceed the aggregate rates and charges which would be charged to the multi‑user if computed on the basis of single‑user rates and charges.

D. In addition to the specified monthly service rate, the company may add to that rate, taxes, or fees imposed upon the company's gross subscriber revenues by City, state or federal governmental or legislative bodies and fees or charges imposed upon the company for the use and distribution of copyrighted program material.

E. Grantee may, at its own discretion, waive, reduce, or suspend connection fees for promotional purposes.

Section 19. Rates and Charges‑‑Change.

A. For the purpose of this section, "basic monthly cable television service" is the provision of television broadcast signals and access and origination channels, if any, and does not include advertising services, rental of studios or equipment, provision of program production services, tiered channels, per‑channel or per‑program charges to subscribers ("pay cable"), rental of channels, sale of channel time, provision of commercial services such as security systems, or any other services of the system, the rates and charges for which shall not require approval by the City.

B. In consideration for the services rendered to the subscribers, grantee may have the right to charge and collect reasonable and just compensation which shall reflect, among other things, the grantee's need to attract new capital and provide a reasonable return on invested capital. The Company, from time to time, may alter these rates at its discretion.

C. Before instituting any increase, grantee will furnish to the City Board a copy of the proposed new rates and charges, as well as information regarding Bureau of Labor Statistics figures on the Consumer Price Index. Such notification shall precede any increase by not less than Thirty (30) days.

D. In no event shall rates be increased for a period of One (1) year following award of franchise for basic service.

Section 20. Recordkeeping. The company shall keep full, true, accurate, and current records, maps, plans, and other like materials, and shall be made available for inspection by the City.

Section 21. Service Procedures. During the term of the agreement codified in this chapter, and any renewal thereof, the company shall maintain within the City a nearby business office or agent for the purpose of receiving and resolving all questions regarding the quality of service, equipment, malfunctions, and similar matters. The provisions of this section shall be complied with if company may be reached by a toll‑free telephone call to receive complaints regarding quality of service, equipment malfunctions and similar matters. The office shall be open to receive inquiries or complaints from subscribers during normal business hours, and in no event less than Nine a.m. (9:00) to Five p.m. (5:00), Monday through Friday.

A. Any complaints from subscribers shall be investigated and acted upon as soon as possible, but at least within five (5) business days of their receipt. The company shall keep a maintenance service log which will indicate the nature of each service complaint, the date and time it was received, the disposition of said complaint, and the time and date thereof.

B. The company shall appropriate means, such as a card or brochure, as subscribers are connected or reconnected to the system, furnish information concerning the procedures for making inquiries and/or complaints, including the name, address, and telephone number of the company.

C. The equipment installed by the Company on behalf of the subscriber shall remain the property of the Company, and shall be subject to reasonable inspection and service by the Company at reasonable hours, and removal upon non‑payment or termination of the service.

D. In the event that any subscriber shall fail to meet his obligations according to the rate schedule and to meet reasonable Company rules and regulations, the Company shall have the right to withhold or deny services to such subscriber.

Section 22. Protection of Privacy.

A. Grantee shall not permit the installation of any special terminal equipment in any subscriber's premises that will permit transmission from subscriber's premises of two‑way services utilizing aural, visual or digital signals without first obtaining written permission of the subscriber.

B. It is unlawful for any person to attach or affix or cause to be attached or affixed any equipment or device which allows access or use of the cable television services without payment to the grantee for same.

Section 23. Program Content Restrictions. In addition to providing basic cable television service consisting of broadcast and automated signals, the company may offer subscribers optional services on a per‑program or per‑channel basis. However, the company shall not display X‑rated motion pictures either as part of its basic cable or pay cable services.

Section 24. Employment‑‑Discrimination Prohibited. The Company shall not refuse to hire, nor discriminate against any person regarding compensation, terms, conditions, or privileges of employment because of sex, age, race, color, creed, or national origin. The Company shall take affirmative action to insure that employees are treated, during employment, without regard to their sex, age, race, color, creed, or national origin.

Section 25. Liability Indemnification. The company shall indemnify the City, and hold it harmless from all liability, damage, cost or expense arising from claims of injury to persons or damage to property occasioned by reason of any conduct undertaken pursuant to this chapter. The Town shall notify the company's representative within Fifteen (15) days after the presentation of any claim or demand to the City, either by suit, or otherwise, made against the City on account of any negligence or contract as aforesaid on the part of the company.

A. Company shall carry Workmen's Compensation insurance with statutory limits, and Employers' Liability insurance with limits of not less than One Hundred Thousand Dollars ($100,000.00), which shall cover all operations to be performed by company as a result of this chapter.

B. The amounts of insurance to be carried for liability due to property damage shall be Five Hundred Thousand Dollars ($500,000.00) as to any one occurrence and against liability due to injury or death of persons, Five Hundred Thousand Dollars ($500,000.00) as to any one person and One Million Dollars ($1,000,000.00) as to any one occurrence.

C. Company's Workmen's Compensation, Comprehensive General Liability and Comprehensive Automobile Liability insurance shall be written by an insurance company authorized to do business in the State of Indiana, and company agrees to furnish City with certificates of insurance of said policies, which shall provide that insurance shall not be canceled unless Ten (10) days prior written notice first be given to City.

Section 26. Activities Prohibited.

A. The company shall not allow its cable or other operations to interfere with television reception of persons not served by the company, nor shall the system interfere with, obstruct or hinder in any manner, the operation of the various utilities serving the residents of the City.

B. The company shall not, as to rates, charges, service facilities, rules, regulations or in any other respect, make or grant any preference or advantage to any person, nor subject any person to any prejudice or disadvantage; provided, that nothing in this chapter shall be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules to which any customer coming within such classification would be entitled.

C. 1. No person, whether or not a subscriber to the cable system may intentionally or knowingly damage, or cause to be damaged, any wire, cable, conduit, equipment or apparatus of the company, or commit any act with intent to cause such damage, or to tap, tamper with, or otherwise connect any wire or device to a wire, cable, conduit, equipment and apparatus, or appurtenances of the company with the intent to obtain a signal or impulse from the cable system without authorization from or compensation to the company, or to obtain cable television or other communications service with intent to cheat or defraud the company of any lawful charge to which it is entitled.

2. Any person convicted of violating any provision of this section is subject to a fine of not less than Fifty Dollars ($50.00), nor more than Five Hundred Dollars ($500.00) for each offense. Each day's violation of this section shall be considered a separate offense.

Section 27. Violation‑‑Penalty. Should the company, its successors or assigns violate any of the provisions of this chapter or any reasonable rules and regulations established by the City pursuant hereto and should such violation continue for more than Sixty (60) Days after the City has given the company written notice of such violation, failure or default, the same shall be cause for the forfeiture or revocation of the Ordinance codified in this chapter and termination of all rights hereunder; provided, however, any delay in correcting such violation which is caused by factors beyond the control of the Company shall not be included in computing the length of the continuance of such violation.

Section 28. Repealer. That all Ordinances in conflict herewith are hereby repealed. They are: Cable Television Franchise Ordinance granted to TeleNational Investment Corporation.

Section 29. Severability Clause. If any section provision or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 30. When Effective. This Ordinance shall be in effect after its final passage, approval, publication, or posting as provided by law.

**TITLE VI: PUBLIC UTILITIES**

CHAPTER 1. Rates and Charges for Water Utility and Sewer Utility

Section 1. Rates and charges for the water utilities are hereby established by the Town Counsel as follows:

(a) Metered Rates per Month Per 1,000 Gallons

First 2,000 gallons $ 8.82

Next 8,000 gallons 6.47

Next 40,000 gallons 4.41

Over 50,000 gallons 2.63

(b) Minimum Charge

Each user shall pay a minimum charge in accordance with the following applicable size of meter installed, for which the user will be entitled to the quantity of water set out in the above schedule of rates.

Size of Meter Minimum Monthly Rate

5/8" ‑ 3/4" meter $ 17.65

1" meter 35.30

1 " meter 58.65

2" meter 93.90

3" meter 146.65

4" meter 263.95

 6" meter 410.55

(c) Fire Hydrants

Public Hydrant Surcharge:

 CHARGE PER MONTH

**SIZE OF METER Phase I Phase II Phase III**

**5/8” – ¾”**meter$6.15 $9.28 $12.41

1” meter 15.38 23.20 31.03

1-1/2” meter 30.75 46.40 62.05

2” meter 49.20 74.24 99.28

3” meter 92.25 139.20 186.15

4” meter 153.75 232.00 310.25

 6” meter 307.50 464.00 620.50

 Charge Per Annum

 **Phase I Phase II Phase III**

Public Hydrants –per hydrant\*:

 $384.62 $192.31 $0.00

 Private Hydrants- per hydrant

 $763.00 $763.00 $763.00

 \*Public hydrant fee funded from property tax revenue to be transitioned to customer bills over the three phases listed above.

 **Private Fire Protection**

Extinguishing fires only – per annum $1,028.00

 **Tap Charge**

 A tap charge shall be collected from each customer, prior to connection to the water system, in an amount sufficient to reimburse the Town for the labor and material necessary for tapping the main and installation of service from the main to the curb stop and the cost of furnishing and installing a suitable water meter.

 The charge for a 5/8” – ¾” installation shall be in the amount of $285.00. The charge for a 1” or larger service shall be the labor and material costs incurred.

 **Collection and Deferred Payment Charges**

 All bills shall be due and payable monthly, and bills unpaid more than 15 days following the date of billing shall include a collection charge of 10% on the first $3.00 of unpaid billing and 3% on the balance of unpaid billing in excess of $3.00. An additional service charge of $25.00 shall be collected for turning off or turning on thereafter any water service that is delinquent in payment.

 **Effective Date**

These rates shall be effective upon adoption of this ordinance.

(d) Private Fire Protection

Extinguishing fires only ‑ per annum $915.00

(e) Tap Charge

A tap charge shall be collected from each customer, prior to connection to the water system, in an amount sufficient to reimburse the Town for labor and material necessary for tapping the main and installation of service from the main to the curb stop and the cost of furnishing and installing a suitable water meter.

The charge for a 5/8" ‑ 3/4" installation shall be in the amount of $254.00. The charge fora 1" or larger service shall be the labor and material costs incurred.

(f) Collection and Deferred Payment Charges

All bills shall be due and payable monthly, and bills unpaid more than 15 days following the date of billing shall include a collection charge of 10% on the first $3.00 of unpaid billing and 3% on the balance of unpaid billing in the excess of $3.00.

(g) Disconnect and Reconnect Fees

An additional service charge of $25.00 shall be collected for turning off or turning on thereafter any water service that is delinquent in payment, or for which disconnection or reconnection has been requested by the customer or for any other reason.

Section 2. For the purpose of billing and collecting the charges for water use, the meters shall be read monthly and the users shall be billed monthly.

Section 3. All ordinances and parts of Ordinances in conflict herewith are repealed.

CHAPTER 2. Definitions

Section 1. Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

 "Ammonia" (or NH3‑N) shall mean the same as Ammonia Nitrogen measured in Nitrogen. The laboratory determination shall be made in accordance with procedures set forth in "Standard Methods" as defined in paragraph (11h) of the Sewer Use Ordinance.

 "BOD" (or Biochemical Oxygen Demand) shall have the same meaning as defined in the Sewer Use Ordinance.

 "Council" shall mean the Town Council of the Town of Etna Green, or any duly authorized officials acting in its behalf.

(d) "Debt Service Costs" shall mean the average annual principal and interest payments on all proposed revenue bonds or other long‑term capital debt.

(e) "Excessive Strength Surcharge" shall man an additional charge which is billed to users for treating sewage wastes with an average strength in excess of "normal domestic sewage".

(f) "Industrial Wastes" shall mean the wastewater discharges from industrial, trade, or business processes as distinct from employee wastes or wastes from sanitary conveniences.

(g) NPDES (National Pollutant Discharge Elimination System) Permit shall have the same meaning as defined in the Sewer Use Ordinance.

(h) "Normal Domestic Sewage" (for the purpose of determining surcharges) shall mean wastewater or sewage having an average daily concentration as follows:

S.S. not more than 250 mg/1

BOD not more than 250 mg/1

NH3‑N not more than 15 mg/1

As defined by origin, wastewaters from segregated domestic and/or sanitary conveniences as distinct from industrial processes.

(i) "Operation and Maintenance Costs" include all costs, direct and indirect, necessary to provide adequate wastewater collection, transport, and treatment on a continuing basis and produce discharge to receiving waters that conform with all related federal, state, and local requirements. (These costs include replacement.)

(j) "Other Service Charges" shall mean tap charges, connection charges, area charges, and other identifiable charges other than excessive strength surcharges.

(k) "Person" shall mean any and all persons, natural or artificial, including any individual, firm, company, municipal or private corporation, association, society, institution, enterprise, governmental agency, or other entity.

(l) "Replacement Costs" shall mean the expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

(m) "S.S." (or suspended solids) shall have the same meaning as defined in the Sewer Use Ordinance.

(n) "Shall" is mandatory; "May" is permissive.

(o) "Sewage" shall have the same meaning as defined in the Sewer Use Ordinance.

(p) "Sewer Use Ordinance" shall mean a separate and companion enactment to this Ordinance, which regulates the connection to and use of public and private sewers.

(q) "Town" shall mean the Town of Etna Green acting by and through the Town Council.

(r) "User Charges" shall mean a charge levied on users of the wastewater treatment works for the cost of operation and maintenance of such works pursuant to Section 204 (b) of Public Law 92‑500.

(s) "User Class" shall mean the division of wastewater treatment customers by source, function, waste characteristics, and process or discharge similarities, (i.e., residential, commercial, industrial, institutional, and governmental in the User Charge System).

**Residential User** ‑ shall mean a user of the treatment works whose premises or building is used primarily as a residence for one or more persons, including all dwelling units, etc.

**Commercial User ‑** shall mean any establishment involved in a commercial enterprise, business, or service which, based on a determination by the Town, discharges primarily segregated domestic wastes or wastes from sanitary conveniences.

**Institutional User ‑** shall mean any establishment involved in a social, charitable, religious, and/or educational function which, based on a determination by the Town, discharges primarily segregated domestic wastes or wastes from sanitary conveniences.

**Governmental User ‑** shall mean any federal, state, or local governmental user of the wastewater treatment works.

**Industrial User ‑** shall mean any manufacturing or processing facility that discharges industrial waste to a wastewater treatment works.

Section 2. Every person whose premises are served by said sewage works shall be charged for the service provided. These charges are established for each user class, as defined, in order that the sewage works shall recover from each user and user class revenue which is proportional to its use of the treatment works in terms of volume and load. User charges are levied to defray the cost of operation and maintenance (including replacement) of the treatment works. User charges shall be uniform in magnitude within a user class.

(a) User charges are subject to the rules and regulations adopted by the USEPA published in the Federal Register February 17, 1984 (40 CFR 35.2140). Replacement costs which are recovered through the system of user charges shall be based upon the expected useful life of the sewage works equipment.

(b) The various classes of users of the treatment works for the purpose of this Ordinance, shall be as follows:

Class I ‑ Residential

Commercial

Governmental

Institutional

Industrial

Section 3. For the use of the service rendered by the sewage works, rates and charges shall be collected from the owners of each and every lot, parcel of real estate, or building that is connected with the Town sanitary system, or otherwise discharges sanitary sewage, industrial wastes, water, or other liquids, either directly or indirectly, into the sanitary sewage system of the Town of Etna Green. Such rates and charges include user charges, debt service costs, excessive strength surcharges, and other service charges, which rates and charges shall be payable as hereinafter provided, and shall be in an amount determined as follows:

**(B) Phase II ‑** Effective January 1, 2008

(1) The sewage rates and charges shall be based on the quantity of water used on or in the property or premises subject to such rates and charges as the same is measured by the water meter installed, except as herein otherwise provided. For the purpose of billing and collecting the charges for sewage service, the water meters shall be read monthly and the users shall be billed each month (or period equaling a month). The water usage schedule on which the amount of said rates and charges shall be determined is as follows:

 **All Class I Users**

 (i) Treatment rate per 1,000 gallons of usage per month:

**User Charge Debt Service Total**

 $ 4.85 $ 2.20 $ 7.05

 (ii) Base rate per month:

 **Water Meter** **User Charge**  **Debt Service**  **Total**

 5/8" - 3/4" $ 4.61 $ 21.04 $ 25.65

 1" 8.76 52.64 61.40

 1-1/4" - 1-1/2" 17.89 122.06 139.95

 2" 29.48 210.52 240.00

 3" 65.43 484.12 549.55

 4" 115.25 863.05 978.30

 6" 256.31 1,936.29 2,192.60

(2) For users of the sewage works that are unmetered water users or accurate meter readings are not available, the monthly charge shall be determined by equivalent single family dwelling units, except as herein provided. Sewage service bills shall be rendered once each month (or period equaling a month). The schedule on which said rates and charges will be determined is as follows:

 **Monthly Rate**

 **User Charge Debt Service Total** Residential:

 Single family

dwelling unit $ 26.44 $ 30.94 $ 57.38

(3) For the service rendered to the Town of Etna Green, said Town shall be subject to the same rates and charges established in harmony therewith.

(4) In order to recover the cost of monitoring industrial wastes, the Town shall charge the user not less than $25.00 per sampling event plus the actual cost for collecting and analyzing the sample(s) as determined by the Town or by an independent laboratory. This charge will be reviewed on the same basis as all other rates and charges in this Ordinance.

(5) These rates shall be effective January 1, 2008.

Section 4. The quantity of water discharged into the sanitary sewage system and obtained from sources other than the utility that serves the Town shall be determined by the Town in such manners the Town shall reasonably elect, and the sewage service shall be billed at the above appropriate rates; except as hereinafter provided in this section, the Town may make proper allowances in determining the sewage bill for quantities of water shown on the records to be consumed, but which are also shown to the satisfaction of the Town that such quantities do not enter the sanitary sewage system.

(a) In the event a lot, parcel of real estate, or building other than a single family dwelling unit discharging sanitary sewage, industrial wastes, water, or other liquids into the Town's sanitary sewage system, either directly or indirectly, is not a user of water supplied by the water utility serving the Town, and the water used thereon or therein is not measured by a water meter, or is measured by a water meter not acceptable to the Town, the amount of water used shall be otherwise measured or determined by the Town. In order to ascertain the rate or charge provided in this Ordinance, the owner or other interested party shall, at his expense, install and maintain meters, weirs, volumetric measuring devices, or any adequate and approved method of measurement acceptable to the Town for the determination of sewage discharge.

(b) In the event a lot, parcel of real estate, or building discharging sanitary sewage, industrial wastes, water, or other liquids into the Town's sanitary sewage system, either directly or indirectly, is a user of water supplied by the water utility serving the Town, and in addition is a user of water from another source which is not measured by a water meter or is measured by a meter not acceptable to the Town, then the amount of water used shall be otherwise measured or determined by the Town. In order to ascertain the rates and charges, the owner or other interested parties shall, at his expense, install and maintain meters, weirs, volumetric measuring devices, or any adequate and approved method of measurement acceptable to the Town for the determination of sewage discharge.

(c) In the event two (2) or more residential lots, parcels of real estate, or buildings discharging sanitary sewage, water, or other liquids into the Town's sanitary sewage system, either directly or indirectly, arc users of water and the quantity of water is measured by a single water meter, then in each such case, for billing purposes, the quantity of water used shall be averaged for each user and the base charge and the flow rates and charges shall apply to each of the number of residential lots, parcels of real estate, or buildings served through the single water meter.

(d) In the event two (2) or more dwelling units such as mobile homes, apartments, or housekeeping rooms discharging sanitary sewage, water, or other liquids into the Town's sanitary sewage system, either directly or indirectly, are users of water and the quantity of water is measured by a single water meter, then in such case, billing shall be for a single service in the manner set out elsewhere herein, except that the minimum bill shall be $14.25 per month per dwelling unit over (1) served through a single water meter effective upon passage of this Ordinance and $15.25 per month per dwelling unit over one (1) served through the single water meter effective January 1, 2008. In the case of mobile home courts, the number of dwelling units shall be computed and interpreted as the total number of mobile home spaces available for rent plus any other dwelling units served through a meter. A dwelling unit shall be interpreted as a room or rooms or any other space or spaces in which cooking facilities are provided.

(e) In the event a lot, parcel of real estate, or building discharging sanitary sewage, industrial wastes, water, or other liquids into the Town's sanitary sewage system, either directly or indirectly, and uses water in excess of 15,000 gallons per month, and it can be shown to the satisfaction of the Town that a portion of water as measured by the water meter or meters does not and cannot enter the sanitary sewage system, then the owner or other interested party shall, at his expense, install and maintain meters, weirs, volumetric measuring devices, or any adequate and approved method of measurement acceptable to the Town for the determination of sewage discharge.

Section 5. In order that the rates and charges may be justly and equitably adjusted to the service rendered to users, the Town shall base its charges not only on the volume, but also on strength and character of the stronger‑than‑normal domestic sewage and wastes which it is required to treat and dispose of The Town shall require the user to determine the strength and content of all sewage and wastes discharged, either directly or indirectly into the sanitary sewage system, in such manner and by such method, and at such times as the Town may deem practicable in light of the conditions and attending circumstances of the case, in order to determine the proper change. The user shall furnish a central sampling point available to the Town at all times.

(a) Normal domestic waste strength should not exceed suspended solids in excess of 250 milligrams per liter of fluid, biochemical oxygen demand in excess of 250 milligrams per liter of fluid, or ammonia in excess of 15 milligrams per liter of fluid. Additional charges for treating stronger‑than‑normal domestic waste shall be made on the following basis:

(1) **Rate Surcharge Based Upon Suspended Solids**

There shall be an additional charge of 42 cents per pound of suspended solids for suspended solids received in excess of 250 milligrams per liter of fluid.

(2) **Rate Surcharge Based Upon BOD**

There shall be an additional charge of 42 cents per pound of biochemical oxygen demand for BOD received in excess of 250 milligrams per liter of fluid.

(3) **Rate Surcharge Based Upon Ammonia**

There shall be an additional charge of $1.25 per pound of ammonia for ammonia received in excess of 15 milligrams per liter of fluid.

(b) The determination of Suspended Solids, Biochemical Oxygen Demand, and Ammonia contained in the waste s hall be in accordance with the latest copy of "Standard Methods for the Elimination of Water, Sewage, and Industrial Wastes", as written by the American Public Health Association, the American Waterworks Association, and the Water Pollution Control Federation, and in accordance with"Guidelines Establishing Test Procedures for Analysis of Pollutants", 40 CFR Part 136.

**Section 6.**  Such rates and charges shall be prepared, billed, and collected by the Town inthe manner provided by law and ordinance.

(a) The rates and charges for all users shall be prepared and billed monthly. Annually, each user shall be notified of the portion of the total billing charged for operation, maintenance, and replacement for that user during the preceding year.

(b) The rates and charges may be billed to the tenant or tenants occupying the properties served, unless otherwise requested in writing by the owner, but such billing shall in no way relieve the owner from the liability in the event payment is not made as herein required.

The owners of properties served, which are occupied by a tenant or tenants, shall have the right to examine the collection records of the Town for the purpose of determining whether bills have been paid by such tenant or tenants, provided that such examination shall be made at the office at which such records are kept, and during the hours that such office is open for business.

(c) As is provided by statute, all rates and charges not paid by the 15th day of the month following receipt are hereby declared to be delinquent and a penalty of ten percent (10%) of the amount of the rates and charges shall thereupon attach thereto.

**Section 7.** In order that the rates and charges for sewage services may remain fair and equitable and be in proportion to the cost of providing services to the various users of user classes, the Town shall cause a study to be made biennially within a reasonable period of time following the normal accounting period, following the date on which this Ordinance goes into effect. Such study shall include, but not be limited to, an analysis of the cost associated with the treatment of excessive strength effluents from industrial users, volume and delivery flow rate characteristics attributed to the various users or user classes, the financial position of the sewage works and the adequacy of its revenue to provide reasonable funds for the operations, maintenance, and replacements, debt service requirements, and capital improvements to the wastewater treatment system.

Thereafter, on a biennial basis, within a reasonable period of time following the normal accounting period, the Town shall cause a similar study to be made for the purpose of reviewing the fairness, equity, and proportionality of the rates and charges for sewage services on a continuing basis. Said studies shall be conducted by officers or employees of the Town, or by a firm of certified public accountants, or a firm of consulting engineers, which firms shall have experience in such studies, or by engineers as the Town shall determine to be best under the circumstances. The Town shall, upon completion of said study, revise and adjust the rates and charges, as necessary, in accordance therewith in order to maintain the proportionality and sufficiency of the rates.

**Section 8.** The Town shall make and enforce such by‑laws and regulations as may be deemed necessary for the safe, economical, and efficient management of the Town's sewage system, pumping stations, and sewage treatment works, for the construction and use of house sewers and connection to the sewage treatment works, the sewage collection system, and for the regulation, collection, and rebating and refunding of such rates and charges.

The Town is hereby authorized to prohibit dumping of wastes into the Town's sewage system which, in its discretion, are deemed harmful to the operation of the sewage treatment works of the Town, or to require method affecting pretreatment of said wastes to comply with the pretreatment standards included in the National Pollutant Discharge Elimination System (NPDES) Permit issued to the sewage works, or as contained in the EPA General Pretreatment Regulations, 40 CFR Part 403, and any amendments thereto, or the Town's Pretreatment Program Plan.

**Section 9.** That the rules and regulations promulgated by the Town, after approval by the Town Council, shall, among other things, provide for an appeal procedure whereby a user shall have the right to appeal a decision of the administrator of the sewage system and user charge system to the Town Council, and that any decision concerning the sewage system or user charges of the Town Council may be appealed to the circuit court of any county under the appeal procedures provided for in the Indiana Administrative Adjudication Act.

**Section 10.** The invalidity of any section, clause, sentence, or provisions of this Ordinance shall not affect the validity of any other part of this Ordinance which shall be given effect without such invalid part or parts.

**Section 11.** The Council is hereby further authorized to enter into special rate contracts with customers of the sewage works where clearly definable reduction in cost to the sewage works can be determined, and such reduction shall be limited to such reduced costs.

**Section 12.** The rates and charges as herein set forth shall become effective on the first full billing period occurring after the adoption of this Ordinance.

**Section 13.**  Any person who believes himself aggrieved through the enforcement of this Ordinance has the right to seek administrative relief before the Town.

**Section 14**. This Ordinance shall be in full force and effect from and after its passage, approval, recording, and publication as provided by law.

CHAPTER 3. Special Rates and Charges

Section 1. All electrical bills shall be rendered and due monthly. If not paid by the 15th day following the date of the bill, there shall be added 10% of the first $3.00 of the bill, plus 3% of the amount of the bill in excess of $3.00. Any payment made by mail on or before the 15th day following the date of the bill as shown by a postmark on the envelope for the payment by the United States post office, will be accepted as a payment within the time limit. When the 15th day falls on Sunday of any other legal holiday, the first business day thereafter shall be considered the 15th day. Delinquent notices shall be sent to customers with bills delinquent over 15 days requiring the bill to be paid by the last day of the month. Disconnect notices shall also be sent stating the customer has 24 hours to pay the delinquent bill. Any customers services that are disconnected due to a delinquent bill shall be charged a $25.00 disconnect fee. Any customer whose services are reconnected after disconnection due to non-payment of a delinquent bill shall pay a $25.00 reconnect fee. If a bill is delinquent over 90 days, the Clerk/Treasurer may refer the bill to collection. Nothing in this section shall be construed so as to modify previous ordinances and schedules of the Etna Green Municipal Electric Utility regarding charges for installation, disconnection, re-connection, street lights, night lights, or other special charges.

Section 2. That the Clerk‑Treasurer of the Town of Etna Green be and is hereby authorized to file whatever documents and requests may be necessary with the Public Service Commission of the State of Indiana to accomplish the intent of this ordinance.

Section 3. See "Attachment B" for Appendix A to above ordinance.

Section 4. Deposit A deposit shall be collected from each customer, prior to the customer receiving electric service. Said deposit shall be in the sum of $100.00. Said deposit shall be refunded to the customer or applied to the last bill of the customer after one year, if the customer's account has been kept current. Said deposit can be applied to the past due bill of the customer after one year, if the account has not been kept current.

Section 5. Unclaimed Meter Deposit A meter deposit which remains unclaimed for a period of three years shall be deposited into the Towns Electric Fund.

CHAPTER 4. Building Sewers, Regulations and Permits

For the purpose of this ordinance a building sewer is defined as that part of the horizontal piping of a building drainage system extending from the outside of the building from the end of the inside plumbing system to, and including, the connection with the municipal sewerage system.

No connection to or tapping of a municipal sewer shall be made except by or under the supervision of a person or persons licensed by the Town of Etna Green, Indiana, to do such work, or under the constant supervision and presence of the Street Commissioner of the Town of Etna Green, Indiana.

When the Street Commissioner is the Supervisor of said work, the person, firm or corporation using said service shall pay to the Town of Etna Green a sum per hour as set from time to time by the Board of Trustees.

A permit shall be secured from the Town of Etna Green, Indiana, by the owner of the property or by his authorized agent before connecting to or tapping a municipal sewer; altering or laying a building sewer to or from any sewer which is a part of the municipal sewerage system. Application for a permit shall be made on a blank form furnished for that purpose, which application shall be accompanied by a fee of Three Dollars ($3.00) payable to the Town Treasurer, for the use of the Town of Etna Green. Each application shall give the precise location of the property, the name of the owner, and the name of the person employed to do the work. No permit shall be deemed to authorize anything that is not stated in the application. When the permit has been granted, the Town of Etna Green, Indiana, shall designate the position or location of the "Y" branch in the street. After the work has been done, the person or persons securing the permit shall file in the office of the Town Clerk, on blank forms furnished for the purpose, a correct statement of the work done under the permit, and where required, a sketch showing the location of the building sewer.

Material for the building sewer shall be of standard scale glazed vitrified sewer pipe not less than 4" in diameter and shall conform to the requirements of the specifications for clay sewer pipe of the American Society for Testing Materials. Pipe made from other materials may be accepted, if approved by the Board of Trustees, in writing.

The connection between the building sewer and the municipal sewer shall be made at the "Y" branch, provided there is one. If no "Y" branch was left in the municipal sewer for the building sewer and the municipal sewer is not over 12" in diameter a "Y" branch shall be installed in the municipal sewer at the desired location by the owner of the building sewer. Where the municipal sewer is over 12" in diameter and where no "Y" branch was left for the building sewer, a hole may be cut in the municipal sewer large enough to receive the end of the building sewer and the connection made so that the building sewer enters the municipal sewer at an angle of about 45 degrees. A 45 degree ell may be used to make this connection with the spigot end cut to fit so as not to extend past the inside surface of the municipal sewer. A smooth joint shall be made and the connection made secure and water tight by encasing with concrete. The person or person securing the permit shall notify the Street Commissioner of Etna Green, Indiana, when the work will be completed and ready for inspection. No backfill shall be placed over any connection made with the municipal sewer until it has been inspected and approved by the above named officer or his authorized representative. Said officer shall make the inspection within 30 hours after receiving notice that the connection is made and ready for inspection.

The grade of the building sewer shall not be less than 1/4 inch per foot for 4 or 6 inch pipe and not less than 1/8 inch per foot for pipe 8 inches or over in diameter. All pipe shall be laid on a uniform grade and where possible, on a straight line. Where the building sewer cannot be laid on a straight line, curved pipe shall be used for every deflection from a straight line of more than 3 inches per foot. All joints between two sections of pipe shall be made tight by the use of suitable jointing material.

Proper barricades and lights must be maintained on the banks of the trenches to guard the public against accidents during the progress of the work. In back‑filling the material shall be carefully placed and packed around the pipe to provide a uniform bearing and to keep the pipe in proper position. No stones, brick or the like shall be used in the backfill until there has been a depth of at least 18 inches of sand placed over the pipe. On town property, or easements maintained by the town, such as streets and alleys, all fill beyond and above the 18" of sand required herein, shall be compatible processed gravel to the surface; the particular material to be used shall be approved in advance by the Street Commissioner prior to the placement of fill over the pipe. If blasting is required in excavating, the utmost precaution shall be used to cover the blast with suitable cover such as mats, timber, brush, etc., so that life and property in the vicinity will not be jeopardized.

CHAPTER 5: Sewer Rates for Municipal Buildings.

Each building owned by the Town of Etna Green shall be charged a base fee of Twenty-Five Dollars and Sixty-Five Cents ($25.65) per month as a sewer rate.

CHAPTER 6: Payment Methods for Utility Bills.

Section 1. Payments to any division of the Etna Green Municipal Utilities may be made by any of the following financial instruments:

A. Cash;

B. Check;

C. Bank draft;

D. Money order;

E. Bank card or credit card;

F. Electronic funds transfer.

Section 2. The Clerk-Treasurer of the Town of Etna Green is authorized to establish rules and regulations for acceptance of payments, and to charge all persons who make payment with a bank card or credit card any sums charged to the Etna Green Municipal Utilities for the use of such financial instrument.

Section 3. The Clerk-Treasurer of the Town of Etna Green is authorized to contract with a bank card or credit card vendor for acceptance of bank cards and credit cards pursuant to this Chapter.

Section 4. The Etna Green Municipal Utilities is authorized to pay any applicable bank card or credit card services charges associated with the use of a bank card or credit card pursuant to any such contract.

Section 5. The financial instruments identified in Section 1 shall have the definition given to them under Indiana State Law.

CHAPTER 7: Net Metering Program.

SECTION 1. The findings and determinations set forth in the preambles to this Ordinance are hereby made findings and determinations of the Council.

SECTION 2. The Town of Etna Green encourages interested citizens and businesses to invest in renewable electric energy generation systems and enter into a Net Metering arrangement with the municipal electric utility of the Town of Etna Green.

SECTION 3. "Eligible Net Metering Customers" include single phase customers in good standing that own and operate a renewable generating facility that: (a) has a nameplate capacity less than or equal to ten (10) kilowatts (kW); (b) is located on the customer's premises and is operated by the customer; and (3) is used primarily to offset all or part of the customer's own electricity requirements.

SECTION 4. The Council authorizes the utility to offer Net Metering to Eligible Net Metering Customers on a first come, first served basis. The utility shall limit the aggregate amount of net metering facility nameplate capacity from all Eligible Net Metering Customers to one-tenth of one percent (0.1%) of the utility's most recent summer peak load.

SECTION 5. The Utility shall measure the difference between the amount of energy delivered by the Utility to the Eligible Net Metering Customer and the amount of energy generated by the Eligible Net Metering Customer and delivered to the Utility. If the Eligible Net Metering Customer generates more energy than it consumes in a month, the customer shall receive a bill credit from the utility for the amount of surplus energy generated. The utility shall not purchase or wheel power produced by an Eligible Net Metering Customer's facilities.

SECTION 6. The attached "Net Metering Tariff' shall be adopted as the rates, terms and conditions under which the utility will offer Net Metering to Eligible Net Metering Customers.

SECTION 7. In accordance with the terms of the attached Net Metering Tariff, the utility shall enter into an interconnection agreement with the Eligible Net Metering Customer, which incorporates technical interconnection requirements and does not conflict with this Ordinance before the Net Metering facility may be interconnected with the utility's system.

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

SECTION 9. This ordinance replaces and supersedes any previously existing ordinances concerning Net Metering. This ordinance shall be in full force and effect from and after its passage.

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