

## **TITLE I GENERAL PROVISIONS**

Title I shall be amended as follows:

Except as otherwise stated below or when referring to past approved acts, all references in Title I to the “town” or “Town” are hereby amended to refer to the “city” or “City”, references to the “Town Council” are hereby amended to refer to the “City Council”, references to the “Clerk-Treasurer” are hereby amended to refer to the “Clerk”, references to the “Town Manager” are hereby amended to refer to the “Mayor”, references to the “Town Court” are hereby amended to refer to the “City Court”, references to the “Town Judge” are hereby amended to refer to the “City Judge” and references to the “Town Attorney” are hereby amended to refer to “Corporation Counsel or his or her designee”.

In addition to the above, the following specifically referenced chapters, sections and subsections shall be further amended as follows:

### **CHAPTER 10. GENERAL PROVISIONS**

§ 10.01 is hereby amended as follows:

#### **§ 10.01 TITLE OF CODE**

This codification of ordinances by and for the City of Fishers shall be designated as the Code of Fishers and may be so cited.

§ 10.05 is hereby amended as follows:

#### **§ 10.05 DEFINITIONS**

(A) General rule. Words and phrases shall be taken in their plain or ordinary and usual sense. However, technical words and phrases having a specific and appropriate meaning in law shall be understood according to their technical import.

(B) For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

(1) CITY, MUNICIPAL CORPORATION, MUNICIPALITY, or CITY. The City of Fishers, Hamilton County, Indiana.

(2) CODE, THIS CODE or THIS CODE OF ORDINANCES. This municipal code as modified by amendment, revision, and adoption of new titles, chapters, or sections.

(3) COUNTY. Hamilton County, Indiana.

(4) MAY. The act referred to is permissive.

(5) MONTH. A calendar month.

(6) OATH. An affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words SWEAR and SWORN shall be equivalent to the words AFFIRM and AFFIRMED.

(7) OFFICER, OFFICE, EMPLOYEE, COMMISSION, or DEPARTMENT. An officer, office, employee, commission or department of this municipality unless the context clearly requires otherwise.

(8) PERSON. Extends to and includes person, persons, firm, corporation, co-partnership, trustee, lessee, or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms PERSON or WHOEVER as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

(9) PRECEDING or FOLLOWING. Next before or next after, respectively.

(10) SHALL. The act referred to is mandatory.

(11) SIGNATURE or SUBSCRIPTION. Includes a mark when the person cannot write.

(12) STATE. The State of Indiana.

(13) SUBCHAPTER. A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have subchapters.

(14) WRITTEN. Any representation of words, letters, or figures, whether by printing or otherwise.

(15) YEAR. A calendar year, unless otherwise expressed; equivalent to the words YEAR OF OUR LORD.

§ 10.12 is hereby amended as follows:

### **§ 10.12 REASONABLE TIME**

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time that is necessary for a prompt performance of such act or the giving of such notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day is a Sunday, it shall be extended to the following Monday.

§ 10.16 is hereby amended as follows:

## **§ 10.16 REPEAL OR MODIFICATION OF ORDINANCE**

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the due publication of the ordinance repealing or modifying it when publication is required to give effect thereto, unless otherwise expressly provided.

(B) No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in anyway be affected, released, or discharged, but may be prosecuted, enjoyed, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(C) When any ordinance repealing a former ordinance, clause, or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause, or provision, unless it is expressly provided.

The heading for Chapter 11 shall be amended to refer to the following:

### **CHAPTER 11. CITY OWNED REAL ESTATE**

§ 11.02 is hereby amended as follows:

#### **§ 11.02 PUBLIC IMPROVEMENTS, IMPROVEMENT ON OR TO CITY OWNED PROPERTY AND REVIEW OF SAME**

(A) Project(s) on city owned property shall go through a review process and make every effort possible to adhere to the development and design standards contained herein.

(B) A review list outlining deviations, if any, from the above referenced standards shall be created, kept with the master file and made available for review upon request.

(C) The above mentioned list shall also be issued, in memo format, to the Public Works and Safety Board as a part of their project review and approval process.

## **TITLE III ADMINISTRATION**

Title III is hereby amended as follows:

Except as otherwise stated below or when referring to past approved acts, all references in Title III to the “town” or “Town” are hereby amended to refer to the “city” or “City”, references to the “Town Council” are hereby amended to refer to the “City Council”, references to the “Clerk-Treasurer” are hereby amended to refer to the “Clerk”, references to the “Town Manager” are hereby amended to refer to the “Mayor”, references to the “Town Court” are hereby amended to refer to the “City Court”, references to the “Town Judge” are hereby amended to refer to the “City Judge” and references to the “Town Attorney” are hereby amended to refer to “Corporation Counsel or his or her designee”.

In addition to the above, the following specifically referenced chapters, sections and subsections shall be further amended, repealed or restated as follows:

### **CHAPTER 30. ELECTED OFFICIALS**

The following subheading is hereby added:

#### **CITY COUNCIL**

§ 30.01 is hereby amended as follows:

#### **§ 30.01 AUTHORITY/CITY COUNCIL TO SERVE AS LEGISLATIVE BRANCH**

The City Council elected under IC 3-10-6 *et. seq.* is the city legislative body. Pursuant to IC 36-4-4-4, as amended, all powers and duties that are legislative in nature shall be exercised or performed by the Council. The Council may not elect or appoint a person to any office or employment, except as provided by statute.

§ 30.02 is hereby amended as follows:

#### **§ 30.02 COUNCIL DISTRICTS**

Pursuant to IC 36-4-1.5-3, The Councilmanic Districts are established as set forth in Ordinance 100713A, which is incorporated by reference and made a part hereof.

§ 30.03 is hereby amended as follows:

#### **§ 30.03 COUNCIL MEMBERS**

(A) The Council shall be composed of nine members of which six shall be elected from districts and three elected at-large, pursuant to IC 36-4-6-3.

(B) The term of office of a member of the Council is four years, beginning at noon on January 1 after the election and continuing until the successor is elected and qualified, except that Council members elected in 2014 shall serve a term of one (1) year pursuant to Ind. Code IC 36-4-1.5-4.

(C)

(1) A member of the City Council must reside within:

(a) The city as provided in Article 6, Section 6 of the Constitution of the State of Indiana; and

(b) The district from which the member was elected, if applicable.

(2) A member of the City Council who is elected by the voters of a district forfeits office if the member ceases to be a resident of the district from which he is elected.

(3) An at-large member of the City Council forfeits office if the member ceases to be a resident of the city.

§ 30.04 is hereby amended as follows:

#### **§ 30.04 PRESIDENT AND VICE-PRESIDENT OF COUNCIL**

Pursuant to IC 36-4-6-8(a),

(A) At its first regular meeting of the year, and each succeeding January, the City Council shall choose from its members a President and a Vice President.

(B) The Council President is the presiding officer. When the President is absent, the Vice-President shall preside for that meeting.

Former § 30.05 is hereby repealed and the following added as § 30.05:

#### **§ 30.05 MEETINGS**

Unless or until modified by resolution, the regular meetings of the City Council shall be held on the first and third Mondays of each month. Exceptions shall be made as needed with as much notice to the public of any such change as possible, but in no event less than 48 hours notice of such change. Additional meeting dates as needed may be set on not less than 48 hour notice or such other notice as may be required by state law.

Former § 30.06 is hereby repealed and the following added as § 30.06:

#### **§ 30.06 QUORUM**

Pursuant to IC 36-4-6-10, a majority of all the elected members of the City Council constitutes a quorum.

Former § 30.07 is hereby repealed and the following added as § 30.07:

### **§ 30.07 VOTING**

Pursuant to IC 36-4-6-11,

(A) A requirement that an ordinance, resolution, or other action of the City Council be passed by a majority vote means at least a majority vote of all the elected members. A requirement that an ordinance, resolution or other action of the City Council be passed by a two-thirds vote means at least a two-thirds vote of all the elected members.

(B) A majority vote of the City Council is required to pass an ordinance, unless a greater vote is required by statute, pursuant to IC 36-4-6-12.

(C) Pursuant to IC 36-4-6-13, a two-thirds vote of all the elected members, after unanimous consent of the members present to consider the ordinance, is required to pass an ordinance of the City Council on the same day or at the same meeting at which it is introduced. This division (C) does not apply to a zoning ordinance or amendment to a zoning ordinance that is adopted under IC 36-7.

Former § 30.08 is hereby repealed and the following added as § 30.08:

### **§ 30.08 PUBLICATION AND NOTICE OF ORDINANCES**

(A) Pursuant to IC 36-4-6-14, an ordinance, order, or resolution passed by the City Council is considered adopted when it is signed by the presiding officer and Mayor or passed by the City Council over the veto of the Mayor pursuant to IC 36-4-6-16. If required by statute, an adopted ordinance, order, or resolution must be promulgated or published before it takes effect.

(B) An ordinance prescribing a penalty or forfeiture for a violation must, before it takes effect, be published in the manner prescribed by IC 5-3-1, unless:

(1) It is published under division (C); or

(2) It declares an emergency requiring its immediate effectiveness and is posted in one public place in each district in the city.

(C) Except as provided in division (E), if the city publishes any of its ordinances in book or pamphlet form, no other publication is required. If an ordinance prescribing a penalty or forfeiture for a violation is published under this division, it takes effect two weeks after the publication of the book or pamphlet. Publication under this division, if authorized by the legislative body, constitutes presumptive evidence:

(1) Of the ordinances in the book or pamphlet;

(2) Of the date of adoption of the ordinances; and

(3) That the ordinances have been properly signed, attested, recorded, and approved.

(D) This section (other than division (F)) does not apply to a zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under IC 36-7 *et. seq.*

(E) An ordinance increasing a building permit fee on new development must:

(1) Be published:

(a) One time in accordance with IC 5-3-1; and

(b) Not later than 30 days after the ordinance is adopted by the legislative body in accordance with IC 5-3-1.

(2) Delay the implementation of the fee increase for 90 days after the date the ordinance is published under divisions (E)(1).

(F) Subject to division (J), the City Council shall:

(1) Subject to division (G), give written notice to the Department of Environmental Management not later than 60 days before amendment or repeal of an environmental restrictive ordinance; and

(2) Give written notice to the Department of Environmental Management not later than 30 days after passage, amendment, or repeal of an environmental restrictive ordinance.

(G) Upon written request by the City Council, the Department of Environmental Management may waive the notice requirement of division (F)(1).

(H) An environmental restrictive ordinance passed or amended after 2009 by the City Council must state the notice requirements of division (F).

(I) The failure of an environmental restrictive ordinance to comply with division (H) does not void the ordinance.

(J) The notice requirements of division (F) apply only if the municipal corporation received under IC 13-25-8-8.5(f) written notice that the Department of Environmental Management is relying on the environmental restrictive ordinance referred to in division (F) as part of a risk based remediation proposal:

(1) Approved by the Department of Environmental Management; and

(2) Conducted under IC 13-22, IC 13-23, IC 13-24, IC 13-25-4 or IC 13-25-5.

Former § 30.09 is hereby repealed and the following added as § 30.09:

## **§30.09 LOANS AND BONDS**

The City Council may, by ordinance, to or perform the following:

A. Make loans of money and issue bonds for the purpose of refunding those loans. The loans may be made only for the purpose of procuring money to be used in the exercise of the powers of the city or for the payment of city debts.

B. An ordinance adopted under this section:

- (1) must include the terms of the bonds to be issued in evidence of the loan;
- (2) must include the time and manner of giving notice of the sale of the bonds;
- (3) must include the manner in which the bonds will be sold; and
- (4) may authorize a total amount for any issue of bonds.

C. Bonds issued under this section may be sold in parcels of any size and at any time their proceeds are needed by the city.

D. Bonds issued and sold by a city under this section:

- (1) are negotiable with or without registration, as may be provided by the ordinance authorizing the issue;
- (2) may bear interest at any rate;
- (3) may run not longer than thirty (30) years;
- (4) may contain an option allowing the city to redeem them in whole or in part at specified times prior to maturity; and
- (5) may be sold for not less than par value.

E. The Controller shall:

- (1) manage and supervise the preparation, advertisement, negotiations, and sale of bonds under this section, subject to the terms of the ordinance authorizing the sale;
- (2) certify the amount the purchaser is to pay, together with the name and address of the purchaser;
- (3) receive the amount of payment certified;
- (4) deliver the bonds to the purchaser;
- (5) take a receipt for the securities delivered;



- (6) pay the purchaser's payment into the city treasury; and
- (7) report the proceedings in the sale to the legislative body.

The actions of the Controller under this subsection are ministerial.

Former § 30.10 is hereby repealed and the following added as § 30.10:

**§30.10 TEMPORARY OR SHORT TERM LOANS IN ANTICIPATION OF CURRENT REVENUES**

A. Pursuant to IC 36-4-6-19, the City Council may, by ordinance, make loans of money for not more than five (5) years and issue notes for the purpose of refunding those loans. The loans may be made only for the purpose of procuring money to be used in the exercise of the powers of the city, and the total amount of outstanding loans under this subsection may not exceed five percent (5%) of the city's total tax levy in the current year (excluding amounts levied to pay debt service and lease rentals). Loans under this subsection shall be made in the same manner as loans made under section 19 of this chapter, except that:

- (1) the ordinance authorizing the loans must pledge to their payment a sufficient amount of tax revenues over the ensuing five (5) years to provide for refunding the loans; and

- (2) the loans must be evidenced by notes of the city in terms designating the nature of the consideration, the time and place payable, and the revenues out of which they will be payable.

Notes issued under this subsection are not bonded indebtedness for purposes of IC 6-1.1-18.5.

B. The City Council may, by ordinance, make loans and issue notes for the purpose of refunding those loans in anticipation of revenues of the city that are anticipated to be levied and collected during the term of the loans. The term of a loan made under this subsection may not be more than five (5) years. Loans under this subsection, among other procedures required by law, shall be made as follows:

- (1) the ordinance authorizing the loans must appropriate and pledge to their payment a sufficient amount of the revenues in anticipation of which they are issued and out of which they are payable; and

- (2) the loans must be evidenced by time warrants of the city in terms designating the nature of the consideration, the time and place payable, and the revenues in anticipation of which they are issued and out of which they are payable.

C. An action to contest the validity of a loan made under this section must be brought within fifteen (15) days from the day on which the ordinance is adopted.

**§§ 30.11 – 30.14 are hereby repealed.**

The following subheading is hereby added:

## **MAYOR**

§ 30.20 is hereby added as follows:

### **§ 30.20 AUTHORITY**

Pursuant to IC 46-4-4-3, the powers and duties of a city that are executive or administrative in nature shall be exercised or performed by the Mayor, another city officer, or a city department. If an executive or administrative function is not assigned by a statute, ordinance, or resolution, the Mayor shall assign that function to the proper department or officer.

§ 30.21 is hereby added as follows:

### **§ 30.21 ELECTION AND ELIGIBILITY**

Pursuant to IC 36-4-5-2, a mayor, who is the city executive, shall be elected under IC 3-10-6 by Fishers' voters.

A person is eligible to be Mayor if the person:

- A. has resided in Fishers for at least one (1) year or resides in territory annexed by Fishers prior to the election; and
- B. meets the qualifications prescribed by IC 3-8-1-26.
- C. The Mayor forfeits office if the Mayor ceases to be a resident of the city.

The Mayor's term of office is for four (4) years, beginning at noon on January 1 after election and continuing until a successor is elected and qualified, except that the Mayor elected in 2014 shall serve a one (1) year term pursuant to IC 36-4-1.5-4.

Former § 32.03 is hereby repealed and the following added as § 32.03:

§ 30.22 is hereby added as follows:

### **§ 32.22 MAYORAL RESPONSIBILITIES**

Pursuant to IC 36-4-5-3, the Mayor shall:

- (1) enforce the ordinances of the city and the statutes of the state;
- (2) provide a statement of the finances and general condition of the city to the City Council at least once a year;
- (3) provide any information regarding city affairs that the City Council requests;

- (4) recommend, in writing, to the City Council actions that the Mayor considers proper;
- (5) call special meetings of the City Council when necessary;
- (6) supervise subordinate officers;
- (7) ensure efficient government of the city;
- (8) fill vacancies in city offices when required by IC 3-13-8;
- (9) sign all bonds, deeds, and contracts of the city and all licenses issued by the city; and
- (10) approve or veto ordinances, orders, and resolutions of the City Council under IC 36-4-6-15.

§ 32.23 is hereby added as follows:

### **§ 32.23 APPOINTMENTS**

Pursuant to IC 36-4-5-4, the Mayor shall make the appointments of city officers and employees and appointments to City boards and commissions as required by law.

§ 30.24 is hereby added as follows:

### **§ 32.24 HEAR COMPLAINTS/ISSUE LICENSES**

Pursuant to IC 36-4-5-5, the Mayor is authorized to do the following:

- A. adjudicate complaints against a person to whom a license is issued following the procedure set forth in state statutes; and
- B. following such proceedings, revoke or suspend city issued licenses.

§ 30.25 is hereby added as follows:

### **§ 30.25 MEETINGS WITH DEPARTMENTS; RECORDS**

Pursuant to IC 36-4-5-6, at least once a month, the Mayor shall meet with the officers in charge of the city departments:

- (1) for consultation on the affairs of the city;
- (2) to adopt rules and regulations for the administration of the affairs of city departments; and
- (3) to adopt rules and regulations prescribing a merit system for selecting, appointing, or promoting city officers and employees.

A record of meetings under this section shall be kept.

§ 32.26 is hereby added as follows:

### **§ 30.26. MAYOR'S ABSENCE**

Pursuant to IC 36-4-5-9, whenever the Mayor is absent or going to be absent from the City, ill, or injured, he may designate the following as acting executive for a maximum of fifteen (15) days in any sixty (60) day period:

- (1) the deputy mayor, if that position has been established; or
- (2) a member of the City Council.

The designation of an acting executive shall be certified pursuant to IC 36-4-5-9.

§ 30.27 is hereby added as follows:

### **§ 30.27 MAYOR UNABLE TO DISCHARGE DUTIES**

Pursuant to IC 36-4-5-9, the President or president pro tempore of the Council may file with the Hamilton County Circuit Court a written statement suggesting that the Mayor is unable to discharge the powers and duties of his office, and the Circuit Court shall convene within forty-eight (48) hours to decide that question. After that, when the Mayor files with the circuit court his written declaration that no inability exists, the circuit court shall convene within forty-eight (48) hours to decide whether that is the case. Upon a decision that no inability exists, the Mayor shall resume the powers and duties of his office.

If the court decides that the Mayor is unable to discharge the powers and duties of his office, then:

- (1) the deputy mayor, if that position has been established; or
- (2) the City Council President;

shall serve as acting Mayor, with all the powers of the office for a maximum of six (6) months. The city legislative body may appropriate funds to compensate a person acting as Mayor.

The following subheading is hereby added:

### **CITY CLERK**

§ 30.30 is hereby added as follows:

### **§ 30.30 ELECTION**

The city clerk is elected every four (4) years pursuant to IC 3-10-6 by Fishers' voters. Except that the Clerk elected in 2014 shall serve a one (1) year term pursuant to IC 36-4-1.5-4

§ 30.31 is hereby added as follows:

### **§ 30.31 CLERK'S AUTHORITY AND RESPONSIBILITY**

Pursuant to IC 36-4-10-4 the City Clerk serves as the Fishers' clerk and shall:

- A. Serve as clerk of the city legislative body under IC 36-4-6-9 and maintain custody of its records.
- B. Maintain all records required by law.
- C. Keep the city seal.
- D. As soon as a successor is elected and qualified, deliver to the successor all the records and property of the clerk's office.
- E. Perform other duties prescribed by law.
- F. Administer oaths when necessary in the discharge of the clerk's duties, without charging a fee.
- G. Take depositions, without charging a fee.
- H. Take acknowledgement of instruments that are required by statute to be acknowledged, without charging a fee.
- I. Serve as clerk of the city court.

§ 30.32 is hereby added as follows:

### **§ 30.32 OFFICE SPACE**

Pursuant to IC 36-4-10-2.5, space shall be made available for the clerk, clerk's staff and records maintained by the clerk's office.

§ 30.33 is hereby added as follows:

### **§ 30.33 CLERK'S CITY COURT DUTIES**

Pursuant to IC 33-35-3-2, the city clerk is the clerk of the city court.

- A. The Clerk shall give bond payable to the city in the penal sum of one thousand dollars (\$1,000), with surety to be approved by the mayor and conditioned on the faithful and honest discharge of the clerk's duties.
- B. The clerk may administer oaths.
- C. The clerk shall:

(1) issue all process of the court, affix the seal of the court to the process, and attest to the process;

(2) keep a complete record and docket of all cases showing:

(a) the name of a person who was arrested and brought before the court;

(b) the disposition of the case; and

(c) an account of the:

(i) fees;

(ii) fines;

(iii) penalties;

(iv) forfeitures;

(v) judgments;

(vi) executions;

(vii) decrees; and

(viii) orders;

in as near to the same manner as the records are kept by the clerk of the circuit court; and

(3) collect all:

(a) fees;

(b) fines;

(c) penalties and forfeitures;

(d) judgments;

(e) executions; and

(f) money;

accruing to the city from the enforcement of ordinances.

D. At the close of each week, the clerk shall make and deliver to the controller a written report of all cases in which the clerk has received or collected any fines or forfeitures due the city. The clerk shall then pay over the money to the controller and take a receipt for the payment.

E. At the end of each month, the clerk shall make out and deliver to the county treasurer of the county in which the city is located a written report of all cases in which the clerk has received or collected any fines or forfeitures due the state during the month and pay to the county treasurer all fines or forfeitures collected, taking a receipt for the payment.

F. The clerk shall deposit all court costs collected by the clerk in accordance with IC 33-37-7-12. The clerk shall distribute the state and county share of court costs collected in accordance with IC 33-37-7-8.

The following subheading is hereby added:

### **CITY CONTROLLER**

§ 30.40 is hereby added as follows:

#### **§ 30.40 CITY FISCAL OFFICE**

The City Controller, appointed by the Mayor pursuant to IC 36-4-9-6, shall serve as Fishers' fiscal officer.

§ 30.41 is hereby added as follows:

#### **§ 30.41 AUTHORITY AND RESPONSIBILITY**

Pursuant to IC 36-4-10-5, the Controller shall:

- (1) Prescribe the form of reports and accounts to be submitted to the Controller.
- (2) Sign and issue all warrants on the city treasury.
- (3) Audit and revise all accounts and trusts in which the city is concerned.
- (4) Keep separate accounts for each item of appropriation made for each city department, including a statement showing the amount drawn on each appropriation, the unpaid contracts charged against it, and the balance remaining.
- (5) At the end of each fiscal year, submit under oath to the city council a report of the accounts of the city published in pamphlet form and showing revenues, receipts, expenditures, and the sources of revenues.
- (6) Maintain custody of the records of the department and turn them over to the fiscal officer's successor in office.
- (7) Perform duties prescribed by statute concerning the negotiation of city bonds, notes, and warrants.
- (8) Keep a register of bonds of the city and of transfers of those bonds.

(9) Manage the finances and accounts of the city and make investments of city money, subject to the ordinances of the Council.

(10) Issue city licenses on payment of the license fee.

(11) Collect fees as fixed by ordinance.

(12) Pay into the city treasury, once each week, all fees and other city money collected by the department during the preceding week, specifying the source of each item.

(13) Prescribe payroll and account forms for all city offices.

(14) Prescribe the manner in which salaries shall be drawn.

(15) Prescribe the manner in which creditors, officers, and employees shall be paid.

(16) Provide that all salaries are payable monthly, unless the legislative body establishes more frequent payments.

(17) Notify the mayor of the failure of any city officer to collect money due the city or to pay city money into the city treasury.

(18) Draw warrants on the city treasury for miscellaneous city expenditures not made under the direction of a department and not specifically fixed by statute.

The Controller shall have all other authority provided in IC 36-4-10 *et seq.*, as amended.

§ 30.42 is hereby added as follows:

### **§ 30.42 Bond**

Pursuant to IC 5-4-1-18, the Controller shall file an individual surety bond or the City Council may by ordinance authorize the purchase of a blanket bond or a crime insurance policy endorsed to include faithful performance to cover the faithful performance of all employees, commission members, and persons acting on behalf of the City, including the Controller and other City officers described in IC 5-4-1-18(a).

The heading for Chapter 31 shall be amended to refer to the following:

## **CHAPTER 31. PERSONNEL & PAY**

Former § 31.01 is hereby repealed and the following added as § 31.01:

### **§ 31.01 COMPENSATION**



As used in this section and consistent with IC 36-4-7-2, compensation means the total of all money paid to an elected city officer for performing duties as a city officer, regardless of the source of funds from which the money is paid.

§ 31.02 is hereby added as follows:

**§ 31.02 COMPENSATION OF ELECTED OFFICIALS**

Pursuant to IC 36-4-7-2(b), the City Council shall by ordinance fix the annual compensation of all elected city officers which amount may not be changed in the year for which it is fixed nor may it be reduced below the amount fixed for the previous year.

§ 31.03 is hereby added as follows:

**§ 31.03 COMPENSATION OF APPOINTIVE OFFICER, DEPUTIES AND OTHER EMPLOYEES**

Pursuant to IC 36-4-7-3, subject to the approval of the City Council, the Mayor shall fix the compensation of each appointive officer, deputy, and employee of the city, other than members of its police and fire departments. The legislative body may reduce but may not increase any compensation fixed by the Mayor. Compensation must be fixed under this section not later than November 1 of each year for the ensuing budget year.

Compensation fixed under this section may be increased or decreased by the executive during the budget year for which it is fixed.

Notwithstanding the foregoing, the Clerk may, with the approval of the City Council, fix the salaries of deputies and employees appointed under IC 36-4-11-4.

§ 31.04 is hereby added as follows:

**§ 31.04 ADDITIONAL COMPENSATION**

Pursuant to IC 36-4-7-4,

A. Subject to the approval of the City Council, the Mayor may provide that city officers and employees receive additional compensation for services that:

- (1) are performed for the city;
- (2) are not governmental in nature; and
- (3) are connected with the operation of a municipally owned utility or function.

B. Subject to the approval of the Mayor and City Council, the administrative agency operating the utility or function shall fix the amount of the additional compensation, which shall be paid from the revenues of the utility or function.

## **CHAPTER 32. DEPARTMENTS, BOARDS AND COMMISSIONS**

The following subheading is hereby amended:

### **ADVISORY PARK COMMITTEE AND STREET TREE BOARD**

§ 32.01 is hereby amended as follows:

#### **§ 32.01 ESTABLISHMENT; FUNCTIONS; MEMBERS**

There is hereby established pursuant to the provisions of IC 36-10-2-2 the Advisory Park Committee which shall act at the pleasure of the Mayor and the City Council and which shall offer such advice as it may determine is reasonably related to the public purpose of such group which is defined to be as follows: to advise the Mayor and the City Council in the establishment, aid, and operation of public parks, playgrounds and recreational facilities programs. The Advisory Park Committee shall consist of five (5) members, three of which shall be appointed by the Mayor and two of which shall be appointed by the Council.

§ 32.02 is hereby amended as follows:

#### **§ 32.02 BUDGET/ROLE OF ADVISORY COMMITTEE/CITY PROPERTY**

The budget for recreational activity, public parks, playgrounds and recreational facilities shall be established pursuant to Ind. Code § 36-4-7 *et. seq.* and approved as part of the budgeting process by the City Council.

With regard to the operation of any public parks, playgrounds and recreational facilities or programs, the Advisory Park Committee is advisory only to the Mayor and the City Council to the extent desired by the Mayor and the City Council.

Pursuant to Ind. Code § 36-9-6 *et. seq.* the Public Works and Safety Board is responsible for the maintenance, repair and supervision all city-owned property including property comprising Fishers' park facilities.

§ 32.03 is hereby amended as follows:

#### **§ 32.03 STREET TREE BOARD**

The Parks Advisory Committee is hereby designated to serve as the Street Tree Board.

(A) The Committee shall follow its usual election of officers, meeting schedule, and terms of membership.

(B) In addition to its duties of advising the Mayor and the City Council on park and recreation matters, the Committee shall also advise on matters concerning tree planting and care throughout the city.

## **REDEVELOPMENT COMMISSION & REDEVELOPMENT AUTHORITY**

§ 32.15 is hereby amended as follows:

### **§ 32.15 ESTABLISHMENT/MEMBERS**

The City Council previously established the Fishers Department of Redevelopment which shall be controlled by a board of five members known as the Fishers Redevelopment Commission.

The head of the Department shall be appointed by the Mayor and approved by the Commission.

§ 32.16 is hereby amended as follows:

### **§ 32.16 TAXING DISTRICT**

Pursuant to IC 36-7-14 *et. seq.*, all of the territory within the corporate boundaries of the city will be a taxing district to be known as the Redevelopment District of the city for the purpose of levying and collecting special benefit taxes for redevelopment purposes as provided in the Act. The City Council finds and determines that all of the taxable property within this special taxing district will be considered to be benefited by the redevelopment project carried out under the Act to the extent of the special taxes levied under the Act.

§ 32.17 is hereby amended as follows:

### **§ 32.17 MEMBERSHIP; TERMS**

Pursuant to IC 36-7-14-3, three members of the Redevelopment Commission shall be appointed by the Mayor and two shall be appointed by the City Council. The term of all members shall be one year expire on January 1.

§ 32.18 is hereby added as follows:

### **§ 32.18 REDEVELOPMENT AUTHORITY**

Pursuant to IC 36-7-14.5-7, Fishers previously the Fishers Redevelopment Authority, a body corporate and politic that may exercise the authority provided in IC 36-7-14.5 *et. seq.*

§ 32.19 is hereby added as follows:

### **§ 32.19 REDEVELOPMENT AUTHORITY BOARD**

Pursuant to IC 36-7-14.5-8, the Redevelopment Authority shall be comprised of three (3) members appointed by the Mayor who must be Fishers residents.

Board members serve a three (3) year term, may be reappointed to subsequent terms and may not receive a salary for their service.

If a vacancy occurs on the Board, the Mayor shall fill the vacancy by appointing a new member for the remainder of the vacated term.

A Board member may be removed for cause by the Mayor.

## **DEPARTMENT OF ECONOMIC DEVELOPMENT**

§ 32.25 is hereby amended as follows:

### **§ 32.25. ESTABLISHMENT**

The Fishers Department of Economic Development, which is controlled by the Fishers Economic Development Commission, was previously created and granted all powers and duties of such Department and Commission as set forth in IC 36-7-12 *et. seq.*

The head of the Department shall be appointed by the Mayor and approved by the Commission.

## **ECONOMIC DEVELOPMENT COMMISSION**

§ 32.30 is hereby amended as follows:

### **§ 32.30 ESTABLISHMENT**

The Council previously established the Fishers Economic Development Commission which is controlled by a board of three members.

§ 32.31 is hereby amended as follows:

### **§ 32.31 POWERS, PRIVILEGES AND DUTIES**

The Fishers Economic Development Commission shall have all powers, privileges and duties as granted by IC 36-7-12 *et. seq.* and hereinafter enacted with respect to the promotion of economic development, including, without limitation, the following:

(A) To enter into agreements concerning, and to acquire by any lawful means, land or interest in land and personal property needed for the purpose of this Commission.

(B) To exercise its power of eminent domain to acquire unimproved land or unoccupied facilities and the land relating thereto for the purpose of this Commission.

(C) To purchase, lease as lessee, construct, remodel, rebuild, enlarge or substantially improve facilities, including machinery and equipment.

(D) To lease facilities to users or developers with or without an option to purchase.

(E) To sell facilities to users or developers for consideration that may be paid in installments or otherwise.

(F) To make direct loans to users or developers for the cost of construction of facilities, in which event, the bonds shall be secured by the pledge of one or more notes, debentures, bonds or other secured or unsecured debt obligations of the user.

(G) To enter into agreements with users or developers to allow such users or developers to wholly or partially construct facilities to be acquired by the municipality.

(H) To issue bonds pursuant to the provisions of law,, accomplish the purpose of the Commission and secure the payments of the bonds as provided by laws pertaining to this Commission.

§ 32.32 is hereby amended as follows:

### **§ 32.32 MEMBERS AND TERM**

Pursuant to IC 36-7-12-5, the Fishers Economic Development Commission shall consist of three members appointed by the Mayor, one of which shall be nominated by the Hamilton County Council and one of which shall be nominated by the Fishers City Council.

Members of the Commission shall take office upon their appointment and their terms of office shall run from February 1<sup>st</sup> and conclude as follows:

- (a) if appointed by the Mayor, for three (3) years;
- (b) if nominated by the Fishers City Council, for two (2) years; and
- (c) if nominated by the Hamilton County Council, for one (1) year.

Pursuant to IC 36-7-12-9, appointments shall be made within 15 days after receiving notice from the Clerk that the Mayor is required to make an appointment and the City Council and Hamilton County Council have made such nominations. At the expiration of the respective terms of each of the Commissioners originally appointed, their respective successors shall be selected and nominated before the expiration of the term in the same manner as the original appointee, and each succeeding member shall serve for a term of four (4) years. In the event any person appointed as Commissioner shall fail to qualify as hereinafter provided within ten (10) days after the mailing to him of notice of his appointment, or if any member after qualifying shall die, resign or vacate such office, or be removed as provided by law, a new Commissioner shall be selected or nominated and appointed to fill such vacancy in the same manner as the Commissioner in respect to whom such vacancy occurred, and the Commissioner so appointed shall serve for the remainder of the vacated term. Commissioners shall hold over after the expiration of their terms until their respective successors have been duly appointed and have qualified.

§ 32.33 is hereby amended as follows:

### **§ 32.33 COMPENSATION**

Commission members shall not receive salaries but shall be entitled to reimbursement for any expenses necessarily incurred in the performance of their duty.

§ 32.34 is hereby amended as follows:

### **§ 32.34 OATH OF OFFICE**

Each Commissioner, before entering upon his duties, shall take and subscribe an oath of office in the usual form, to be endorsed upon the certificate of his appointment, which shall be promptly filed with the Clerk.

§ 32.35 is hereby amended as follows:

### **§ 32.35 MEETINGS; ELECTION OF OFFICERS**

(A) The Commissioners shall meet within 30 days after their appointment at a time and place designated by the Mayor to reorganize in the month of February of each succeeding year.

(B) The Commissioners shall elect one of its members as President, one as Vice-President and one as Secretary, each of which officers shall serve from the day of his election until the 31st day of January next following his election and until his successor is elected and qualified.

§ 32.36 is hereby amended as follows:

### **§ 32.36 BYLAWS, RULES AND REGULATIONS**

The Commission is authorized to adopt such bylaws, rules and regulations as it may deem necessary for the proper conduct of its proceedings, the carrying out of its duties and the safeguarding of the funds and property placed in its possession. Regular or special meetings shall be held at such time as it may determine and upon such notice as it may fix, either by resolution or in accordance with the provisions of the bylaws, rules and regulations adopted. A majority of the Commission shall constitute a quorum and the concurrence of a majority shall be necessary to authorize any action.

Former § 32.37 is hereby added as follows:

### **§ 32.37 PECUNIARY INTEREST**

Pursuant to IC 36-7-12-16, a Commissioner shall disclose any pecuniary interest in any employment, financing agreement, or other contract made under this chapter before any action by the Commission on it, and shall not vote on any such matter.

Notwithstanding any other law, a member of the City Council may have a pecuniary interest in any employment, financing agreement, or other contract made under this chapter if he discloses his pecuniary interest before any action by the fiscal body on it and does not vote on any such matter.

If any property in which a commissioner or member of the City Council has a pecuniary interest is property required for the purposes of this chapter, that property may be acquired, but only by gift or condemnation.

## **PLAN COMMISSION**

§ 32.50 is hereby amended as follows:

### **§ 32.50 ESTABLISHMENT**

There is hereby established an advisory City Plan Commission under the authority of IC 36-7-4-200 *et seq.*, as amended.

§ 32.51 is hereby amended as follows:

### **§ 32.51 MEMBERSHIP; COMPOSITION**

Pursuant to IC § 36-7-4-207(b), the membership of the Commission shall be composed of eleven (11) members as follows:

- (1) The City Council shall appoint three (3) persons, who must be elected or appointed municipal officials or employees in the municipal government;
- (2) The Mayor shall appoint four (4) citizen members, of whom no more than two (2) may be of the same political party;
- (3) Pursuant to the terms of certain joinder agreements with Delaware Township, the Delaware Township Trustee shall appoint two (2) individuals to serve on the Plan Commission; and
- (4) Pursuant to Fishers' exercise of two (2) mile jurisdiction outside its incorporated boundaries, the Hamilton County Commissioners shall appoint two (2) individuals to serve on the Plan Commission pursuant to IC 36-7-4-214(a).

§ 32.52 is hereby amended as follows:

### **§ 32.52 TERMS**

(A) Terms of appointed official members shall coincide with their terms of office or appointment, except that the City Council at the first regular meeting of any year may appoint another to serve as its representative from the city government and members appointed by the Delaware Township Trustee shall serve a term of two (2) years.

(B) Terms of two (2) of the citizen members shall be for three (3) years and terms of the other two (2) citizen members shall be for a term of four (4) years.

(C) Terms of the citizen members shall expire on the first day of January of the third and fourth year, respectively, following their appointments. Thereafter, as terms expire, each new appointment shall be for a term of four years.

Pursuant to IC 36-7-4-218, members of the Commission may be removed for cause.

§ 32.53 is hereby amended as follows:

### **§ 32.53 DUTIES, POWERS AND PROCEDURES**

The responsibilities, duties, powers and procedures of the City Plan Commission shall be as set forth in IC 36-7-4-200 *et seq.*, as amended.

The following subheading is hereby added:

### **BOARD OF ZONING APPEALS (BZA)**

§ 32.54 is hereby added as follows:

### **§ 32.54 CREATION**

Pursuant to IC 36-7-4-901 there is hereby established a board of zoning appeals known as the Fishers Advisory Board of Zoning Appeals

§ 32.55 is hereby added as follows:

### **§ 32.55 MEMBERSHIP**

Pursuant to IC 36-7-4-902(a), the Fishers Advisory Board of Zoning Appeals shall consist of six (6) members as follows:

(1) Three (3) citizen members appointed by the Mayor, of whom one (1) must be a member of the plan commission and two (2) members who must not be members of the plan commission.

(2) One (1) citizen member appointed by the City Council, who must not be a member of the plan commission.

(3) One (1) member appointed by the plan commission from the plan commission's membership, who must be a county agricultural agent or a citizen member of the plan commission other than the member appointed under subdivision (1).

(4) Pursuant to the joinder agreement with Delaware Township, one (1) member appointed by the executive of Delaware Township and approved by Delaware Township's legislative body.



§ 32.56 is hereby added as follows:

**§ 32.56 TERMS**

Consistent with IC 36-7-4-906, Members of Fishers Advisory Board of Zoning Appeals shall initially serve for the following terms that expire on first day of January of the first, second, third and fourth year, respectively, following their appointments:

- (1) One (1) for a term of one (1) year.
- (2) One (1) for a term of two (2) years.
- (3) One (1) for a term of three (3) years.
- (4) Three (3) for a term of four (4) years which shall include the member appointed under the joinder agreement.

Thereafter, as terms expire, each new appointment shall be for a term of four (4) years.

Members of the Fishers Advisory Board of Zoning Appeals may be removed for cause.

§ 32.57 is hereby added as follows:

**§ 32.57 DUTIES**

The responsibilities, duties, powers and procedures of the Fishers Advisory Board of Zoning Appeals shall be as set forth in IC 36-7-4-900 *et seq.*, as amended.

§ 32.58 is hereby added as follows:

**§ 32.58 FALL CREEK BOARD OF ZONING APPEALS (FCBZA)**

Fishers previously established a separate division of its BZA for the unincorporated areas of Fall Creek Township known as the Fall Creek BZA or FCBZA. The FCBZA shall consist of five (5) members who meet the qualifications of IC 36-7-4-906(a) and are appointed in accordance with IC 36-7-4-902(a). The Mayor shall appoint three (3) members, one of whom is a citizen member of the plan commission and two of which are citizen members who are not also members of the plan commission. The Council shall appoint one (1) citizen member who is not a member of the plan commission. The Plan Commission shall then appoint the fifth member from its membership excluding the Plan Commission member appointed to the FCBZA by the Mayor. The term for members shall be four (4) years pursuant to IC 36-7-4-906(a).

§ 32.59 is hereby added as follows:

**§ 32.59 FCBZA TERMS**

Consistent with IC 36-7-4-906, Members the FCBZA shall initially shall initially serve for the following terms that expire on first day of January of the first, second, third and fourth year, respectively, following their appointments:

- (1) One (1) for a term of one (1) year.
- (2) One (1) for a term of two (2) years.
- (3) One (1) for a term of three (3) years.
- (4) Two (2) for a term of four (4) years

Thereafter, as terms expire, each new appointment shall be for a term of four (4) years.

Members of the Fishers Advisory Board of Zoning Appeals may be removed for cause.

### **IMPACT FEE ADVISORY COMMITTEE**

§ 32.65 is hereby amended as follows:

#### **§ 32.65 CREATION**

There is hereby created a five-member body to be known as the Fishers Impact Advisory Committee, pursuant to the provisions of IC 36-7-4-1312(b).

§ 32.66 is hereby amended as follows:

#### **§ 32.66 MEMBERSHIP**

Pursuant to IC 36-7-4-1312, the members of the Fishers Impact Fee Advisory Committee shall be appointed by the Mayor and at least 40% of the members shall represent the development, building, or real estate industries.

§ 32.67 is hereby amended as follows:

#### **§ 32.67 DUTIES**

The Fishers Impact Fee Advisory Committee shall serve in an advisory capacity and assist and advise the Mayor and City Council with regard to the adoption of any impact fee ordinance permitted by state law. The Fishers Impact Fee Advisory Committee shall have the authority to investigate matters in support of its function as state statutes, as amended, allow.

### **HOOSIER HERITAGE PORT AUTHORITY**

§ 32.75 is hereby amended as follows:

#### **§ 32.75 ESTABLISHMENT; TERM; EXPANSION**

(A) There was previously established the Historic Railroad Multi-Jurisdictional Port Authority to be commonly known as "The Hoosier Heritage Port Authority" subject to all powers and authority granted and conferred by Indiana Code, as amended.

(B) In addition to the establishment of the Historic Railroad Multi-Jurisdictional Port Authority by the City of Noblesville, the Town of Fishers, and the county, (which shall hereafter be referred to as "The Jurisdictional Members") the Historic Railroad Multi-Jurisdictional Port Authority may be expanded to include other municipal corporations in the following manner:

(1) The municipal corporation seeking to join the multi-jurisdictional port authority shall make application in a form prescribed by the Board of Trustees seeking admission thereof;

(2) The Board of Trustees and the applicant shall define the appropriate consideration for such admission;

(3) The Board of Trustees must vote unanimously in favor of accepting the application;

(4) Upon unanimous acceptance of the application by the Board of Trustees, the applicant must adopt an ordinance which is in substantially the same form as this ordinance which establishes this subchapter, subject only to the following amendments which shall be incorporated by amendment to this subchapter by the legislative bodies of the Jurisdictional Members participating in the multi-jurisdictional port authority:

(a) That the membership of the Board of Trustees shall be expanded to include members for each municipal corporation added hereafter, such members to serve for terms of three years to be appointed by the executive officer of the Jurisdictional Member joining the port authority, or in accordance with such other provision for appointment as the Jurisdictional Member may determine.

(C) The term of existence of the Hoosier Heritage Port Authority shall be in perpetuity.

(D) Upon the mutual adoption by the Town of Fishers, the City of Noblesville, and Hamilton County of Ordinance 070506A, the membership of the Hoosier Heritage Port Authority has been expanded to include all of said units, subject to all of the powers and authority granted and conferred by the Indiana Code.

§ 32.76 is hereby amended as follows:

### **§ 32.76 POWERS**

The Hoosier Heritage Port Authority shall have all the powers permitted under the laws of the State of Indiana as from time to time amended, limited only by the provisions of this subchapter.

§ 32.77 is hereby amended as follows:

## **§ 32.77 PURPOSE**

(A) The purpose of the Hoosier Heritage Port Authority shall be to protect and preserve the existence of the real estate described as a single parcel of real estate in perpetuity for such uses as may benefit the citizens of Noblesville, Fishers and Hamilton County including, but not necessarily limited to, recreational, transportation and tourism purposes.

(B) In order to implement the full participation of Hamilton County in the Authority and the ownership of the right-of-way, the City of Noblesville and Fishers conveyed an undivided one-sixth interest in the real estate to Hamilton County by quit-claim deed, resulting in each unit owning an undivided one-third interest in the real estate.

§ 32.78 is hereby amended as follows:

## **§ 32.78 ORGANIZATION**

(A) **Members.** The business and affairs of the Hoosier Heritage Port Authority shall be conducted by a Board of Trustees consisting of six members, two of whom shall be appointed by the Mayor of Fishers, and two of whom shall be appointed by the Mayor of the City of Noblesville; one member appointed by the Board of Commissioners of Hamilton County, and one member appointed by the Hamilton County Council.

(B) **Terms.** Members of the Board of Trustees shall be appointed for a term of three years. The terms of all existing official and ex officio members shall continue until their present terms expire. Thereafter, as each initial term expires, the successor shall serve for a full three-year term. The appointing executive shall deliver a certificate of appointment to such trustee designating the term of his or her office.

(C) There shall be no limit on the number of successive terms a trustee may serve.

(D) A trustee may be removed at any time without cause by the appointing authority of such trustee. A replacement appointment shall serve the unexpired term of the trustee so removed.

(E) Each trustee upon appointment shall take an oath of office in the appropriate form.

(F) **Officers.**

(1) From the membership of the Board shall be elected the following officers for a term of one year:

(a) President

(b) Vice-President

(c) Secretary

(d) Treasurer

(2) Officers may serve successive terms if elected.

§ 32.79 is hereby amended as follows:

**§ 32.79 FISCAL AFFAIRS**

(A) All funds of the Hoosier Heritage Port Authority shall be deposited in a special account known as the Hoosier Heritage Port Authority Fund which shall be maintained under the supervision of the Treasurer and subject to annual audit as may be required by law. Monies received shall be deposited in accordance with sound fiscal practices; and shall be paid out only upon claims approved by the Board.

(B) No claims shall be approved for any expenditure not consistent with the purposes set forth herein. No contract or undertaking shall be approved with any third party that causes the Hoosier Heritage Port Authority to become liable for the expenditure of funds which is not consistent with the purposes set forth herein.

§ 32.80 is hereby amended as follows:

**§ 32.80 BYLAWS**

The Board of Trustees shall adopt bylaws for the conduct of the affairs of the Hoosier Heritage Port Authority as needed and not inconsistent with the provisions of this subchapter or state law.

**DEPARTMENT OF STORM WATER MANAGEMENT**

§ 32.90 is hereby amended as follows:

**§ 32.90 ESTABLISHMENT**

(A) IC 8-1.5-5 concerning Storm Water Management Systems is hereby adopted by the City Council of the City of Fishers so as to make the Act and any and all amendments thereto effective and operative in the city.

(B) Pursuant to IC 8-1.5-5, a Department of Storm Water Management shall be and is hereby created for the purpose of providing for the collection, disposal and drainage of storm surface water in the city.

§ 32.91 is hereby amended as follows:

**§ 32.91 BOARD OF DIRECTORS**

(A) Pursuant to IC 8-1.5-5-4, the Department of Storm Water Management shall be controlled by a Board of Directors which shall consist of three Directors appointed by the Mayor, not more

than two of whom may be of the same political party. Pursuant to IC 8-1.5-5-4(g) Members may be removed at any time by the Mayor, if it is in the best interest of the department.

(B) The terms of all Directors shall be for a period of three years, and all initial terms shall begin on the first day of the month following the adoption of this subchapter.

(C) Pursuant to IC 8-1.5-5, there is hereby created a special taxing district which shall include all of the territory within the corporate boundaries of the city.

(D) The Board of Directors shall prepare a budget for the operation of the Department on an annual basis which budget shall be subject to approval by the City Council and any issuance of bonds or other methods for making capital improvements shall be approved by the City Council as provided by law.

§ 32.92 is hereby added as follows:

### **§ 32.92 DUTIES**

The responsibilities, duties, powers and procedures of the Department of Storm Water Management shall be as set forth in IC 8-1.5-5 *et seq.*, as amended.

The following subheading is hereby added:

### **ADDITIONAL EXECUTIVE DEPARTMENTS**

§ 32.93 is hereby added as follows:

### **§ 32.93 ADDITIONAL EXECUTIVE DEPARTMENTS**

Pursuant to IC 36-4-9 *et seq.*, the City Council hereby creates, upon recommendation by the Mayor, the following executive departments:

- (1) Department of finance.
- (2) Department of law.
- (3) Department of public works.
- (4) Department of human resources.
- (5) Department of parks and recreation.
- (6) Department of community development.
- (7) Fleet Department;
- (8) Department of Engineering; and

(9) Department of Information Technology.

§ 32.94 is hereby added as follows:

**§ 32.94 DEPARTMENT HEADS**

Pursuant to IC 36-4-9-4 and -6, the Mayor shall appoint the following who shall serve under the jurisdiction of the Mayor:

- (1) a city controller;
- (2) a city civil engineer;
- (3) corporation counsel;
- (4) a chief of the fire department;
- (5) a chief of the police department; and
- (6) other officers, employees, boards, and commissions required by statute.

Further, pursuant to IC 36-4-9-7, the City Council hereby establishes the position of deputy mayor, who serves as the city executive's deputy. The Mayor may appoint a Deputy Mayor, and the Deputy Mayor serves at the pleasure of the Mayor. The Deputy Mayor may exercise the following powers which may not exceed those of the Mayor:

- (1) Enforce the ordinances of the City and the statutes of the State;
- (2) Provide a statement of the finances and general condition of the City to the Council at least once a year;
- (3) Provide any information regarding City affairs that the Council requests;
- (4) Recommend, in writing, to the Council, actions that he considers proper;
- (5) Call special meetings of the Council when necessary;
- (6) Supervise subordinate officers;
- (7) Insure efficient government of the City;
- (8) Fill vacancies in City offices when required by State statutes;
- (9) Sign all bonds, deeds, and contracts of the City and all licenses issued by the City; and
- (10) Approve or veto ordinances, orders and resolutions of the legislative body, pursuant to State statutes.

§ 32.95 is hereby added as follows:

**§ 32.95 DUTIES**

Consistent with IC 36-4-9-4, the departments shall perform the administrative functions assigned by statute and ordinance.

The following subheading is hereby added:

**PUBLIC WORKS AND SAFETY BOARD**

§ 32.96 is hereby added as follows:

**§ 32.96 ESTABLISHMENT**

Pursuant to IC 36-4-9-5, a Public Works and Safety Board is hereby established.

§ 32.97 is hereby added as follows:

**§ 32.97 MEMBERS**

Pursuant to IC 36-4-9-6, the Public Works and Safety Board is hereby comprised of three (3) members appointed by the Mayor. A member may hold other appointive positions in city government during the member's tenure. IC 36-4-11-2 applies to board member appointments under this section. The Mayor shall appoint a clerk for the board. Members of the Board must reside within the municipal boundaries of the City of Fishers.

§ 32.98 is hereby added as follows:

**§ 32.98 DUTIES**

The responsibilities, duties, powers and procedures of the Public Works and Safety Board shall be as set forth in IC 36-9-6 *et seq.* and IC 36-8-3, as amended.

The following subheading is hereby added:

**CONFLICTS**

§ 32.99 is hereby added as follows:

**§ 32.99 CONFLICTS**

Members of the City's boards and commissions, including, without limitation, advisory boards and review committees are disqualified and may not participate in a hearing, discussion, recommendation or vote of that commission or board on a subject in which the member (a) has a direct or indirect financial interest or (b) is biased, prejudiced or otherwise unable to be impartial.



City board and commission members shall be responsible for reporting potential conflicts to the applicable board or commission and abstaining from participating in hearings, discussions, recommendations or votes concerning any matter on which the member has a potential conflict.

Failure to report a conflict may subject members to individual and personal liability, and neither Fishers nor its insurance carrier shall be responsible for defending a board or commission member in a cause of action arising out of or resulting from the member's failure to report a conflict.

Chapter 33 is hereby amended and reorganized as follows which amendments shall be construed (a) to maintain existing Police and Fire Department Merit Commissions and (b) consistent with Indiana statutes, as amended:

The title of Chapter 33 is hereby amended as follow:

### **CHAPTER 33. PUBLIC SAFETY--POLICE AND FIRE DEPARTMENT**

The following subheading is hereby added:

#### **GENERAL PROVISIONS**

§ 33.01 is hereby amended as follows:

#### **§ 33.01 Fishers Works and Public Safety Board – City Equipment**

Pursuant to Ind. Code § 36-8-3-2, the Public Works and Safety Board has exclusive control over all property relating to the following: (1) Police department; (2) Fire department, fire alarms, and fire escapes; (3) Animal shelters; and (4) Inspection of buildings.

The Public Works and Safety Board may purchase the equipment and supplies and make the repairs needed by the Police and Fire Departments.

#### **§§ 33.02-33.06 are hereby repealed**

The following subheading is hereby added:

#### **POLICE AND FIRE DEPARTMENTS-GENERAL POLICIES**

§ 33.10 is hereby amended as follows:

#### **§ 33.10 EMPLOYMENT PREFERENCES**

Pursuant to Ind. Code § 36-8-4-10, the merit commissions for the police department and the fire department shall give a preference for employment according to the following priority:

(1) A war veteran who has been honorably discharged from the United States armed forces.

(2) A person whose mother or father was a:

(A) firefighter of a unit;

(B) municipal police officer; or

(C) county police officer;

who died in the line of duty

Notwithstanding the foregoing, a person may not receive a preference for employment unless the person:

(1) applies; and

(2) meets all employment requirements prescribed:

(A) by law, including physical and age requirements; and

(B) by the fire or police department.

§ 33.11 is hereby amended as follows:

### **§ 33.11 VEHICLES**

Members of the police department may not use vehicles owned or maintained by their department outside Hamilton County except during the performance of official duties or as provided for by department regulation.

§ 33.12 is hereby amended as follows:

### **§ 33.12. POLICE PRECINCTS**

Pursuant to Ind. Code §36-8-3-3(f), the Public Works and Safety board shall divide the city into police precincts.

§ 33.13 is hereby amended as follows:

### **§ 33.13 PARTICIPATION IN 1977 PERF FUND**

The City Council hereby acknowledges that it is mandated to participate in the 1977 PERF Fund, all in accordance with IC 36-8-8-3.

§ 33.14 is hereby amended as follows:

### **§ 33.14 POLICE AND FIRE CHIEFS AND UPPER LEVEL POLICY DECISIONS**

§ 33.14 is hereby amended as follows:

### **§ 33.14 POLICE AND FIRE CHIEFS AND UPPER LEVEL POLICY DECISIONS**

Pursuant to Ind. Code § 36-8-3.5-11(a), the Mayor shall appoint and may remove the Chief. The Chief shall appoint and may remove the Assistant Chief, Division Commanders or any other person holding an upper level policy making position. If a person holding an upper-level policy making position is removed from his or her position and he or she held a prior merit rank or position with the Department, he or she shall be appointed by the Commission to his or her prior held merit rank (immediately prior to his or her upper level appointment). If such a merit rank is not open, the member is entitled to the pay of that merit rank and shall be promoted to that merit rank as soon as an opening is available. If a Chief, Assistant Chief or any other person holding an upper-level policy making position did not hold a prior merit rank or position with the Department, upon removal from his or her upper level policy making position his or her employment with the Department is terminated without cause and without a right to a hearing.

In all other respects, the Fire Department and the Fire Chief and the Police Department and the Police Chief, as provided for herein, shall be governed by applicable statutes of the state, as set forth in Indiana Code, as amended.

§ 33.15 is hereby added as follows:

### **§ 33.15 COMPENSATION**

The Police and Fire Chiefs shall recommend to the Mayor and the City Council compensation to be paid to members of the Fire and Police Department in amounts that are just and reasonable. By or before November 1 of each year, the Council shall approve compensation for members of the fire and police departments. The appointment to the positions of Fire Chief and Police Chief and the regulation of the respective Departments shall at all be pursuant to the provisions of Indiana Code as from time to time amended which may be specifically applicable to second class cities.

The following subheading is hereby added:

### **FIRE DEPARTMENT**

§ 33.20 is hereby added as follows:

### **§ 33.20 ESTABLISHMENT**

The city hereby establishes a Fire Department as a department of the municipal corporation of the city, pursuant to Ind. Code § 36-8-2 *et. seq.*

§ 33.21 is hereby added as follows:

### **§ 33.21 PURPOSE**

Pursuant to IC 36-8-2-3, the Fire Department of the city is ordered, authorized and directed to establish, maintain and operate a fire fighting and fire prevention system on behalf of the citizens of the city and such others as may lawfully contract for the provision of such service with the city.

§ 33.22 is hereby added as follows:

**§ 33.22 EMERGENCY MEDICAL SERVICES FEES**

(A) There is hereby established a schedule of fees for emergency medical services provided by the city through its Emergency Medical Service Division of the Fire Department. The schedule of fees for services is as follows:

Service Fees

Base Charge & Patient Assessment	\$ 150.00
Oxygen/Administration	20.00
Dressing/Bandaging	25.00
Cervical Immobilization	40.00
Obstetrics Management	20.00
Burn Management	25.00
M.A.S.T. Application	40.00
Splinting	20.00
Advanced Airway Management	70.00
Cardiac Monitoring	30.00
Uncollected Account Final Bill Service Fee	15.00
Misc./Other	10.00
Returned Check Charge	25.00
Mileage-Loaded @ \$25.00/Mi.	
Advance Life Support Transport Rate	104.00
Patient-originated response resulting in statement of release (non-transport)	25.00

Basic Life Support (BLS resident)	445.50
Basic Life Support (BLS) non-resident	1,200.00
Service Fees	
Advance Life Support Assessment	475.00 (Medic assessment, BLS transport)
Advanced Life Support 1 (ALS-1 resident)	566.50
Advanced Life Support 1 (ALS-1) non-resident	1,700.00
Advanced Life Support 2 (ALS-2 resident)	630.00
Advanced Life Support 2 (ALS-2) non-resident	1,900.00
Advanced Life Support non-transport (resident)	418.00
Advanced Life Support non-transport (non-resident)	1,000.00

(B) All such fees so collected shall be accounted for in a manner prescribed by the Indiana State Board of Accounts. All such funds so collected shall be deposited in the Emergency Medical Service Fund of the city and appropriated therefrom in accordance with the laws. The Emergency Medical Service Fund is hereby established as a non-reverting fund. Except as specifically excluded by federal law relating to Medicare or Medicaid payments, the city reserves the right to collect the entire fee which may be due, notwithstanding the fact that upon assignment of insurance recovery, the insurance pays less than the full amount due.

§ 33.23 is hereby added as follows:

**§ 33.23 FIRE MERIT COMMISSION ESTABLISHED**

Pursuant to IC 36-8-3.5 *et. seq.* a Fire Merit Commission (“Commission”) is established to administer the fire department merit system.

Pursuant to IC 36-8-3.5-6, the Commission shall consist of five Commissioners appointed in the following manner: two, who shall be members of different political parties, appointed by the Mayor; one appointed by the City Council; and two, who shall be members of different political parties, elected by the career firefighters eligible to vote for such Commissioners as defined by state law. To qualify as a Commissioner, an appointee must be of good moral character, must have been a resident of the city for three consecutive years immediately prior to appointment and must remain a resident of the city during the commissioner’s term. Not more than three of the Commissioners may be of the same political party. A Commissioner may not be an active member of the City Police or Fire Departments. All five Commissioners serving at the time this section is amended shall continue to serve their term unless removed by their respective electing or appointing authority. Thereafter, as a Commissioner's term expires, the appropriate electing

or appointing authority shall name the Commissioner of its choice to begin serving a term of four years beginning on January 1. Each Commissioner is subject to removal by their respective electing or appointing authority for any cause that the electing or appointing authority considers sufficient. Before entering upon his or her duties, each Commissioner shall take and subscribe an oath. Each Commissioner shall also take and subscribe an additional oath or affirmation that, in each appointment or removal made by the Commission to or from the Fire Department under this subchapter, he or she will not appoint or remove a member because of the political affiliation of the person or for another cause or reason other than that of the fitness of the person. The oath and affirmation shall be recorded and placed among the records of the City Clerk.

§ 33.24 is hereby added as follows:

### **§ 33.24 COMMISSION AUTHORITY AND DEPARTMENT MEMBERSHIP**

Pursuant to IC 36-8-3.5-10 and 11, the Commission may appoint, subject to the qualifications set forth in state statutes and rules for employment determined by the Commission, as many persons as necessary to serve in the Fire Department. The Commission may establish a system for, and adopt rules governing the selection and promotion of members of the Fire Department. As needed, the Commission may also appoint other employees and promote employees as necessary to carry on the work of the Fire Department. All persons so appointed by the Commission must be of good moral character and serve only during good behavior. Proceedings for the suspension, demotion or dismissal of any member of the Fire Department shall be conducted in the manner prescribed by IC 36-8-3.5 and the Commission's rules governing such proceedings.

**§§ 33.25 and 33.26 are hereby repealed.**

The following subheading is hereby added:

### **POLICE DEPARTMENT**

§ 33.30 is hereby added as follows:

### **§ 33.30 ESTABLISHMENT**

The city hereby establishes a Police Department as a department of the municipal corporation of the city, pursuant to Ind. Code § 36-8-2 *et. seq.*

§ 33.31 is hereby added as follows:

### **§ 33.31 PURPOSE**

Pursuant to IC 36-8-2-3, the Police Department of the city is ordered, authorized and directed to establish, maintain and operate a public safety and crime prevention system to preserve peace and safety on behalf of the citizens of the city.

§ 33.32 is hereby added as follows:

### **§ 33.32 POLICE MERIT COMMISSION ESTABLISHED**

Pursuant to Ind. Code § 36-8-3.5 *et. seq.*, a Police Merit Commission (“Commission”) is hereby established to administer the police department merit system pursuant to Ind. Code § 36-8-3.5 *et. seq.* and this ordinance.

(a) Within sixty (60) days after the adoption of this ordinance, at least three (3) weeks' notice shall be given to all active members of the department that a meeting will be held to approve or reject the proposed merit system. The notice shall be given by posting it in prominent places in all stations of the department. The notice must designate the time, place, and purpose of the meeting.

(b) A copy of the ordinance or resolution shall be distributed to each active member of the department at least one (1) week before the date of the meeting.

(c) Only active members of the department may attend the meeting, and at the meeting one (1) of them shall be selected as chairman. All voting must be by secret written ballot.

(d) If a majority of the active members of the department vote to approve the merit system, the merit system takes effect on January 1 following the vote. Appointments to the merit commission shall be made by March 1 following that January 1.

After approval of the merit system, all members of the department are entitled to the same ranks and pay grades the members held under the prior system.

§ 33.33 is hereby added as follows:

### **§ 33.33 MERIT COMMISSION MEMBERS**

Pursuant to Ind. Code § 36-8-3.5-6, the Commission shall consist of five Commissioners appointed in the following manner: two, who shall be members of different political parties, appointed by the Mayor; one appointed by the City Council; and two, who shall be members of different political parties, elected by the career police officers eligible to vote for such Commissioners as defined by state law. To qualify as a Commissioner, an appointee must be of good moral character and a legal resident of the city. Not more than three of the Commissioners may be of the same political party. A Commissioner may not be an active member of the City Police or Fire Departments. All five Commissioners serving at the time this section is amended shall continue to serve their term unless removed by their respective electing or appointing authority. Thereafter, as a Commissioner's term expires, the appropriate electing or appointing authority shall name the Commissioner of its choice to begin serving a term of four years beginning on January 1. Each Commissioner is subject to removal by their respective electing or appointing authority for any cause that the electing or appointing authority considers sufficient.

Before entering upon his or her duties, each Commissioner shall take and subscribe an oath. Each Commissioner shall also take and subscribe an additional oath or affirmation that, in each appointment or removal made by the Commission to or from the Police Department under this subchapter, he or she will not appoint or remove a member because of the political affiliation of the person or for another cause or reason other than that of the fitness of the person. The oath and affirmation shall be recorded and placed among the records of the City Clerk.

§ 33.34 is hereby added as follows:

### **§ 33.34 COMMISSION AUTHORITY**

The Commission shall have authority to administer discipline to department members including suspension, demotion, and termination of employment. Notwithstanding the foregoing, the Commission shall not have authority over department members in upper-level policy making positions. The Chief of Police shall retain the authority to administer discipline to department members up to and including forty (40) hours of unpaid suspension, which authority may be exercised at the Chief's discretion and without approval of or review by the Commission. The Commission's rules shall be adopted pursuant to Ind. Code §§ 36-8-3.5-10. Proceedings related to discipline, demotion, or dismissal of any member of the Police Department shall be conducted in the manner prescribed by IC 36-8-3.5 *et. seq.* and the Commission's rules governing such proceedings.

§ 33.35 is hereby added as follows:

### **§ 33.35 COMMISSION RULES**

Pursuant to IC 36-8-3.5-9,

(a) Within thirty (30) days of selection, the Commission shall adopt rules to govern the commission, including the time and place of regular monthly meetings and special meetings that are necessary to transact the business of the commission. A majority of the commissioners constitutes a quorum, and a majority vote of all the commissioners is necessary to transact the business of the commission. Each year the commissioners shall select from among their number a president, vice president, and secretary. The commission shall keep a permanent record of its proceedings.

(b) The Commission shall submit a proposed annual budget to the unit as other budgets of the unit are submitted. The legislative body shall include in its budget an amount sufficient for the necessary expenses of the commission.

(c) The Commission shall act in accordance with this ordinance and Indiana statutes governing merit commissions, as amended.

## **CHAPTER 34. FINANCE AND REVENUE**



**§ 34.01 is hereby repealed.**

§ 34.02 is hereby amended as follows:

**§ 34.02 PREPAYMENT OF CERTAIN EXPENSES**

Pursuant to Ind. Code § 36-4-8-14, the Controller may make claim payments in advance of board or Council allowance for the following kinds of expenses:

- (1) Property or services purchased or leased from the United States government, its agencies, or its political subdivisions.
- (2) License or permit fees.
- (3) Insurance premiums.
- (4) Utility payments or utility connection charges.
- (5) General grant programs where advance funding is not prohibited and the contracting party posts sufficient security to cover the amount advanced.
- (6) Grants of state funds authorized by statute.
- (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) Expenses described in an ordinance.

Payment of expenses under this section must be supported by a fully itemized invoice or bill certified by the Controller, and the City Council or Public Works and Safety Board, as applicable, shall review and allow the claim at its next regular or special meeting following the preapproved payment of the expense.

§ 34.03 is hereby amended as follows:

**§ 34.03 REIMBURSABLE EXPENSES**

Whenever city funds are utilized to cause the repair or replacement of damaged property and thereafter insurance proceeds are received by the city, such insurance proceeds shall be deposited

in the funds from which the original monies were expended for the purpose of restoring such fund.

§ 34.04 is hereby amended as follows:

**§ 34.04 EXPENDITURES OF FUNDS FOR PROMOTION OF CITY ACTIVITIES**

(A) There is hereby established an account for promotions which may be funded by the City Council from time to time on the basis of request or perceived need. It is the intent of the City Council in this regard that city sponsored activities, projects or other promotions may be funded on a case-by-case basis by resolution of the City Council meeting in regular session. Examples of activities shall include, without limitation, the following:

(B) The Fishers Freedom Festival, The Fishers Celebration of Arts Festival, Programs and projects involving local charitable organizations; Community Forums promoted or sponsored by the City; Retreat Reception; Awards or presentation ceremonies sponsored by the city; Development, printing and distribution of the Fishers Comprehensive Annual Financial Report.

(C) The Council shall retain discretion to define specific promotions which it believes comply with the spirit of this section as such promotional activities are presented to the City in regular session.

§ 34.10 is hereby amended as follows:

**§ 34.10 CUMULATIVE CAPITAL DEVELOPMENT FUND**

(A) There was previously established a Fishers Cumulative Capital Development Fund.

(B) An ad valorem property tax levy was imposed and the revenues from the levy will be retained in the Fund.

(C) The maximum rate of levy under division (B) did not exceed \$.15 per \$100 assessed valuation.

(D) The Fund was established for the years 1994, 1995 and 1996.

(E) Any remaining funds accumulated in the Fund will be used for the following purposes:

(1) For capital improvements as described in IC 36-9-16-2 and 36-9-16-3;

(2) For the improvements of public ways and sidewalks as described in IC 36-9-16.5-2;

(3) For the repair of the sewage treatment plant and sewers as described in IC 36-9-26-2; and/or

(4) The building, repair and remodeling of park and recreational facilities as described in IC 36-10-3-21.

(F) Notwithstanding division (E), funds accumulated in the Fund may be spent for purposes other than the purposes stated in division (E), if the purpose is to protect the public health, welfare or safety in an emergency situation which demands immediate action. Money may be spent under the authority of this division only after the Mayor issues a declaration that the public health, welfare or safety is in immediate danger that requires the expenditure of money in the Fund.

§ 34.11 is hereby amended as follows:

### **§ 34.11 CRIMINAL INVESTIGATION FUND**

(A) There is hereby created a Criminal Investigation Fund to be expended by the Board of Metropolitan Police Commissioners of the Police Department, subject to approval of the Public Works and Safety Board in a public meeting, in accordance with the provisions, limitations and conditions of this section. The money deposited in the Criminal Investigation Fund shall not be commingled with, nor become part of, the general fund of Fishers. The Criminal Investigation Fund shall be a non-reverting fund.

(B) The source of funds to be deposited in the Criminal Investigation Fund shall be from the public sale of seized property and funds derived from the sale of seized property disposed of in accordance with the Department of Justice policy, a copy of which is attached to ordinance 07-15-92 (upon which this section is based) as Exhibit A (which is hereby adopted and incorporated as a part of this section as if fully set forth herein). Funds from either source paid into the General Fund of the city shall immediately be paid over and deposited into the Criminal Investigation Fund by the Controller.

(C) Authorized expenditures from the Criminal Investigation Fund shall be utilized solely for law enforcement purposes and may include, without limitation, the following:

- (1) Purchase of vehicles and equipment needed for law enforcement functions;
- (2) Purchase of weapons and protective equipment;
- (3) Purchase of investigative communications equipment;
- (4) Payment of unbudgeted salaries and overtime for law enforcement officers;
- (5) Purchase of Automated Data Processing (ADP) equipment and software to be used in support of law enforcement purposes;
- (6) Payment of expenses for training of law enforcement personnel;

- (7) Payment of expenses for travel and salaries for law enforcement personnel;
- (8) Use as reward money or expenses in the running of a "sting" operation;
- (9) Money used to make "buys" in connection with anticipated arrests;
- (10) Costs associated with the construction, expansion, improvement or operation of detention facilities; and
- (11) Costs associated with public education on drug awareness, alcohol abuse or other issues related to prevention of illegal or criminal activity.

(D) Requests for expenditures from the Criminal Investigation Fund shall be made only by the Chief or Deputy Police Chief and shall be subject to formal claim approval by the Public Works and Safety Board pursuant to Ind. Code § 36-8-3-2.

(E) There shall be no reversion of the Criminal Investigation Fund or any monies paid into the Criminal Investigation Fund to the General Fund of the city. Funds from the sale of seized property may accumulate in the Criminal Investigation Fund as a non-reverting fund. The Criminal Investigation Fund is to be used exclusively for law enforcement purposes.

§ 34.12 is hereby amended as follows:

#### **§ 34.12 SPECIAL CONSTRUCTION FUND**

(A) The sales proceeds shall be deposited into a special fund of the city hereby created and designated as I-69 Economic Development Area Special Construction Fund.

(B) All sales proceeds deposited into the I-69 Economic Development Area Special Construction Fund, together with all investment earnings thereon, are hereby appropriated for the purpose of providing funds to be applied to the cost of the road projects identified in the Economic Development Plan, I-69 Economic Development Area dated June 11, 2001 which was approved by the Town Council on June 18, 2001 and is incorporated herein by reference.

(C) Such appropriation is in addition to all appropriations provided for in the existing budget and levy, and shall continue in effect until the completion of the activities described in division (B).

(D) The Controller is hereby authorized and directed to certify and report this appropriation to the Indiana State Board of Tax Commissioners as required by law.

§ 34.13 is hereby amended as follows:

#### **§ 34.13 NON-REVERTING PARKS AND RECREATION FUND**

(A) There is hereby maintained a non-reverting fund pursuant to Indiana law to be known as "The City of Fishers Non-Reverting Parks and Recreation Fund."

(B) Revenues collected from the following activities shall be deposited into the fund:

- (1) Parks and Recreation program fees;
- (2) Parks and Recreational facility rental fees;
- (3) Revenue from the sale of parks and recreation related merchandise; and
- (4) Revenue collected from the sale of advertising space on parks and recreation material.

(C) The Public Works and Safety Board shall provide periodically for expenditures from this fund for the following purposes:

- (1) Parks and Recreation programs and activities;
- (2) Parks and Recreation and material costs; and
- (3) The improvement of parks and recreation amenities and infrastructure.

(D) All costs associated with the Parks and Recreation Department, including but not limited to administrative and overhead costs, shall be applied to this fund for accounting and record-keeping purposes.

§ 34.14 is hereby amended as follows:

#### **§ 34.14 NON-REVERTING CRIMINAL INVESTIGATING FUND**

(A) This section enables the existing Criminal Investigation Fund, fund number 394 ("Fund"), to be designated as the local Non-Reverting Fund for the purposes of receiving, holding and managing proceeds from the sale of property or deposit of money seized by the city's law enforcement officers in accordance with IC 34-24-1-1 *et seq.* and any other monies received by the city's law enforcement agency as a result of a forfeiture of property from time to time.

(B) The fund shall serve as the local non-reverting fund to receive, hold and manage proceeds from the sale of property or deposit of money seized by the city's law enforcement officers in accordance with IC 34-24-1-1 *et seq.* and any other monies received by the city's law enforcement agency as a result of a forfeiture of property.

(C) The Controller shall keep records and monitor activities of all receipts into the fund. Subject to state statutes, disbursements may be made from the fund upon a valid claim being presented to the Public Works and Safety Board, subject to other requirements of processing and publication required by state statute, including, without limitation, Ind. Code § 34-24-1 *et. seq.*

(D) Money remaining in the fund at the end of every budget year shall not revert to any other source; rather, monies shall continue to be held in this Non-Reverting Fund from year to year.

§ 34.15 is hereby amended as follows:

### **§ 34.15 DEFERRAL PROGRAM FUND**

(A) There is established a Deferral Program Fund. The Deferral Program Fund shall be perpetual, unless terminated by subsequent ordinance duly enacted by the City Council.

(B) The Deferral Program Fund shall be administered by the Controller who shall maintain appropriately detailed records of all Deferral Program fees deposited into and transferred out to the Deferral Program Fund.

(C) The Deferral Program Fund shall consist solely of fees collected pursuant to the Ordinance Violation Deferral Program established under § 36.09 of this code ("Deferral Program"), plus any interest earned thereon as permitted by law.

(D) Pursuant to IC § 33-37-8-4, disbursement of monies from the Deferral Program Fund may be used for the following purposes:

(1) Personnel expenses related to the operation of the program.

(2) Special training for a law enforcement officer.

(3) Electronic legal research.

(4) Office equipment, including computers, computer software, communication devices, office machinery, furnishings, and office supplies.

(5) Any other purpose that benefits law enforcement and that is agreed upon by the city fiscal body and the prosecuting attorney.

(6) Any other purpose permitted by IC § 33-37-8-4(b).

(E) If the Deferral Program is terminated, and after all Deferral Program costs and expenses have been paid in full, the Deferral Program fees collected and on deposit in the Deferral Program Fund shall revert to the city's General Fund.

## **CHAPTER 35. CITY POLICIES**

§ 35.02 is hereby amended as follows:

### **§ 35.02 SMOKING IN PUBLIC PLACES PROHIBITED**

Subsection (A)(3) shall be amended as follows:

(A) Prohibition of smoking in public places. Smoking shall be prohibited in any public place, including, but not limited to, the following areas:

(3) Notwithstanding the foregoing prohibition, the Mayor, in his or her discretion, may provide a location for smoking outside city-owned buildings and on city-owned grounds that shall be a designated smoking area to be used only by employees of the city during a permissible work break. Such a designated location shall meet the conditions of division (B) below. An appropriate container shall be provided by the city at such location in order to avoid the accumulation of trash and debris and cigarette residue.

Subsection (D)(2) shall be amended to state the following:

(D) Enforcement.

(2) Any citizen who desires to register a complaint under this section may initiate enforcement with the department designated by the Mayor's office for the purpose of enforcing compliance herewith.

Section 35.15 shall be amended as follows:

### **§ 35.15 COST OF COLLECTION ON BAD CHECKS**

The Controller is hereby authorized to impose a \$25 fee against any party, person, business organization or other entity that tenders a check in payment of fees or costs to the city that is returned for any reason. This policy applies to all departments and activities of the city that accepts checks in satisfaction of the obligation to pay fees or charges.

§ 35.26 is hereby amended as follows:

### **§ 35.26 PROCEDURES**

Subsection (D) shall be amended to state:

(D) The purchasing agent shall reconcile assets each month with the Controller verifying the amount paid for the asset and fund number.

§ 35.50 is hereby amended as follows:

### **§ 35.50 INVESTMENT POLICY**

(A) This section shall set forth the terms of Fishers' investment policy (the "Investment Policy") pursuant to IC 5-13-9 *et. seq.*

(B) Fisher's Controller is hereby designated, for the limited purpose of this ordinance, as Fishers' investing officer and is hereby authorized to invest Fishers' funds in authorized funds or any fund that state statutes, as amended, may deem or consider an authorized fund prior to

expiration of this Investment Policy.

(C) Authorized funds in which Fishers' investing officer invests Fishers' funds shall have attained at least the minimum rating required by state statutes, as amended.

(D) All investments made by Fishers' investing officer shall be made in accordance with IC 5-13 *et seq.*

(E) Fishers' investing officer is hereby authorized to make investments having a stated final maturity that is more than two years but not more than five years after the date of purchase or entry into a repurchase agreement ("Longer Term Investments").

(F) Fishers' investing officer shall limit total longer term investments outstanding to not more than 25% of Fishers' total portfolio, including balances in Fishers' transaction accounts. However, an investment is authorized and remains legal even if a subsequent decrease in Fishers' total portfolio of public funds invested, including balances in transaction accounts, causes the percentage of Longer Term Investments outstanding to exceed 25% of Fishers' total portfolio.

(G) This Investment Policy is and shall be in effect upon adoption and publication as required by law and shall expire on January 1, 2019 ("Expiration Date").

(H) The power to make investments under this Investment Policy terminates on the expiration date.

(I) Investments made in accordance with this Investment Policy that are outstanding on or after the Expiration Date remain valid investments, and nothing herein shall be construed to render such investments improper or unlawful.

(J) All investments made pursuant to this Investment Policy must be approved by the investing officer.

(K) The investing officer is hereby authorized to contract with a federally regulated investment advisor or other institutional money manager to make investments under this Investment Policy.

## **CHAPTER 36. ORDINANCE VIOLATIONS BUREAU**

**§ 36.01 is hereby repealed.**

§ 36.02 is hereby amended as follows:

### **§ 36.02 ESTABLISHMENT OF BUREAU**

There is hereby established the Fishers Ordinance Violations Bureau. Such Bureau shall be located in facilities designated by the Mayor and identified as such. Personnel assigned to manage the operations of the Bureau shall be designated by the Mayor, including, without



limitation, the violations clerk pursuant to Ind. Code § 33-36-2-2.

§ 36.03 is hereby amended as follows:

### **§ 36.03 PURPOSE**

The purpose of the Ordinance Violations Bureau shall be to receive, during regular business hours or, such other hours as may be established, fines and fees imposed pursuant to ordinances of the city for all violations thereof which are other than moving traffic violations, including, without limitation, overtime parking, general parking violations and violations of building code. Section 36.08 shall constitute the initial ordinances which may utilize the Ordinance Violations Bureau as a means of resolving a citation. The schedule may be amended from time to time by resolution of the City Council to add or delete qualified ordinance violations.

§ 36.04 is hereby amended as follows:

### **§ 36.04 CONTESTING CITATIONS**

The Bureau is not a court. Any person or entity who has received a citation and desires to contest said citation shall, pursuant to Ind. Code § 33-36-3-3, (a) appear before the violation clerk and deny the violation or enter a written denial and (b) then seek review in a court having jurisdiction to hear such violations and to enforce same.

§ 36.05 is hereby amended as follows:

### **§ 36.05 PAYMENT OF FINES**

Any person cited for an offense for which payment of a fine may be made to the Bureau shall have the option of paying such fine within the time specified in the citation issued by the city by appearing, admitting the violation and paying the appropriate scheduled fine; or, upon a denial of the alleged violation, the matter shall be transferred and docketed with a court having jurisdiction.

§ 36.06 is hereby amended as follows:

### **§ 36.06 DUTIES**

The following duties are hereby imposed upon the Bureau in reference to ordinance violations:

- (A) It shall accept designated fines and issue receipts therefor;
- (B) It shall keep an easily accessible record of all violations and enforcements for which such fines are received, including the issuance of a monthly report to the City Council and Mayor of all fines collected by the Bureau and of the final disposition or present status of every case presented to it during the preceding period. Such records shall be so maintained as to show all types of violations and the totals of each. Such records shall be public records.

§ 36.07 is hereby amended as follows:

**§ 36.07 PROCEDURES**

The Bureau shall follow such procedure as may be prescribed by ordinances of the city and state statutes, as amended.

§ 36.08 is hereby amended as follows:

**§ 36.08 SCHEDULE OF FINES**

The first paragraph of § 36.08 (preceding the table of fines) is hereby amended as follows:

Fines or fees imposed by reason of a violation of any of the following ordinances shall be eligible for disposition at the Ordinance Violations Bureau established within the city.

§ 36.09 is hereby amended as follows:

**§ 36.09 ORDINANCE VIOLATION DEFERRAL PROGRAM**

(A) The City Ordinance Violation Deferral Program ("Deferral Program") is established. Eligible individuals who violate a qualifying city ordinance may voluntarily enter the Deferral Program by written agreement with the prosecuting attorney. The Deferral Program shall provide for the following:

- (1) The defendant shall voluntarily agree to the terms and conditions of the deferral agreement offered by the prosecuting attorney;
- (2) The terms and conditions of the deferral agreement shall be in writing and signed by the prosecuting attorney and the defendant;
- (3) The defendant shall agree to pay to the Clerk the deferral fees established by the prosecuting attorney;
- (4) The defendant shall agree to pay all other applicable court fees and costs to the Clerk;
- (5) The executed deferral agreement shall be filed in the City Court;
- (6) Upon the defendant's successful compliance with the terms and conditions of the deferral agreement, the prosecuting attorney shall file a motion with the City Court to dismiss the pending deferred action; and
- (7) The City Court shall dismiss the pending deferred action against the defendant, with prejudice, upon receipt of a motion to dismiss from the prosecuting attorney.

(B) The prosecuting attorney is hereby given full authority to administer the Deferral Program, and to draft, prepare, and execute all documents and forms necessary and desirable for the

implementation of the Deferral Program. The prosecuting attorney is also authorized and directed to establish the amount of the initial Deferral Program user's fee and monthly user's fee, at a level not to exceed the amounts authorized by law. The prosecuting attorney shall also establish all eligibility and participation criteria for the Deferral Program, and take any and all other lawful actions necessary to implement this section and administer the Deferral Program.

(C) All fees from the Deferral Program shall be disbursed by the Clerk to the Controller for deposit into the city's User Fee Fund on a monthly basis.

(D) Pursuant to IC § 33-37-8-4, after deposited into the city's User Fee Fund, disbursement of Deferral Program fees may be used for the following purposes:

(1) Personnel expenses related to the operation of the program.

(2) Special training for a law enforcement officer.

(3) Electronic legal research.

(4) Office equipment, including computers, computer software, communication devices, office machinery, furnishings, and office supplies.

(5) Any other purpose that benefits law enforcement and that is agreed upon by the city fiscal body and the prosecuting attorney.

(6) Any other purpose permitted by IC § 33-37-8-4(b).

(E) The Controller shall certify to the City Council and prosecuting attorney an accounting of the amount of Deferral Program fees received by and deposited into the User Fee Fund during the previous month. The prosecuting attorney shall prepare and submit to the Controller claims for presentation to the City Council for the payment of invoices detailing costs and expenses incurred by the prosecuting attorney in administering the Deferral Program.

(F) Notwithstanding any other provision in this section, in the event the Deferral Program is discontinued by the City, and after all Deferral Program costs and expenses have been paid in full, the Deferral Program fees collected and on deposit in the User Fee Fund shall revert to the city's General Fund.

The heading of Chapter 37 is hereby amended as follows:

## **CHAPTER 37. CITY COURT**

§ 37.01 is hereby amended as follows:

### **§ 37.01 CITY COURT**

(A) In 2010, the Town of Fishers established a town court to be referred to as The Town Court of Fishers. Beginning January 1, 2015, the Town Court of Fishers shall be known as and referred to as The City Court of Fishers.

(B) Pursuant to IC 33-35-1-3 and – 4, the judge that presides over the City Court shall reside within Fishers' municipal boundaries and shall be elected by the citizens of Fishers during the municipal primary and the general municipal elections held every four years.

(C) The judge of the City Court shall serve for four years, beginning at noon January 1 after election and continuing until a successor is elected and qualified

(D) Before beginning the duties of office, the City Judge must:

(1) Take and subscribe to the same oath of office as judges of circuit courts; and

(2) Execute a bond, in the manner prescribed by Ind. Code § 33-35 *et. seq.* with a surety approved by the Mayor, payable to the City of Fishers in the penal sum of \$5,000.

(E) The City Judge may adopt the rules necessary for conducting the business of the Court and has all powers incident to a court of record as provided for in state statutes.

(F) The City Judge may appoint a reputable practicing attorney to preside in the Judge's absence as special judge.

(G) The City Judge shall provide a seal for the City Court which, on its face, must state "City Court of Fishers, Indiana."

(H) Pursuant to Ind. Code § 33-35-3-2, the City Clerk is the clerk of the city court.

(I) The City Judge shall hold sessions of the City Court as the business of the Court demands at a place provided and designated by the City Council.

(J) Pursuant to IC 36-4-7-2, the City Council shall prescribe the compensation paid to the City Judge.

(K) The Clerk shall satisfy all duties of clerk as set forth in IC 33-35-3-2, as amended.

(L) Rules of the City Court shall specify the manner in which process issued from the City Court is served.

(M) During 2015, the City Court shall have exclusive jurisdiction of all violations of city ordinances, misdemeanors and infractions, only. Beginning on January 1, 2016, the City Court shall exercise jurisdiction as provided in IC § 33-35-2-4.

(N) All judgments, decrees, orders and proceedings of the City Court shall have the same force as those of the circuit court, and, pursuant to Ind. Code § 33-35-5-9, an appeal taken from a judgment of the City Court may be taken to a Hamilton County circuit, superior or probate court.

37.02 is hereby added as follows:

**37.02 BAILIFF**

Pursuant to IC 33-35-3-3,

A. The bailiff of a city court must be a police officer of the city assigned to the court by the chief of police.. However, the judge of the city court may appoint another person to serve as bailiff.

B. The bailiff shall give bond payable to the city in the penal sum of one thousand dollars (\$1,000), with surety to be approved by the mayor, conditioned on the faithful and honest discharge of the bailiff's duties. The bond shall be filed in the office of the controller or clerk-treasurer.

C. The bailiff shall have the authority and perform the duties set forth in state statutes, including IC 33-35-3-3, as amended

**TITLE V. PUBLIC WORKS**

Title V is hereby amended as follows:

Except as otherwise stated below or when referring to past approved acts, all references in Title V to the “town” or “Town” are hereby amended to refer to the “city” or “City”, references to the “Town Council” are hereby amended to refer to the “City Council,” references to the “Clerk-Treasurer” are hereby amended to refer to the “Clerk”, references to the “Town Manager” are hereby amended to refer to the “Mayor”, references to the “Town Court” are hereby amended to refer to the “City Court”, references to the “Town Judge” are hereby amended to refer to the “City Judge” and references to the “Town Attorney” are hereby amended to refer to “Corporation Counsel or his or her designee”.

In addition to the above, the following specifically referenced chapters, sections and subsections shall be further amended, repealed or restated as follows:

**CHAPTER 51. SEWER USE**

**TERMINATING WATER SERVICE TO DELINQUENT SEWER USERS**

**§ 51.65 TERMINATION OF SERVICE PROCEDURES**

§ 51.65(A) is hereby amended as follows:

The City, by and through its Controller or his or her designee, may order the termination of water service to a sewer service address for nonpayment of a delinquent account that is not less than 30 days delinquent. When so ordered the water utility shall terminate such service in accordance with the terms of their agreement with the city.

§51.80 is hereby amended as follows:

**§ 51.80 WATER LINES USED STRICTLY FOR IRRIGATION PURPOSES EXEMPT FROM SEWER BILLING**

(A) Application for exemption. Any commercial customer of City Sewage Treatment Facilities who has a metered water line used exclusively for irrigation purposes may apply to the Controller on an application form approved by the Controller for an exemption from any sewer billing associated with the use of such line. Upon the presentation of such application by the commercial customer, and following review by the Controller, the Controller may issue an exemption in writing to the applicant. Any exemption so issued shall be reviewed on an annual basis.

(B) Termination of exemption. In the event that a commercial customer granted an exemption discontinues the use of a metered water line for irrigation purposes only, it shall be the responsibility of such commercial customer to notify the Controller immediately, whereupon the exemption granted by the Controller shall be terminated in writing to the commercial customer.

(C) Commencement of exemption. No exemption from the existing policies and procedures of the city regarding the calculation of sewage bills shall commence until the exemption letter is issued by the Controller. It is the intent of this subchapter that any exemptions granted shall act prospectively and not retroactively.

**TITLE VII. TRAFFIC CODE**

Title VII is hereby amended as follows:

Except as otherwise stated below or when referring to past approved acts, all references in Title VII to the “town” or “Town” are hereby amended to refer to the “city” or “City”, references to the “Town Council” are hereby amended to refer to the “City Council,” references to the “Clerk-Treasurer” are hereby amended to refer to the “Clerk”, references to the “Town Manager” are hereby amended to refer to the “Mayor”, references to the “Town Court” are hereby amended to refer to the “City Court”, references to the “Town Judge” are hereby amended to refer to the “City Judge” and references to the “Town Attorney” are hereby amended to refer to “Corporation Counsel or his or her designee”.

In addition to the above, the following specifically referenced chapters, sections and subsections shall be further amended, repealed or restated as follows:

## **CHAPTER 70. GENERAL PROVISIONS**

§ 70.31 is hereby amended as follows:

### **§ 70.31 VEHICLE INSPECTION FUND; APPROPRIATIONS**

(A) There is hereby established pursuant to IC 9-1-2-1 a Special Vehicle Inspection Fund to be maintained by the Controller separate and apart from all other funds of the city.

(B) Appropriations from the Fund shall be made only for law enforcement purposes upon application to the Controller and approval of the Public Works and Safety Board.

§ 70.43 is hereby amended as follows:

### **§ 70.43 DISPOSITION OF TRAFFIC FINE AND FORFEITURE**

All traffic fines and forfeitures collected by the Controller shall be deposited in the general fund.

## **TITLE IX. GENERAL REGULATIONS**

Title IX is hereby amended as follows:

Except as otherwise stated below or when referring to past approved acts, all references in Title IX to the “town” or “Town” are hereby amended to refer to the “city” or “City”, references to the “Town Council” are hereby amended to refer to the “City Council,” references to the “Clerk-Treasurer” are hereby amended to refer to the “Clerk”, references to the “Town Manager” are hereby amended to refer to the “Mayor”, references to the “Town Court” are hereby amended to refer to the “City Court”, references to the “Town Judge” are hereby amended to refer to the “City Judge” and references to the “Town Attorney” are hereby amended to refer to “Corporation Counsel or his or her designee”.

In addition to the above, the following specifically referenced chapters, sections and subsections shall be further amended, repealed or restated as follows:

## **CHAPTER 94. STREETS AND SIDEWALKS**

§ 94.11 is hereby amended as follows:

### **§ 94.11 CERTAIN THOROUGHFARES NOT TO BE OPEN CUT**

The Allisonville Road, 96th Street, 116<sup>th</sup> Street, 126<sup>th</sup> Street and 136<sup>th</sup> Street thoroughfares within the corporate limits of the city, shall not be open cut unless specifically authorized by the Public Works and Safety Board pursuant to Ind. Code § 36-9-6-6. All other streets shall not be open cut if the pavement is less than three years old or unless specifically authorized by the Public Works and Safety Board pursuant to Ind. Code § 36-9-6-6.

§ 94.21 is hereby amended as follows:

**§ 94.21 APPLICATION TO CITY; FEE**

Any person, firm or corporation desiring to cut, replace or substantially alter an existing sidewalk or to construct and use a driveway from or into a street, alley or thoroughfare of the city shall make written application to the city for its approval. Such application shall include a scaled diagram of the proposed driveway, cut or alteration and its relation to surrounding property, including but not limited to streets, alleys, thoroughfares, and sidewalks and a statement describing the planned use of such driveway, cut or alteration. The application shall be filed with the Director of Community Development or his or her designee at least ten days prior to the regularly scheduled meeting of the Public Works and Safety Board and shall be accompanied by an application fee of \$5.

§ 94.22 is hereby amended as follows:

**§ 94.22 GRANTING OR DENYING APPLICATION**

(A) With respect to an application made under this chapter the Director of Community Development or his or her designee may grant the application if the proposed driveway, cut or alteration, when constructed or performed, will conform to all specifications adopted by the city and will not:

- (1) Constitute a risk of injury to persons or property;
- (2) Impair or impede the proper and efficient maintenance of streets, alleys, thoroughfares or property of the city;
- (3) Impair or impede the natural normal or existing flow of surface water; or
- (4) Impair or impede the orderly and safe movement of traffic, vehicular or pedestrian, on and over surrounding streets, alleys, thoroughfares and sidewalks.

(B) In the alternative, the Director of Community Development or his or her designee may bring the application before the Public Works and Safety Board at its next regularly scheduled meeting. With respect to any application referred to it, the Board may deny the application if the proposed driveway, cut or alteration will:

- (1) Constitute a risk of injury to persons or property;
- (2) Impair or impede the maintenance of streets, alleys, thoroughfares or property of the city;
- (3) Impede or impair the natural, normal or existing flow of surface water; or



(4) Impair or impede the orderly and safe movement of traffic, vehicular or pedestrian, on and over surrounding streets, alleys, thoroughfares and sidewalks.

(C) The Board may grant the application on condition that the driveway, cut or alteration will, as and when constructed or performed, conform to all specifications now or hereafter adopted by the city for the construction of driveways, streets, alleys, thoroughfares and sidewalks.

(D) The Board may grant the application on the condition specified in division (A)(2) hereof and on the further condition that a cash or surety bond in an amount equal to the cost of the proposed driveway, cut or alteration be filed with the city, to remain in effect for three years or such other time determined by the Board to be reasonable under the circumstances.

§ 94.23 is hereby amended as follows:

### **§ 94.23 ISSUANCE OF DRIVEWAY-SIDEWALK PERMIT**

The written approval of the city required by this chapter shall be in the form of a Driveway-Sidewalk Permit and shall be issued by the Director of Community Development or his designee, or the Public Works and Safety Board.

## **CHAPTER 95. TREES AND SHRUBS; WEEDS**

§ 95.01 is hereby amended to state the following:

### **§ 95.01 PLANTING OF TREES AND SHRUBS**

Within the city, no person shall plant trees or shrubs between the street and the sidewalk and/or property line except that the owner or person in control of the dominant real estate may plant trees or shrubs between the street and the sidewalk and/or right-of-way of easement line after obtaining a permit from the Tree Board or its designee.

§ 95.03 is hereby amended to state the following:

### **§ 95.03 OBSTRUCTION OF VISIBILITY**

If any tree or shrub planted pursuant to § 95.01 above shall, in the reasonable opinion of the Public Works and Safety Board, create a hazardous obstruction to vision which may endanger vehicular or pedestrian traffic, then said tree or shrub shall be appropriately trimmed or removed pursuant to the procedure described in § 95.02 above.

**With regard to §§ 96.01-96.04, all references to past actions of the Town of Fishers and its Town Council with regard to establishing and setting the amount of impact fees shall remain unchanged.**

## **CHAPTER 96. PARKS AND RECREATION**

§ 96.08 is hereby amended as follows:

### **§ 96.08 FORM OF RECEIPT**

The Controller shall issue a receipt for any and all impact fees collected, and the form of such receipt shall be as follows:

Received of \_\_\_\_\_ (fee payer) , this \_\_\_\_\_ day of \_\_\_\_\_ , the sum of \$ \_\_\_\_\_ in (full) (partial) satisfaction of impact fees due pursuant to Ordinance No. \_\_\_\_\_ relating to improvements to be constructed on the real estate described on Exhibit A, attached hereto, made part hereof, and subject to lien rights in favor of the City of Fishers in the event of partial payment with payments remaining due. The remaining balance due (if any) is in the following amount: \$ \_\_\_\_\_ . This impact fee is dedicated to the creation of the following infrastructure element in accordance with the Zone Improvement Plan: Controller, City of Fishers

§ 96.09 is hereby amended as follows:

### **§ 96.09 APPEALS**

(A) Any fee payer who believes itself to be aggrieved by the calculation of the impact fee may appeal from such calculation to the Fishers Impact Fee Review Board. Pursuant to Ind. Code § 36-7-4-1338, the Board shall be comprised of three citizen members appointed by the Mayor as follows:

- (1) One (1) member who is a real estate broker licensed in Indiana;
- (2) One (1) member who is an engineer licensed in Indiana; and
- (3) One (1) member who is a certified public accountant.

(B) The Impact Fee Review Board shall conduct a hearing with regard thereto. At such hearing, the fee payer shall bear the burden of going forward with the evidence and shall present evidence addressing either of the following propositions:

- (1) A fact assumption used in determining the amount of the impact fee is incorrect; or
- (2) The amount of the impact fee is greater than the amount allowed under IC 36-7-4-1320, 1321 and 1322.

(C) Upon conclusion of the presentation of evidence, the Fishers Impact Fee Review Board shall within thirty (30) days make a determination upon the facts presented and may make such adjustments in the impact fee as they believe are appropriate under the circumstances, if any.

(D) An appeal under this section must be filed not later than 30 days after the issuance of the structural building permit. The appeal shall be initiated with the filing of a Petition for Review with the Controller's office, together with a filing fee in the amount of \$100. The filing fee shall

be refunded in full if the following occur:

(1) the Petition for Review is granted and the impact fee is eliminated, reduced or adjusted by the Fishers Impact Fee Review Board, by independent action of the city, or by a court having jurisdiction; and

(2) the reviewing body determines that the amount of the fee, reductions, or credits were arbitrary or capricious.

The Petition for Review shall be in a form calculated to inform the Fishers Impact Fee Review Board of the nature of the complaint, the parties to the action, and the relief requested. In addition, the petition shall describe the new development on which the impact fee has been assessed, all facts related to the assessment of the impact fee, and the reasons the petitioner believes that the amount of the impact fee assessed is erroneous or is greater than the amount allowed by the fee limitations set forth in the enabling statute.

(E) The city shall not deny the issuance of a structural building permit on the basis that the impact fee has not been paid, or, condition issuance of the permit on the payment of the impact fee. If the impact fee totals \$1,000 or less, the city may require the fee payer to pay the impact fee or initiate an appeal under this section before the structural building permit is issued.

§ 96.10 is hereby amended as follows:

#### **§ 96.10 ESTABLISHMENT OF PARK AND RECREATIONAL FUND**

(A) There is hereby established the City Park and Recreational Fund. This Fund shall be a non-reverting fund and shall receive any and all sums collected pursuant to this chapter to be utilized in connection with the purposes set forth herein. The Fund shall consist initially of one account based upon the current existence of one Impact Zone. In the event, and only in the event, that an additional Impact Zone is created hereafter, a separate account shall be maintained for each separate Impact Zone established within the city. Interest earned on the Fund or on any account within the Fund, shall be deposited and maintained within the Fund or the separate account. Pursuant to Ind. Code § 36-7-4-1329(c), the Controller shall maintain records of the status of the Fund or any account which may be established therein, and shall make an annual report of said fund and accounts which shall be available to the public in general and fee payers, upon request, in particular.

(B) Pursuant to IC 36-7-4-1332(e), the Controller is designated as the city official responsible for acting upon refund requests. In order to facilitate refunds when they may be due, the Controller is directed to identify the purpose of any impact fee paid in order that a refund, if any, may be paid from the Fund or account into which the fee was originally deposited.

§ 96.14 is hereby amended as follows:

## **96.14 FEES FOR FACILITIES, PROGRAMS AND ACTIVITIES**

There is hereby established a schedule of rates and fees for use in connection with park facilities and participation in activities and programs, all as set forth in the schedule which is located at the Office of the Controller. The schedule may be amended from time to time as warranted.

§ 96.15 is hereby amended as follows:

### **§ 96.15 DEFINITIONS**

The following definitions are hereby amended and repealed:

For purposes of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**DEPARTMENT. Department of Parks and Recreation**

**The definition of TOWN is hereby deleted.**

The heading of Chapter 97 is hereby amended as follows:

## **CHAPTER 97. DEPARTMENT OF EMERGENCY MANAGEMENT/HOMELAND SECURITY**

§ 97.01 is hereby amended as follows:

### **97.01 PURPOSE**

The purpose of this article is to establish a Department of Emergency Management and Homeland Security within Fishers to provide for the exercise of necessary powers during disaster emergency, and to supplement the Emergency Management and Disaster Law (I.C. § 10-14-3-1 et seq.).

Further, it is the intent of this chapter to supplement the provisions of the federal act and such other federal and state statutes, rules and regulations as may be applicable with respect to any facility that produces, uses, stores, or otherwise has possession of hazardous chemicals, hazardous substances or extremely hazardous substances. No provision of this chapter shall be deemed to supersede any federal or state requirement and to the extent that any provision herein conflicts with the federal act or any other federal or state statute, rule or regulation, such federal or state statute, rule or regulation shall control.

§ 97.02 is hereby amended as follows:

### **97.02 DEFINITIONS AND GENERAL PROVISIONS**

As used in this Chapter the following words and terms have the meanings indicated.

**COUNTY** means Hamilton County, Indiana.

**DEPARTMENT** means the Department of Emergency Management and Homeland Security as established by Fishers Ordinance.

**DIRECTOR** means the individual in charge of the Department of Emergency Management and Homeland Security as appointed by the Mayor.

**DISASTER** shall have same definition as included in IC § 10-14-3-1

**EMERGENCY MANAGEMENT** shall have the same definition as included in IC § 10-14-3-2

**EMERGENCY MANAGEMENT PLAN** means the current local comprehensive emergency management plan whose preparation and updating are mandated by IC § 10-14-3-17(h).

**EXTREMELY HAZARDOUS SUBSTANCE.** Any substance so designated by the United States Environmental Protection Agency by regulation adopted under the federal act.

**FACILITY.** All buildings, equipment, structures, and other stationery items that are located on a single site on contiguous or adjacent sites and that are owned, operated or used by the same person or by any person who controls, is controlled by, or is under common control with that person. For purposes of the notification required by § 95.22, the term includes motor vehicles, rolling stock and aircraft.

**FEDERAL ACT.** Title III of the “Superfund Amendments and Re-authorization Act of 1986” 100 STAT. 1728, 42 U.S.C. 11001, as amended.

**FIRE DEPARTMENT.** Fishers Fire and Emergency Services

**HAZARDOUS CHEMICAL.** The meaning given to that term in 29 C.F.R. 1910.1200(c), but does not include any of the following:

(1) Any food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration of the United States Department of Health and Human Services;

(2) Any substance present as a solid in any manufactured item to the extent that exposure to the substance does not occur under normal conditions of use;

(3) Any substance to the extent it is used for person, family or household purposes or is present in the same form and concentration as a product packaged for distribution to and used by the general public, including, without limitation, household and consumer products that are stored prior to or displayed for distribution to the consumer when in the same form and concentration as such products when not intended for use by the general public in the same form and concentration;

(4) Any substance to the extent it is used in a research laboratory or hospital or other medical facility under the direct supervision of a technically qualified individual; or

(5) Any substance to the extent it is used in routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate customer.

**HAZARDOUS MATERIAL** Shall have the same definition as provided in IC 13-11-2-96.

**HAZARDOUS MATERIALS EMERGENCY** Shall have the same definition as provided in IC 13-11-2-97.

**HAZARDOUS SUBSTANCE** Any substance so designed under the “Comprehensive Environmental Response, Compensation and Liability Act of 1980” 94 STAT 2767, 42 U.S.C. 9601, as amended and regulations promulgated thereunder.

**HEALTH OFFICER** The official Health Officer for Hamilton County as appointed by the Hamilton County Health Department, or the Health Officer officially appointed by the Mayor.

**LOCAL EMERGENCY PLANNING COMMITTEE** The Hamilton County Local Emergency Planning Committee.

**PERSON** Any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state or interstate body.

**PERSONNEL** means Fishers’ employees and emergency management volunteers unless otherwise indicated.

**PESTICIDE** Shall have the same definition as included in IC 13-11-2-159.

**RESPONSIBLE PARTY** Shall have the same definition as included in IC 13-11-2-191.

**CITY** means the City of Fishers, Hamilton County, Indiana.

**U.S. EPA** The United States Environmental Protection Agency.

§ 97.03 is hereby added as follows:

### **97.03 ESTABLISHMENT**

There is hereby created the Fishers Department of Emergency Management and Homeland Security, in accordance with IC 10-14-3 *et seq.* The Mayor shall appoint a Director for the Department of Emergency Management and Homeland Security.

§ 97.04 is hereby added as follows:

### **97.04 DUTIES, POWERS**

The Department of Emergency Management and Homeland Security shall:

A. Coordinate and direct the development of Fishers' Emergency Management Plan which shall involve all sectors of government and the private sector, and shall address all threats or emergencies from all hazards, including natural, technological, man-caused and national security hazards, and shall include mitigation, preparedness, response and recovery activities;

B. Prepare, disseminate and maintain in current status a City Emergency Management Plan that addresses in detail the response to and recovery from major emergencies occurring in the City, and that shall be the sole Emergency Management Plan for the City; no private organizations shall develop emergency operating or disaster plans or procedures that are in conflict with the City's Emergency Management Plan except where specifically authorized by ordinance, statute, or federal law or regulation;

C. Designate and manage an emergency operations center to which senior government officials and chief coordinators designated in the City Emergency Management Plan may respond to formulate and disseminate decisions regarding the management of a major emergency; the Department of Emergency Management and Homeland Security may also designate such auxiliary emergency operations centers as may be necessary;

D. Coordinate the development and execution of tests, drills and exercises of the City's Emergency Management Plan or any of its parts;

E. Be responsible for monitoring hazardous conditions of any kind in the City, making recommendations to the Mayor concerning emergency measures and activating the City's Emergency Management Plan after the declaration of a local disaster emergency by the executive and for coordinating response and recovery operations associated with a major emergency;

F. Serve as the City's emergency management organization for the purpose of IC § 10-14-3;

G. Be authorized to seek and apply for grants, contracts and other sources of funding necessary or in support of its duties from the federal government, state government and nongovernmental public and private sources; and

H. Coordinate the recruitment and training for volunteer personnel and agencies to augment the personnel and facilities of the City for Emergency Management purposes.

§ 97.05 is hereby added as follows:

**97.05 CHIEF; STAFF**

A. The Department of Emergency Management and Homeland Security shall be under the direction of a Director.

B. The Director shall be responsible for such paid and voluntary staff members as are necessary to fulfill the duties of the Department of Emergency Management and Homeland Security. The Department of Emergency Management and Homeland Security may organize such volunteer units, emergency reservist and others as may be necessary to fulfill its duties.

C. The Director may:

(1) Coordinate the recruitment and training for volunteer personnel and agencies to augment the personnel and facilities of the City for Emergency Management purposes;

(2) Seek, negotiate and enter into, with the approval of the executive and consistent with the State comprehensive emergency management plan and program, mutual aid arrangements with other public and private agencies for Emergency Management purposes and take all steps in accordance with such arrangements to comply with or take advantage thereof in the event of an actual emergency affective the parties;

(3) Accept any offer of the County, State, or Federal Government to provide for the use of the City any services, equipment, supplies, materials or funds for Emergency Management purposes by way of gift, grant, or loan, upon the Mayor's approval of such offer.

D. In addition to the powers and duties expressly provided in this Chapter, the Director shall be construed to have all the powers and duties of a local Emergency Management director as provided under IC § 10-14-3. In particular, but not by limitation, the Director, through the Department, may perform or cause to be performed with the respect of the City, any function parallel or analogous to those performed on a countywide basis by the County EMA or on a statewide basis by Indiana Department of Homeland Security under IC § 10-14-3.

E. Unless otherwise indicated, the Director has the responsibility of enforcing this Chapter. The Director, his designee, or any law enforcement officer may bring an action seeking a conviction of a class A infraction, as authorized under this section, in a court of general jurisdiction within the county.

§ 97.06 is hereby added as follows:

#### **97.06 LOCAL DISASTER EMERGENCY**

A. In accordance with IC § 10-14-3-29, the Mayor, or his designee, may declare a local disaster. The local disaster may not be continued or renewed for more than seven (7) days except by or with the consent of the Council. Any order or proclamation declaring, continuing, or terminating a local disaster emergency shall be given prompt and general publicity and shall be filed promptly in the office of the Clerk.

B. The effect of a declaration of a local disaster emergency is to:



(1) Activate the response and recovery aspects of all applicable local or inter-jurisdictional disaster emergency management plans; and

(2) Authorize the furnishing of aid and assistance under the Emergency Management Plan

§ 97.07 is hereby added as follows:

#### **97.07 EMERGENCY COMMUNICATIONS AND WARNINGS**

A. The Department of Emergency Management and Homeland Security shall coordinate the development of an emergency communications and warning system that will allow for the dissemination of warnings to potential responders and the general public, to effect the notification of appropriate response agencies and individuals, and to distribute and receive information to and from potential emergency responders and the general public regarding an emergency condition.

B. The Department shall develop and maintain an integrated system for warning the public, which may include the deployment of public warning sirens, the development of voice radio systems, coordination of the mobilization of cable television systems, coordination of the City's participation in the emergency broadcast system, and any other appropriate systems that may become available.

§ 97.08 is hereby added as follows:

#### **97.08. EMERGENCY POWER AND PROCEDURE**

The Mayor or his or her designee may, upon declaring a local disaster emergency, take such actions as are appropriate to assure the public well-being, safety of public and private property and the environment including, but not limited to, the imposition of travel bans on streets and highways; the imposition of curfews; the alteration of normal business working hours; the ordering of evacuation and relocation of civilian populations; all as may be necessary to effect emergency response and recovery.

§ 97.09 is hereby added as follows:

#### **97.09. ANNUAL REPORTS REQUIRED**

(A) The owner or operator of a facility that is required to prepare or have available a material safety data sheet for a hazardous chemical under the "Occupational Safety and Health Act of 1970," 84 STAT 1590, 29 U.S.C. 1651, as amended, and regulations promulgated thereunder, and that had present at the facility during the preceding calendar year an amount of a hazardous chemical or an extremely hazardous substance exceeding the threshold level for that chemical or substance established by regulations adopted under the federal act shall, no later than March 1 annually, submit an emergency and hazardous chemical inventory form (the "inventory form") to the Local Emergency Planning Committee and to the Department of Fire & Emergency Services.

(B) The inventory form shall contain for each such hazardous chemical or extremely hazardous substance information that has been designated as Tier II information under the federal act.

(C) Upon request of the Local Emergency Planning Committee or the Department of Fire & Emergency Services, the owner or operator of a facility that is subject to this section shall, no later than 30 days after receiving such request, file a copy of the tier II form with the local emergency management director or the Department of Fire & Emergency Services.

(B) Any person who adds additional hazardous chemicals or extremely hazardous substances to his location or substantially increases the quantity of any such substance shall amend his tier II report and file the amended report within 30 days of the addition of the new substance or a substantial increase in a substance.

(B) No person shall fail to comply with this section. Each day that a person is in noncompliance with this section shall constitute a separate violation hereunder. The Department may, in its discretion, commence an action under this section against any person who violates the provisions of this section. Any action under this section is a civil action, governed by the general rules, practice and procedure applicable to civil action in the state. In addition to an action for civil penalties, the Department may, in its discretion, bring an action for injunctive relief to permanently enjoin any person from further violation of the provisions of this section and the federal act.

§ 97.10 is hereby added as follows:

#### **97.10 AFFIRMATIVE OBLIGATIONS**

The owner or operator of any facility at which there is present a hazardous chemical or an extremely hazardous substance in an amount that exceeds the threshold level for that substance established by regulations adopted under the federal act shall, in accordance with such act, and regulations promulgated thereunder, do all of the following:

- A. No later than three months after becoming subject to the federal act, notify the Local Emergency Planning Committee and the Department of Emergency Management/Homeland Security that:
  - a. the facility is subject to the federal act,
  - b. Provide the name of a facility representative who will participate in the emergency planning process as the facility emergency coordinator;

(B) Promptly inform the Local Emergency Planning Committee and the Department of Emergency Management/Homeland Security of any changes occurring at the facility that may be relevant to the emergency planning process;

(C) Upon request of the Local Emergency Planning Committee or the Department of Emergency Management/Homeland Security of, promptly provide information that is necessary for developing and implementing the local emergency response plan, as that term is defined under the federal act. Information that is provided under this section is subject to the restrictions

on the release of trade secret information under the federal act;

(D) No person shall fail to comply with this section. Each day that a person is in noncompliance with this section shall constitute a separate violation hereunder. The Local Emergency Planning Committee may, in its discretion, commence an action under this section against any person who violates the provisions of this section. Any action under this section is a civil action, governed by the general rules, practice and procedure applicable to civil actions in the state. In addition to an action for civil penalties, the Local Emergency Planning Committee may, in its discretion, bring an action for injunctive relief to permanently enjoin any person from further violations or the provisions of this section and the federal act.

§ 97.11 is hereby added as follows:

### **97.11 ACTIONS IN EVENT OF RELEASE**

(A) In the event of a release of a hazardous chemical or an extremely hazardous substance from a facility that is reportable under the federal act, the owner or operator of such facility shall immediately notify the Local Emergency Planning Committee, and the Department of Fire & Emergency Services.

(B) For any release for which a written follow-up emergency notice is required by the federal act, that notice shall be provided to the Local Emergency Planning Committee and the Department of Emergency Management and Homeland Security.

(C) Whenever an owner or operator of a facility is required to submit any report to the U.S. EPA under regulations adopted under section 104 of the "Comprehensive Environmental Response, Compensation and Liability Act of 1980", 94 STAT. 2767, 42 U.S.C. 9601, as amended, concerning the circumstances relating to the sudden, accidental release of a hazardous chemical or extremely hazardous substance at or from the facility, such owner or operator shall submit a copy of the report to the local agency planning committee and the Department of Emergency Management and Homeland Security. at the same.

§ 97.12 is hereby added as follows:

### **97.12 ABATEMENT OF NUISANCE OR UNSANITARY CONDITIONS**

The County Board of Health, the Fishers Public Works and Safety Board, the Fishers Police Department, the Department of Emergency Management and Homeland Security, shall have full power and authority to enter into or upon any street, premises or ground for the purpose of making a sanitary survey of the same; provided, that before making any such entrance, due request for permission shall have been made at proper and reasonable hours.

If a nuisance or any unsanitary conditions are found upon making a sanitary survey, the person so offending, shall be notified in writing, fixing a time limit to abate the nuisance. If such person shall fail or refuse to abate the nuisance within the time specified, it shall be the duty of the Department of Public Works to cause such nuisance to be abated, keeping an accurate account of

the expense thereof, which shall be paid from the town treasury upon the sworn voucher of the Department of Public Works, and such expense shall be a lien on the property, and collected as taxes are collected, and turned into the City Treasury.

§ 97.13 is hereby added as follows:

### **97.13 REASONABLE AND NECESSARY EXPENSES; REIMBURSEMENT**

A. The persons who are responsible parties in connection with a hazardous material emergency shall reimburse Fishers for all reasonable and necessary expenses incurred in taking emergency action. Reimbursement is available under this section for expenses that are incurred by Fishers in taking emergency action, except for expenses of a type that the agency normally incurs in responding to emergencies that do not involve hazardous materials. Reimbursement for expenses is not available under this section if those expenses may be reimbursed by the federal government under section 123 of the Superfund Amendments and Reauthorization Act of 1986, 42 USC 9623.

B. City may obtain reimbursement by filing an action for reimbursement in a court of general jurisdiction of a county in which a hazardous materials emergency arises.

C. If a responsible party fails to pay the amounts due to the City within 60 days of written demand for such reimbursement, the responsible party shall be guilty of a class A infraction. Each day that the responsible party fails to make reimbursement 60 days after written demand is considered a separate offense, and the responsible party may be fined up to \$2,500.00 for each such violation. This fine shall be in addition to the continuing duty of the responsible party to reimburse the amount due in section 97.15(A).

D. Fishers shall be entitled to reasonable attorney's fees incurred to collect reimbursement from any responsible party, as well as interest at the statutory rate on the amount paid by the City

§ 97.14 is hereby added as follows:

### **97.14 PENALTIES**

(A) Whoever violates any provision of this chapter, for which no specific penalty is otherwise provided, shall, upon conviction thereof, pay a fine of not more than \$2,500. Each day any violation shall continue shall constitute a separate offense. In all cases where the same offense may be made punishable, or may be created by different clause or sections of the ordinances of the City, the City Attorney may elect under which to proceed, but not more than one recovery shall be had against the same person for the same offense.

(B) Any person violating any of the provisions of § 97.10 shall be deemed guilty of a violation and upon conviction thereof shall be fined in an amount not exceeding \$300. Each day

such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

(C) Any person violating any provision of §§ 97.09 shall be punished by a fine of \$25 payable to the Controller. Each day the violation shall continue shall constitute a separate offense.

(D) Any person who violates any provision of § 97.12 shall pay a civil penalty of not more than \$2,500 for each such violation.

§ 97.15 is hereby added as follows:

#### **97.15 COLLECTION OF PENALTIES**

(A) Any civil penalties imposed under this chapter shall be paid to the Controller.

(B) Any fines imposed under 97.15 of this chapter shall be paid to the Controller for deposit into any account maintained under this section. Any amounts in that account shall be distributed in the following order of priority:

(1) To each city department including but not limited to Police, Fire, and Public Works, for any unreimbursed costs incurred by it taking emergency action for the hazardous materials emergency which gave rise to the fine.

(2) Reimbursement to the City for any attorneys' fees, witness fees, or other costs incurred in maintaining the action against the responsible party in connection with the hazardous materials emergency that give rise to the fine.

(3) Reimbursement to the City for any costs associated with a hazardous materials emergency that has not been reimbursed.

(4) For use by the City for Hazardous Materials training.

§ 97.16 is hereby added as follows:

#### **97.16. CONFORMANCE OF EMERGENCY MANAGEMENT RULE WITH HAMILTON COUNTY'S EMERGENCY MANAGEMENT PROGRAM AND EMERGENCY PLAN.**

Pursuant to IC 10-14-3-22, any rule or regulation may not be inconsistent with the county emergency management program and emergency plan. If any portion of this Chapter is to be found in conflict the County's requirements shall prevail. If for any reason any part of this Chapter is declared to be invalid such decision shall not affect the validity of the remaining portions of this Chapter

**§ 97.20-97.23, § 97.35-97.40 and § 97.99-97.99 are hereby repealed.**

## **TITLE XI: BUSINESS REGULATIONS**

Title XI is hereby amended as follows:

Except as otherwise stated below or when referring to past approved acts, all references in Title XI to the “town” or “Town” are hereby amended to refer to the “city” or “City”, references to the “Town Council” are hereby amended to refer to the “City Council,” references to the “Clerk-Treasurer” are hereby amended to refer to the “Clerk”, references to the “Town Manager” are hereby amended to refer to the “Mayor”, references to the “Town Court” are hereby amended to refer to the “City Court”, references to the “Town Judge” are hereby amended to refer to the “City Judge” and references to the “Town Attorney” are hereby amended to refer to “Corporation Counsel or his or her designee”.

In addition to the above, the following specifically referenced chapters, sections and subsections shall be further amended, repealed or restated as follows:

### **CHAPTER 113. TAXICABS**

§ 113.01 shall be amended as follows:

#### **§ 113.01 PURPOSE OF CHAPTER**

This chapter is adopted for the purpose of preventing the unsafe operation of public vehicles for hire and for the purpose of preventing unconscionable pricing and customer service practices in the operation of public vehicles for hire. For purposes of this chapter, all such vehicles shall be referred to as taxicabs.

§ 113.02 shall be amended as follows:

#### **§ 113.02 CONSUMER COMPLAINTS; HEARINGS**

Pursuant to IC 36-4-5-5, the Mayor shall have the power to hear complaints against any holder of a taxicab's license. Complaints shall be in writing and filed with the Controller who shall forward the complaint to the Mayor for action. Proceedings under this section shall thereafter be conducted in accordance with IC 36-4-5-5.

§ 113.03 shall be added as follows:

#### **§ 113.03 DEFINITIONS.**

Taxicab shall mean any motor vehicle:

(A) designed and constructed to accommodate and transport passengers;

(B) that does not operate over any definite and designated route within the corporate boundaries of Fishers;

(C) the destination of which is designated by the passenger or passengers at the time of transport; and

(D) the services of which are held out to the public for hire.

The following shall not be considered taxicabs for purposes of this Chapter:

1. Motor vehicles designed for transportation of sick, injured, or disabled persons;
2. A hearse used by funeral directors as part of their general employment; or
3. Motor vehicles owned by private, governmental or charitable organizations to transport their members or mentally or physically disabled persons without compensation for that transportation.

§ 113.10 shall be amended as follows:

#### **§ 113.10 LICENSE REQUIRED**

(A) No person, firm or corporation shall operate or cause to be operated a taxicab within the City unless the owner of the vehicle or vehicles holds a license issued pursuant to this chapter, except as provided in § [113.17](#).

(B) No person, firm, or corporation shall hold more than one license for the organization; however, each individual employee operating a taxicab within Fishers must be registered and listed on the license.

§ 113.11 shall be amended as follows:

#### **§ 113.11 LICENSE; AVAILABILITY**

Any person desiring to operate a taxicab within the City shall apply to the Controller for issuance of a taxicab license. Upon receipt of an application for a taxicab license, the Controller shall submit the application to the City Council, and the matter shall appear as an agenda item at a regularly scheduled Council meeting.

§ 113.12 is hereby amended as follows:

#### **§ 113.12 ISSUANCE OF LICENSE; EXPIRATION; RENEWAL; REMOVAL**

Following a favorable decision on an application for a taxicab license under § 113.11, the Controller shall issue a taxicab license to the applicant. The license shall authorize the holder to operate a taxicab service within the City pursuant to the terms of this chapter and to apply for not

more than thirty (30) taxicab driver registrations to be listed and filed as part of the license.

A taxicab license issued on or after January 1, 2015, shall be valid for five (5) years unless sooner revoked by the Mayor pursuant to IC 36-4-5-5.

Licenses shall be renewable at the option of the City Council. Applications for renewal shall be submitted to the Controller not less than thirty (30) days prior to expiration. The renewal application shall then be submitted to the Council in a public meeting for review and consideration. Renewal licenses shall be granted upon the same terms and conditions as the original license.

Fishers may revoke the license of any taxicab operator found not in compliance with this Chapter or Fishers' ordinances.

§ 113.13 is hereby amended as follows:

### **§ 113.13 PUBLIC MEETING REVIEW**

To obtain a license, the applicant shall demonstrate to the Council at a public meeting that the applicant and its employees are qualified by training, experience, and financial condition to operate a taxicab service within the City.

**§ 113.14 is hereby repealed.**

§ 113.15 is hereby amended as follows:

### **§ 113.15 INFORMATION PROVIDED TO CONTROLLER**

Prior to issuance of a taxicab license, an applicant shall submit to the Controller the following information:

- (A) The number of taxicabs to be licensed and operated;
- (B) The insignia, identifying name, and color scheme to be used on the applicant's taxicabs;
- (C) A financial statement concerning the applicant;
- (D) The name, address, copy of the driver's license of every driver operating a taxicab under the requested license and a certification that the applicant, if an individual, or the partners, if applicant is a partnership, or the principals of the corporation, if applicant is a corporation including all drivers, has never been convicted of a felony, operated a motor vehicle while intoxicated, or been convicted of reckless driving.
- (E) A full transcript of the information appearing on the certificate of title of each vehicle used as a taxicab, and the state license plate number of each such vehicle;



(F) Proof that the taxicab company has been registered with the Indiana Secretary of State as a legal business authorized to operate in the State of Indiana;

(G) A certificate from a reputable mechanic's shop that the vehicle used as a taxicab is roadworthy and safe for operation as a taxicab. Taxicabs must be re-inspected every three (3) years and the inspection records filed in the Controller's Office; and

(I) A certificate affirming that the applicant will release, hold harmless and indemnify the City for losses associated with or arising out of the use of the taxi, including claims that may be made by third parties against the City.

§ 113.16 is hereby amended as follows:

### **§ 113.16 INSURANCE REQUIRED**

(A) Every holder of a taxicab license under this chapter shall provide the Controller with a certificate of insurance in the following amounts:

- (1) \$500,000 per accident for accidental injury or death;
- (2) \$500,000 per person for accidental injury or death; and
- (3) \$100,000 for property damage.

(B) The certificate of insurance shall provide that the City shall receive notice not less than thirty (30) days prior to cancellation. Failure to comply with this section shall be cause for immediate revocation of the owner's taxicab license.

§ 113.17 is hereby amended as follows:

### **§ 113.17 LICENSES ISSUED UNDER PRIOR ORDINANCES**

Any holder of a taxicab license issued under a prior ordinance of the City shall be deemed to hold a non-transferable license under this chapter that expires upon the terms issued, except that the license may be revoked pursuant to this Chapter.

§ 113.20 is hereby amended as follows:

### **§ 113.20 LICENSE REQUIRED**

No taxicab shall be operated within the City unless the owner obtains a taxicab license issued by the Controller pursuant to all regulations of this chapter.

[Penalty, see § 113.99](#)

§ 113.21 is hereby amended as follows:

## **§ 113.21 INFORMATION REQUIRED**

No vehicle shall be licensed as a taxicab unless all information pertaining to the vehicle required by § 113.15 of this chapter is on file with the Controller. If at any time the information provided in accordance with § 113.15 changes, the holder of the taxicab license shall submit the revised information to the Controller's Office in writing within thirty (30) days.

§ 113.22 is hereby amended as follows:

## **§ 113.22 DISPLAY OF LICENSE**

Every taxicab shall display a copy of its license in a prominent place inside the vehicle.

**§ 113.23 is hereby repealed:**

## **§ 113.24 LICENSE FEE**

There is hereby imposed an administrative taxicab licensing fee of Two Hundred Fifty and no/100 Dollars (\$250.00) which fee shall be due and paid upon issuance of the five (5) year license.

§ 113.25 is hereby amended as follows:

## **§ 113.25 TEMPORARY OPERATION OF TAXICABS WITHOUT LICENSE**

(A) The holder of a valid taxicab license may place in service additional taxicabs not regularly licensed in the event of inclement weather, special events, or other circumstances indicating a need for more taxicabs on a temporary basis not to exceed five (5) days.

(B) There is hereby imposed, for each such vehicle placed in service, a daily license fee of \$5.00, per day.

(C) The owner of a taxicab service shall (1) notify the Controller of the use of temporary taxicabs and the dates of such use; and (2) pay the applicable daily fee prior to providing taxicab services.

§ 113.30 is hereby amended as follows:

## **§ 113.30 TAXICAB DRIVERS TO BE LICENSED**

Persons operating a taxicab within the City shall hold a valid, current Public Chauffeur's License issued by the Bureau of Motor Vehicles of the State of Indiana.

[Penalty, see § 113.99](#)

§ 113.31 is hereby amended as follows:

## **§ 113.31 DUTIES OF DRIVERS TO PASSENGERS**

(A) It shall be unlawful for any taxicab driver to willfully fail or refuse to respond promptly to a call for service anywhere within the City and at any time he is on duty; or to willfully refuse to accept and convey any person who applies to him for carriage and who pays or tenders the fare authorized by this chapter, and his traveling baggage not exceeding 70 pounds in weight, to the place of his designation anywhere within the City; or who, having agreed and undertaken to pick up and convey any passenger for the full distance to any destination either within or outside the City refuses or neglects to do so; provided, however, that the passenger shall be in such known or visible condition of sobriety, health and cleanliness that his carriage in such taxicab will not be a violation of any law or ordinance of the City, rule of the Hamilton County Health Department or any State law, and provided that the destination can be reached over available used routes.

(B) It shall be unlawful for any taxicab driver to refuse to accept or to convey to his destination within the City any person who applies to him for carriage and who pays or tenders the fare authorized by this chapter, solely on account of the race, color, creed or station in life of the person desiring carriage.

(C) No driver shall charge or attempt to charge any passenger a greater rate of fare than is authorized by this chapter, either for a distance or time charge. Every driver shall use the shortest available and practical route on all trips on a mileage basis.

(D) No taxicab driver shall willingly permit his taxicab or his services to be used by anyone for any immoral or unlawful purpose, to aid or abet any person in such use or to offend in any such manner any passenger.

(E) No taxicab driver shall permit any person to ride, except inside the taxicab, or to carry more persons over six years of age than can be seated on the seats of the taxicab.

(F) All passengers, where possible to do so, shall be picked up and discharged only on the right-hand side of the highway at a place adjacent to the travelled roadway and as close as practicable to the place directed by the passenger.

(G) All drivers shall observe and comply with all statutes, ordinances, rules and regulations of the City and State, and shall treat all passengers and other persons with courtesy and respect, and protect such persons from harm.

(H) Upon request of any passenger, the driver shall give such passenger his correct name, and his employer's correct name and telephone number.

(I) No taxicab driver shall be under the influence of alcohol or drugs while operating any taxicab.

[Penalty, see § 113.99](#)

§ 113.32 is hereby amended as follows:

### **§ 113.32 RECORD OF CALLS**

All taxicab drivers shall keep and file with the owner a daily record of all calls made, passengers transported, and the times and places of pick-up and delivery. Such record shall be kept by the owner for a period of two (2) years, and shall be open to inspection by any police officer upon request.

§ 113.33 is hereby amended as follows:

### **§ 113.33 TAXIMETERS; SCHEDULE OF RATES**

(A) All taxicabs shall be equipped with taximeters which are designed to accurately record time, distance travelled and fare to be charged. All such devices shall be kept by the owner in good working order, and shall be subject to inspection by the Chief of Police or his designated representative at any time. It shall be unlawful for any person to operate a taxicab knowing that the taximeter is inaccurate in any of its functions.

(B) No person owning, operating, or controlling a taxicab shall charge other than the schedule of rates at the time authorized by ordinance. A schedule of rates shall be posted in plain view of passengers in each taxicab at all times.

(C) If more than one person occupies or engages a taxicab for a common route or destination, or by time, the operator may make a charge of \$.50 for each extra person who has attained the age of two (2) years. No person operating a taxicab shall carry any other passenger after the taxicab has been engaged or occupied by a passenger, without obtaining the consent of the prior passenger, except as provided in division (I) hereof.

(D) When a taxicab arrives at the place to which it has been called by a passenger, the driver shall give notice of his arrival to such person and for the first three minutes following notice there shall be no time charge for waiting, but for any waiting time thereafter, either at the place of call or en route to the passenger's destination, the waiting charge authorized by the current schedule shall be paid. However, no waiting time shall be charged in any case where it is caused by the premature arrival of the driver at the place of call, or where delays occur en route due to the condition of the taxicab or the driver.

(E) No person who requests and receives transportation in any taxicab shall fail or refuse to pay the proper fare or charge authorized by this section.

(F) If demanded by the passenger, the driver of a taxicab shall deliver to the passenger at the time of payment a signed receipt on a form showing the driver's name and taxicab number, together with the distance or time, or both, for which the charge is made, the total amount paid and by whom, and the date of payment.

(G) The charge for taxicab services shall be filed in the office of the Controller and shall be available for public inspection during regular business hours. Any change proposed shall not take effect until at least a two-week public notice has been given of said proposed change by posting and publication in accordance with IC 5-3-1, as amended. Such notice shall additionally inform the public of their right to file written opposition to said fare increase with the Controller, who may submit the matter to the City the Council for review..

(H) Each passenger shall be permitted to carry in the vehicle with him his personal baggage weighing not over 70 pounds without extra charge.

(I) (1) A SHARE RIDE means the use of a taxicab to transport persons or property with different points of embarkation or disembarkation at the same or at overlapping times. Each person or group of persons, or articles or group of articles transported from one point of embarkation to one point of disembarkation shall be called a TRIP SEGMENT. The aggregate of trip segments over the time period from the beginning of the first trip segment to the end of the last trip segment shall be an ENTIRE TRIP.

(2) A taxicab may engage in a share ride during a particular entire trip under the following provisions:

(a) If the taxicab is equipped with a taxi meter capable of accounting for each trip segment on a varying rate schedule, as herein below provided;

(b) The first embarking passenger(s) give permission for the taxicab driver to engage in share riding;

(c) The entire trip does not deviate more than two City blocks from the route engaged by the first embarking passenger(s);

(d) The rate applied to each and every trip segment at any one time shall be the rate provided in division (G) of this section reduced by 15% for each trip segment in excess of one for which the taxicab is being used at any one time; and

(e) The additional passenger charge contained in division (C) of this section shall not apply to share rides except that said charge may be required of an extra passenger (above one) for each trip segment.

(3) Notwithstanding anything to the contrary in this section, a taxicab may carry several passengers, but not more than authorized by § 113.31(E), to a single destination under a weekly, bi-weekly, monthly or annual flat rate arrangement, regardless of whether their points of embarkation are the same, if the flat fare rate per ride does not exceed what the individual meter rate for the same ride would be.

[Penalty, see § 113.99](#)

§ 113.34 is hereby amended as follows:

**§ 113.34 LOST AND FOUND ARTICLES**

(A) Property left in taxicabs shall be held by the owner of the taxicab at his principal office for a period of 30 days, and if unclaimed, may be disposed of as the owner shall determine appropriate, except as provided in division (B).

(B) Items of obvious value left in taxicabs shall be held for a period of 60 days prior to disposal, and the Police Department shall be notified of the recovery of such items from a taxicab.

§ 113.35 is hereby amended as follows:

**§ 113.35 TAXICAB STANDS**

The Public Works and Safety Board may from time to time designate parking spaces at various places within the City as taxicab stands, and may restrict or prohibit the use of such stands by other vehicles.

**§ 113.36 OPERATION AREA; RECIPROCITY**

§ 113.36 is hereby amended as follows:

(A) Taxicabs licensed under this chapter shall be entitled to pick up passengers at any place within the City, and to the extent permitted by other appropriate governing bodies, at any other point within Hamilton and Boone Counties, at the Indianapolis International Airport, provided the passenger has a destination within the City, at any other place in Marion County north of 62nd Street, provided the passenger has a destination within the City.

(B) To the extent that any other municipality allows taxicabs licensed under this chapter to pick up fares within its boundaries, taxicabs licensed under an ordinance of such municipality may pick up passengers within the limits of the City, but not otherwise.

§ 113.99 is hereby amended as follows:

**§ 113.99 PENALTY**

Whoever violates any provisions of this chapter shall be guilty of a class C infraction.

**CHAPTER 114. CABLE TELEVISION**

§ 114.01 is hereby amended to state the following:

**§ 114.01 ADOPTION OF CABLE REGULATIONS**

The Town Council previously adopted the rules and regulations set forth by the Federal Communications Commission pursuant to Section 623(b) of the Cable Television Consumer Protection and Competition Act of 1992 (47 U.S.C. 543(b)) for the review of the basic service tier of cable television services and equipment necessary for the provision of such service tier.

Existing contracts by and between the Town of Fishers and Cable Television Operators shall continue, subject to IC 8-1-1 *et. seq.* and applicable Federal Communication Commission regulations, as amended. However, pursuant to Indiana’s 2006 adoption of laws authorizing the Indiana Utility Regulatory Commission to govern Cable Television Operators, § § 114.03 to 114.11 are hereby repealed pursuant to IC 8-1-1 *et. seq.*

## **CHAPTER 117. FOOD AND MOBILE CONCESSIONS VENDORS**

### **§ 117.01 DEFINITIONS**

The following definitions are hereby amended

**FISHERS PARKS.** All public parklands owned by the city and under the jurisdiction of the Public Works and Safety Board.

Chapter 118 and its subsections hereby added as follows:

## **CHAPTER 118. TOWING FOR DISABLED VEHICLES**

### **§118.01 DEFINITIONS AND GENERAL PROVISIONS**

(a) **Cleanup** means the act of removing debris, fluids, and related items resulting from an accident or Disabled Vehicle.

(b) **Contract Tower(s)** means those Towing Businesses that are selected pursuant to a Request for Proposal (“RFP”) issued by the Fishers Police Department and enter into an agreement with Fishers to provide Towing Services.

(c) **Disabled Vehicle** means a motor vehicle, as defined by IC 9-13-2-105, that has been damaged or rendered permanently or temporarily inoperative as a result of a collision or accident, wear and tear, mechanical failure or any other cause, for which a law enforcement agency has requested removal. Disabled Vehicle shall also include all motor vehicles, as defined above, that necessitate Towing Services, due to violation of state statute(s), local ordinance(s), or other applicable laws.

(d) **Equipment Fees** means the fees charged for use of equipment and other tangible goods necessary to effect the removal of a Disabled Vehicle and debris from the roadway.

(e) **Labor** means the work required to effectuate the Towing Service.

(f) **Large Scale Accidents** means any incident that involve four (4) or more Disabled Vehicles or any incident that involves a vehicle that weighs fourteen thousand five hundred pounds (14,500 lbs.) or more.

(g) **Lien Fee** means all fees associated with lien services the Tow Business is required to perform pursuant to I. C. § 9-22 et seq.

(h) **Mileage** means the distance the Contract Tower tows a Disabled Vehicle after a police initiated tow.

(i) **Recovery Fee** means all fees associated with winching, rolling, dragging, and moving a vehicle, onto the roadway.

(j) **Storage Fee** means a fee charged to store a Disabled Vehicle in a Storage Location.

(k) **Storage Location** means a secure facility or location that acts as a repository for towed vehicles.

(l) **Towing Services** means the act of removing a Disabled Vehicle from a public or private road area by attaching, lifting, pulling or dragging and storing such vehicles in a secure facility or location, and shall also include, but not be limited to, all labor, mileage, equipment, and cleanup required to effectuate the tow.

(m) **Tow Vehicle** means any motor vehicle used for the purpose of towing or moving vehicles.

(n) **Towing Businesses** means a person or commercial entity that is engaged in, or offers the service of moving vehicles from one place to another by the use of a tow truck.

(o) **Window Wrap Fee** means any fee associated with covering windows on a vehicle.

## **§118.02 Authority to Remove and Store Vehicles**

When a Disabled Vehicle is found upon the highways or streets in Fishers and impedes the orderly flow of traffic, needs to be towed for law enforcement investigation(s), or needs to be towed due to violation of state statute(s), local ordinance(s), or other applicable laws, Fishers Police Department (“Fishers Police”) may have the Disabled Vehicle towed to a Storage Location. Tows initiated under this Chapter shall be considered non-consensual.

## **§118.03 Request For Proposals**

Fishers Police may issue RFPs pursuant to IC 5-22-9 *et seq.* to solicit Towing Businesses to provide Towing Services. Fishers may award agreements to Towing Businesses whose proposals are determined in writing to be the most advantageous to Fishers, taking into consideration price and the other evaluation factors set forth in this Chapter and a RFP. The number of companies selected through a RFP process shall be based upon the need of the Fishers Police. Fishers Police may select as many or as few companies as it needs to fulfill its requirements as long as



the companies chosen are selected through the evaluation factors set forth in this Chapter and a RFP.

#### **§118.04 Use of Contract Towers**

Contract Towers may be used by Fishers Police on a rotational basis until the agreement between the Contract Tower and Fishers terminates.

#### **§118.05 Removal and Storage of Towed Disabled Vehicle**

(a) Consultation with Officer. Contract Towers shall consult the investigating officer prior to removing a Disabled Vehicle.

(b) Accident Cleanup. The Contract Tower shall Cleanup the accident site. Local, state and federal regulations shall govern the use and disposal of absorbent use to remove oil, antifreeze or other chemicals.

(c) Disabled Vehicle Removal. Upon approval of the investigating officer, Contract Towers shall immediately move Disabled Vehicles to the Contract Tower's Storage Location, or to the Police Department as directed by the officer on the scene, unless the Contract Tower enters into a signed agreement, with the officer's written approval, with the owner or operator of the Disabled Vehicle to move it to another location.

(d) Storage Location. Towed Disabled Vehicles shall be secured inside the Storage Location until the owner or owner's authorized agent secures possession of the Disabled Vehicle. It shall be a violation of this Section to leave a Disabled Vehicle unattended outside a Storage Location.

(e) Stolen Vehicles. If any Disabled Vehicle is damaged or stolen while located at or about a Storage Location, the Contract Tower shall notify the appropriate law enforcement agency immediately upon discovery and shall file a report.

For security purposes motorcycles, mopeds, all-terrain vehicles and Disabled Vehicles of a similar nature may be secured within a building owned or leased by the police initiated licensed Towing Company at the registered business address.

#### **§118.06 Office Requirements**

(a) Each Contract Tower shall maintain an office area where business can be conducted and records maintained;

(b) The office address shall be the same as the Towing Business' Storage Location.

(c) The office shall be readily identifiable and name of the business and hours of operation shall be conspicuously posted.

### **§118.07 Storage Facility Requirements**

All Contract Towers shall:

(a) maintain an onsite attendant at the Storage Location twenty-four (24) hours per day, seven (7) days per week excluding holidays, to return any vehicle claimed by the vehicle's owner, upon the payment of towing and storage charges; or

(b) post a conspicuous and well-lit sign at the Storage Location that lists the telephone number where the owner, manager, or attendant of the Storage Location may be reached at any time twenty-four (24) hours per day, seven (7) days per week, excluding holidays, so that a towed vehicle may be claimed in a minimum amount of time, not to exceed sixty (60) minutes.

### **§118.08 Holidays**

For Disabled Vehicles towed not more than twenty-four hours before Christmas, Easter, Memorial Day, Fourth of July, Labor Day or Thanksgiving, Storage Fees shall not accrue while the Storage Facility is not open for vehicle redemption.

### **§118.09 Continuous Services**

Towing Services shall be provided by the Contract Tower twenty-four (24) hours per day unless a Tow Vehicle is unavailable. If a Tow Vehicle is unavailable, the Tow Business shall immediately notify the law enforcement agency making the Tow request.

### **§118.10 Storage Capacity.**

If a Contract Tower's Storage Location is at maximum capacity, the Contract Tower shall immediately advise the law enforcement agency and shall not accept a request for Towing Services from a law enforcement agency; at which time the law enforcement agency shall make other arrangements with a separate Contract Tower.

### **§118.11 Towing Capacity**

Contract Towers shall respond with one (1) towing vehicle for each Disabled Vehicle reported by the law enforcement agency, unless the responding Towing Vehicle is designed to move more than one (1) Disabled Vehicle at a time. If the Contract Tower does not have enough available towing vehicles for the call, the Contract Tower may seek assistance from another Towing Company that is also selected through a RFP. All Towing Companies contacted for assistance shall have the equipment needed to effectuate the tow. If the Towing Company contacted to assist with the tow does not have the required equipment for the situation and responds, it shall be a violation of this Chapter and the towing company may be removed from the rotation list. The Towing Company shall notify the calling officer of this situation at the time the officer calls.

### **§118.12 Subcontractors**

A Contract Tower shall not subcontract any portion of Towing Services described by this Chapter, unless expressly authorized by the Police Department.

### **§118.13 Fees**

Subject to Sections 17 and 21, it shall be a violation of this Chapter for Contract Towers to charge more than the following rates for a tow initiated pursuant this Chapter:

- (a) towing a Disabled Vehicle: \$150.00;
- (b) Recovery Fee \$75
- (c) Storage Fee \$30.00 for each twenty-four (24) hour period of storage; provided, however that a storage fee may not begin to accrue until the next business day after the vehicle arrives at the Storage Facility. Provided however, that if a vehicle arrives to the Storage Facility on or after 9 p.m., the Storage Fee shall not be being to accrue until the day after the next business day the vehicle arrives.
- (d) removing a vehicle from storage: \$25.00
- (e) Lien Fee \$50.00
- (f) Window Wrap fee: \$50 total

The maximum allowable rates apply to Towing Services requested by a law enforcement agency and provided within Fishers' municipal boundaries regardless of the Disabled Vehicle's location and/or physical condition. The Towing Business shall only charge for the specific services provided. The Towing Business shall not charge any additional fees for Clean Up, Mileage, Equipment Fees, Labor, or any other fee, for Towing Services initiated under this Chapter.

### **§118.14 Large Scale Accident Fees**

Subject to Sections 17 and 21, the rates and fees charged for large scale accidents shall be reasonable and not in excess of those rates charged for similar services provided in response to requests initiated by any other public agency or private person.

### **§118.15 Tow Rate Sheet**

Contract Towers shall provide a tow rate sheet, that includes all of the Tow Business's prices for the Towing Services, to the person responsible for the Disabled Vehicle. If a person is not present at the time the Towing Services are provided, the Contract Tower shall leave the tow rate sheet with the Disabled Vehicle.

### **§118.16 Payment**

Additional charges shall not be imposed for the use of a debit or credit card.

### **§118.17 Receipts**

Upon payment of towing and Storage Fees, a Contract Tower that provides Tow Services under this Chapter shall provide a receipt to the vehicle's owner that contains the following information:

- (a) The name and address of the Contract Tower;
- (b) The date and time that the vehicle entered the Storage Facility; and
- (c) An itemized list of the fees being charged.

### **§118.18 Subsequent Towing Services**

Charges for subsequent Towing Services after completion of the initial Towing Service requested by a law enforcement agency are not limited to the maximum allowable rates set forth in Section 10 unless the request

- (a) is made by a law enforcement agency; and
- (b) is to have the vehicle moved from a facility owned by and operated by Fishers to the Contract Tower's Storage Location.

### **§118.19 Employee Background Checks**

Companies selected to provide towing services through a RFP process shall perform national background checks on all newly hired employees.

### **§118.20 Identification of Wreckers**

Companies selected to provide towing services through a RFP process shall have the company name, address and business phone number on the outside of the wrecker, in letters not less than four inches in height. The information shall be reasonably visible.

### **118.21 Contractor's Employees**

Contractors selected through a RFP shall require employees to wear a uniform that identifies the Tow Business when responding to a call for Towing Services under this Chapter.

### **§118.22 Additional Services**

Services different than or in addition to those set forth in Sections 13 or 14, and requested by the vehicle's owner are not limited to the maximum allowable rates.

### **§118.23 Proof of Insurance**

A Contract Tower may require proof of insurance if the owner desires to drive the vehicle from the Storage Facility; however, a Contract Tower may not withhold a vehicle for failure to provide proof of insurance.

### **§118.24 Penalty for Violation**

Contract Towers violating this Chapter shall be liable to

- (a) Fishers in the amount of \$250.00 for the first violation; and
- (b) Fishers in the amount of \$350.00 for each additional violation.

### **§118.25 Accident Reconstruction Scene**

This Chapter shall not be applicable to accident reconstruction(s) conducted by Fishers.

## **TITLE XIII: GENERAL OFFENSES**

Title XIII shall be amended as follows:

Except as otherwise stated below or when referring to past approved acts, all references in Title XIII to the "town" or "Town" are hereby amended to refer to the "city" or "City", references to the "Town Council" are hereby amended to refer to the "City Council," references to the "Clerk-Treasurer" are hereby amended to refer to the "Clerk", references to the "Town Manager" are hereby amended to refer to the "Mayor", references to the "Town Court" are hereby amended to refer to the "City Court", references to the "Town Judge" are hereby amended to refer to the "City Judge" and references to the "Town Attorney" are hereby amended to refer to "Corporation Counsel or his or her designee".

## **TITLE XV: LAND USAGE**

Title XV shall be amended as follows:

Except as otherwise stated below or when referring to past approved acts, all references in Title XV or Fishers' Unified Development Ordinance ("UDO") to the "town" or "Town" are hereby amended to refer to the "city" or "City", references to the "Town Council" are hereby amended to refer to the "City Council," references to the "Clerk-Treasurer" are hereby amended to refer to the "Clerk", references to the "Town Manager" are hereby amended to refer to the "Mayor",

references to the “Town Court” are hereby amended to refer to the “City Court”, references to the “Town Judge” are hereby amended to refer to the “City Judge” and references to the “Town Attorney” are hereby amended to refer to “Corporation Counsel or his or her designee”.

In addition to the above, the following specifically referenced chapters, sections and subsections shall be further amended as follows:

#### **CHAPTER 150. COMPREHENSIVE PLAN**

§ 150.13 is hereby amended as follows:

##### **§ 150.13 FILING FEES; FORMS**

Petitions shall be prepared on the forms provided by the Department of Development and accompanied by the filing fees as hereinafter set out. Said fees shall be paid to the Department of Development who shall forthwith pay over said fee to the Controller to be credited to the General Fund of the city. No part of the fee shall be returned to the petitioner. Until all fees have been paid in full, no petition shall be processed by the Department of Development.

#### **CHAPTER 154. BUILDING CODE**

§ 154.15 is hereby amended as follows:

##### **§ 154.15 PERMIT REQUIRED**

(A) A permit shall be obtained before beginning construction, alteration, repair, or demolition of any building or structure, using application forms furnished by the Mayor and all fees required by this code shall be paid or receipted to the Controller. See Chapter 35 for application fees. See “Exhibit A” for One and Two Family Dwelling building permit exemptions.

#### **CHAPTER 155: IMPROVEMENT LOCATION PERMIT**

To the extent not previously repealed, Chapter 155 is hereby repealed and replaced by the provisions of Fishers’ Unified Development Ordinance (“UDO”) concerning or relating to improvement location permits. The UDO which is incorporated as if fully stated herein shall control. An electronic copy of the complete, updated UDO is available for review on the Town of Fishers website at [www.fishers.in.us/egov/docs/1163779146868.htm](http://www.fishers.in.us/egov/docs/1163779146868.htm).

#### **CHAPTER 156. ADMINISTRATION, PERMITS AND FEES**

§ 156.02 is hereby amended as follows:

##### **§ 156.02 PURPOSE**

The purpose of this Administration, Permit, and Fee Chapter is to allow for the development of the Fishers Advisory Plan Commission's jurisdictional area in such a manner as to provide for the efficient and organized administration of this Title XV to promote the public welfare, health, and safety, and to effectuate the efficient and economical use of public funds.

§ 156.11 is hereby amended as follows:

**§ 156.11 FILING APPLICATION**

(A) All applications shall be filed with the Controller, Secretary of the Plan Commission, Secretary of the Board of Zoning Appeals, or the Director of Community Development or his or her designee, as required and in accordance with the applicable provisions of this Title XV and any other ordinances of the city.

(B) The applications shall include all exhibits, documents, plans, specifications, agreements, proof of publication, legal notices, reports or other pertinent data required by the said provisions, plus any other information the applicant may deem important to the matter. Incomplete applications shall be returned to the applicant, and the city shall not be responsible for any delays caused by this action.

§ 156.21 is hereby amended as follows:

**§ 156.21 DUTIES OF THE CITY COUNCIL**

(A) Pursuant to city budget procedures, the Council shall establish budgets for the Advisory Plan Commission and Board of Zoning Appeals, including, without limitation, funds for the management and operation of those offices, commissions, and boards, including secretaries and building inspectors.

(B) The Council may initiate amendments to the Comprehensive Plan, and all code and other applicable ordinances of the city included thereunder, in accordance with § 150.12 of the Comprehensive Plan.

(C) The Council's action is required for the adoption or rejection of all annexation ordinances and for the establishment or amendment to all zoning matters.

§ 156.22 shall be amended as follows:

**§ 156.22 ADVISORY PLAN COMMISSION**

The Advisory Plan Commission is established and its membership maintained pursuant to IC 36-7-4-207(b). The Commission is responsible for the broad range of responsibilities set forth in § 150.10 of the Comprehensive Plan and state statutes, as amended.

§ 156.23 shall be amended as follows:

**§ 156.23 DIRECTOR OF COMMUNITY DEVELOPMENT**

(A) The office of Director of Community Development is established and its officer appointed by the Mayor pursuant to IC 36-4-9-4. The Director is responsible for, but is not limited to the specific duties as set forth in or this section.

(B) It shall be the duty of the Director of Community Development to enforce this chapter and receive applications required by this chapter, issue permits, and furnish the prescribed certificates. The Director shall examine premises for which permits have been issued and make necessary inspections to see that the provisions of the chapter are complied with. The Director shall enforce all provisions of this code and other ordinances of the city relating to the construction, alteration, repair, removal, demolition, equipment, use and occupancy, location and maintenance of buildings and structures, except as may be otherwise provided for.

(C) The Director shall keep files on all activities of the Board of Zoning Appeals, the City Council and the Plan Commission relating to the subdivision platting process, appeals, variances, special uses, development plans for planned districts, zoning amendments (text and map changes), nonconforming use determinations and zoning district boundary determinations. Said files shall include, but not be limited to, application forms, newspaper published legal notices, records of notice to adjoining and abutting property owners, plans and other required or necessary information concerning the application and minutes of the applicable body that pertain to the application.

(D) When requested by the Mayor or the City Council, or when the interests of the city so require, the Director shall make investigations in connection with matters referenced in this chapter and render written reports on the same. For the purpose of enforcing compliance with the applicable provisions of this code and other ordinances of the city, the Director shall issue such notices or orders as may be necessary.

(E) The Director of Community Development or his or her designee shall keep careful and comprehensive records of applications, permits issued, certificates issued, inspections made, reports rendered, and of notices or orders issued. The Director shall retain on file copies of all papers in connection with building work so long as any part of the building or structure to which they relate may be in existence. All such records shall be open to public inspection at reasonable hours.

(F) The Director shall submit an annual report to the Plan Commission, Board of Zoning Appeals, City Council and Mayor. This report shall summarize all of the above listed activities, plus all other information that he may deem pertinent to his office, and duties.

§ 156.24 is hereby amended as follows:

#### **§ 156.24 BOARD OF ZONING APPEALS**

The Board of Zoning Appeals is established and its membership maintained pursuant to IC 36-7-4-902. The Board of Zoning Appeals' jurisdiction applies exclusively to all land and land development within the corporate limits of Fishers, Indiana and any land within Delaware Township pursuant to the previously adopted joinder agreement between Delaware Township and the town for the purposes of planning and zoning.



A separate division of the Board of Zoning Appeals is hereby established, its membership maintained pursuant to IC 36-7-4-1210(b) and its jurisdiction applies exclusively to the contiguous unincorporated areas of Fall Creek Township within two miles of the city's corporate limits exclusive of that territory in Fall Creek Township which lies within the Noblesville annexation area pursuant to agreement between the Town of Fishers and the City of Noblesville. The Board of Zoning Appeals and its division are responsible for those actions and duties set forth in the Unified Development Ordinance ("UDO") incorporated by reference under § 151.01 and pursuant to applicable Indiana state law.

## **FINANCING ROAD AND STREET INFRASTRUCTURE FOR NEW DEVELOPMENT**

§ 156.46 is hereby amended as follows:

### **§ 156.46 FORM OF RECEIPT**

The Controller shall issue a receipt for any and all impact fees collected, and the form of such receipt shall be as follows:

Received of (fee payer), this day of , the sum of \$ in (full) (partial) satisfaction of impact fees due pursuant to Ordinance No. 09-18-91C relating to improvements to be constructed on the real estate described on Exhibit A, attached hereto, made part hereof, and subject to lien rights in favor of the City of Fishers in the event of partial payment with payments remaining due. The remaining balance due (if any) is in the following amount: \$ . This impact fee is dedicated to the creation of the following infrastructure element in accordance with the Zone Improvement Plan:

Controller, City of Fishers

§ 156.47 is hereby amended as follows:

### **§ 156.47 APPEALS**

(A) Any fee payer who believes itself to be aggrieved by the calculation of the impact fee, may appeal from such calculation to the Fishers Impact Fee Review Board who shall conduct a hearing with regard thereto. At such hearing, the fee payer shall bear the burden of going forward with the evidence and shall present evidence addressing either of the following propositions:

- (1) A fact assumption used in determining the amount of the impact fee is incorrect; or
- (2) The amount of the impact fee is greater than the amount allowed under IC 36-7-4-1320, 36-7-4-1321 and 36-7-4-1322.

(B) Upon conclusion of the presentation of evidence, the Fishers Impact Fee Review Board shall make a determination within 30 days upon the facts presented and may make such adjustments in the impact fee as appropriate under the circumstances, if any.

(C) An appeal under this section must be filed not later than 30 days after the issuance of the structural building permit. The appeal shall be initiated with the filing of a Petition for Review with the Controller's office, together with a filing fee in the amount of \$100.00. The filing fee shall be refunded in full if the Petition for Review is granted and the impact fee is eliminated, reduced or adjusted by the Fishers Impact Fee Review Board, by independent action of the city, or by a court having jurisdiction; and if the reviewing body determines that the amount of the fee, reductions, or credits were arbitrary or capricious. The Petition for Review shall be in a form calculated to inform the Fishers Impact Fee Review Board of the nature of the complaint, the parties to the action, and the relief requested. In addition, the petition shall describe the new development on which the impact fee has been assessed, all facts related to the assessment of the impact fee, and the reasons the petitioner believes that the amount of the impact fee assessed is erroneous or is greater than the amount allowed by the fee limitations set forth in the enabling statute.

(D) The city shall not deny the issuance of a structural building permit on the basis that the impact fee has not been paid or, condition issuance of the permit on the payment of the impact fee. If the impact fee totals \$1,000 or less, the city may require the fee payer to pay the impact fee or initiate an appeal under this section before the structural building permit is issued.

§ 156.48 is hereby amended as follows:

#### **§ 156.48 ESTABLISHMENT OF ROAD AND STREET THOROUGHFARE FUND**

(A) There was previously established the Town Road and Street Thoroughfare Fund. This Fund shall continue as the non-reverting City Road and Street Thoroughfare Fund and shall receive any and all sums collected pursuant to this subchapter to be utilized in connection with the purposes set forth herein. Said Fund shall consist initially of one account based upon the current existence of one Impact Zone. In the event, and only in the event, that an additional Impact Zone is created hereafter, a separate account shall be maintained for each separate Impact Zone established within the city. Interest earned on the Fund or on any account within the Fund shall be deposited and maintained within the Fund or the separate account. The Controller shall maintain records of the status of the Fund or any account which may be established therein, and shall make an annual report of said Fund and accounts which shall be available to the public in general and fee payers, upon request, in particular.

(B) Pursuant to IC 36-7-4-1332(e), the Controller is designated as the city official responsible to for acting upon refund requests. In order to facilitate refunds when they may be due, the Controller shall identify the purpose of any impact fee paid in order that a refund, if any, may be paid from the Fund or account into which the fee was originally deposited.

§ 156.49 is hereby amended as follows:

**§ 156.49 USE OF IMPACT FEES COLLECTED PURSUANT TO THIS SUBCHAPTER**

Any and all fees collected pursuant to the provisions of this subchapter may be utilized for the following purposes only by the city, acting by and through the Public Works and Safety Board, which, for the purpose of this subchapter is identified as the "infrastructure agency" contemplated by IC 36-7-4-1317:

(A) Providing funds to be utilized by the city for the purpose of paying the capital costs of a new road and street infrastructure that is necessary to serve the new development within the corporate limits of the city and that is identified in the Zone Improvement Plan;

(B) An amount not to exceed 5% of the annual collections of the fee to be utilized for expenses incurred by the city for the consulting services used to establish this subchapter;

(C) To pay any refund due pursuant to the terms of this subchapter; or

(D) To pay the debt service cost on an obligation issued to provide new road and street infrastructure described in division (A) above.

§ 156.50 is hereby amended as follows:

**§ 156.50 ESTABLISHMENT OF FISHERS IMPACT FEE REVIEW BOARD**

(A) There is hereby created the Fishers Impact Fee Review Board. Pursuant to IC 36-7-4-1338, each of the three (3) citizen members comprising the board shall be appointed by the Mayor. A member of the Fishers Impact Fee Review Board may not be a member of the Fishers Advisory Plan Commission. One member of the Fishers Impact Fee Review Board shall be a real estate broker licensed in the state. One member shall be an engineer licensed in the state. The third member shall be a certified public accountant. Each member shall serve at the pleasure of the Mayor for calendar year terms commencing with his or her initial appointment and concluding on December 31 of the year in which he or she is appointed, unless reappointed.

(B) In the event of a conflict of interest, or other condition which causes a duly appointed member of the Fishers Impact Fee Review Board to disqualify himself or herself on any matter before the Board, such member shall notify the Mayor in writing of their intent not to participate in such matter. Thereafter, the Mayor may appoint a replacement member for the limited purpose of hearing that petition for which the regular member is disqualified. Any such replacement member shall meet the qualifications of the member he or she is replacing.

(C) The Fishers Impact Fee Review Board shall have only those duties and responsibilities established in IC 36-7-4-1338, as amended. Upon the organization of the Fishers Impact Fee Review Board, the members shall establish rules of procedure to the extent they are consistent with state law, and specifically, to provide the ways and means to carry out the specific

provisions of the enabling statute regarding petitions for review, refunds, credits, and the like. Said rules shall specifically provide that in the event that no development occurs, or only a portion of the anticipated development occurs, a refund in whole or in part of such fee paid shall be made, with interest. The Board may impose reasonable requirements to insure that no development has occurred, or something less than what was paid for is all that will occur on the real estate which was the subject of the initial assessment.

(D) Members of the Fishers Impact Fee Review Board shall serve without compensation. At their first meeting, the members shall elect from their membership a chairperson who shall serve until his or her replacement has been duly elected. At the first meeting after January 1 in each year, the membership shall elect from the then duly appointed members a chairperson. The chairperson shall be responsible for conducting the business of the Board.

§ 156.67 is hereby amended as follows:

### **§ 156.67 FORM OF RECEIPT**

The Controller shall issue a receipt for any and all impact fees collected, and the form of such receipt shall be as follows:

Received of (fee payer) , this day of , the sum of \$ in (full) (partial) satisfaction of impact fees due pursuant to Ordinance No. relating to improvements to be constructed on the real estate described on Exhibit A, attached hereto, made part hereof, and subject to lien rights in favor of the City of Fishers in the event of partial payment with payments remaining due. The remaining balance due (if any) is in the following amount: \$ . This impact fee is dedicated to the creation of the following infrastructure element in accordance with the Zone Improvement Plan pertaining to bridge construction and infrastructure.

Controller, City of Fishers

§ 156.68 is hereby amended as follows:

### **§ 156.68 APPEALS**

(A) Any fee payer who believes itself to be aggrieved by the calculation of the impact fee may appeal from such calculation to the Review Board and the Review Board shall conduct a hearing with regard thereto. At such hearing, the fee payer shall bear the burden of going forward with the evidence and shall present evidence addressing either of the following propositions:

(1) A fact assumption used in determining the amount of the impact fee is incorrect; or

(2) The amount of the impact fee is greater than the amount allowed under IC 36-7-4-1320, 36-7-4-1321 and 36-7-4-1322.

(B) Upon conclusion of the presentation of evidence, the Review Board shall make, in its reasonable discretion, a determination within 30 days, upon the facts presented and may make such adjustments in the impact fee as appropriate under the circumstances, if any. An appeal under this section must be filed not later than 30 days after the issuance of the structural building permit. The appeal shall be initiated with the filing of a Petition for Review with the Controller's office, together with a filing fee in the amount of \$100. The filing fee shall be refunded in full (1) if the Petition for Review is granted and the impact fee is eliminated, reduced or adjusted by the Review Board, by independent action of the city, or by a court having jurisdiction, and, (2) if the reviewing body determines that the amount of the fee, reductions, or credits were arbitrary or capricious. The Petition for Review shall be in a form calculated to inform the Review Board of the nature of the complaint, the parties to the action, and the relief requested. In addition, the petition shall describe the new development on which the impact fee has been assessed, all facts related to the assessment of the impact fee, and the reasons the petitioner believes that the amount of the impact fee assessed is erroneous or is greater than the amount allowed by the fee limitations set forth in the enabling statute.

(C) The city shall not deny the issuance of a structural building permit on the basis that the impact fee has not been paid or condition issuance of the permit on the payment of the impact fee. If the impact fee totals \$1,000 or less, the city may require the fee payer to pay the impact fee or initiate an appeal under this section before the structural building permit is issued.

§ 156.69 is hereby amended as follows:

#### **§ 156.69 ESTABLISHMENT OF BRIDGE CONSTRUCTION AND INFRASTRUCTURE FUND**

There is hereby established the Bridge Construction and Infrastructure Fund of the city. This Fund shall be a non-reverting fund and shall receive any and all sums collected pursuant to this subchapter to be utilized in connection with the purposes set forth herein. Said Fund shall consist initially of one account based upon the current existence of one Impact Zone. In the event, and only in the event, that an additional Impact Zone is created hereafter, a separate account shall be maintained for each separate Impact Zone established within the city. Interest earned on the Fund or on any account within the Fund shall be deposited and maintained within the Fund or the separate account. The Controller shall maintain records of the status of the Fund or any account which may be established therein and shall make an annual report of said Fund and accounts which shall be available to the public in general and fee payers, upon request, in particular. Pursuant to IC 36-7-4-1332(e), the Controller is designated as the city official responsible for acting upon refund requests. In order to facilitate refunds when they may be due, the Controller is directed to identify the purpose of any impact fee paid in order that a refund, if any, may be paid from the Fund or account into which the fee was originally deposited.

§ 156.70 shall be amended as follows:

## **§ 156.70 USE OF IMPACT FEES COLLECTED PURSUANT TO THIS SUBCHAPTER**

Any and all fees collected pursuant to the provisions of this subchapter may be utilized for the following purposes only by the city, acting by and through its Public Works and Safety Board, which, for the purpose of this subchapter, is identified as the "infrastructure agency" contemplated by IC 36-7-4-1317:

- (A) Providing funds to be utilized by the city for the purpose of paying the capital costs of new bridge construction and infrastructure that is necessary to serve the new development within the corporate limits of the city and that is identified in the Zone Improvement Plan;
- (B) An amount not to exceed 5% of the annual collections of the fee to be utilized for expenses incurred by the city for the consulting services used to establish this subchapter;
- (C) To pay any refund due pursuant to the terms of this subchapter; or
- (D) To pay the debt service cost on an obligation issued to provide new bridge infrastructure described in division (A) above.

## **CHAPTER 158. SIGN ORDINANCE**

To the extent not previously repealed, Chapter 158 is hereby repealed and replaced by those provisions of Fishers' Unified Development Ordinance ("UDO") concerning or relating signs. The UDO which is incorporated as if fully stated herein shall control. An electronic copy of the complete, updated UDO is available for review on the Town of Fishers website at [www.fishers.in.us/egov/docs/1163779146868.htm](http://www.fishers.in.us/egov/docs/1163779146868.htm).

## **CHAPTER 159. UNSAFE BUILDINGS, STRUCTURES AND PREMISES**

§ 159.01 is hereby amended as follows:

### **§ 159.01 GENERAL DEFINITIONS.**

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

**DEPARTMENT.** The Town of Fishers Department of Permitting and Inspection.

**ENFORCEMENT AUTHORITY.** The Fishers Building Commissioner or his or her designee.

**HEARING AUTHORITY.** Office of the City Court Judge.

**SUBSTANTIAL PROPERTY INTEREST.** Any right in real property that may be affected in a substantial way by actions authorized by this chapter, including a fee interest, a life estate interest, a future interest, a mortgage interest, or an equitable interest of a contract purchaser.

§ 159.02 is hereby amended as follows:

**§ 159.02 APPOINTMENT OF THE ENFORCEMENT AUTHORITY**

Consistent with IC § 36-7-9-3, the Council has appointed the Fishers Building Commissioner as the enforcement authority responsible for administering the unsafe structures ordinance.

**CHAPTER 160. ECONOMIC REVITALIZATION AREAS**

§ 160.01 is hereby amended as follows:

**§ 160.01 APPLICATION FOR DESIGNATION**

The Director or Community Development or his or her designee shall receive all applications from persons, firms, organizations, or corporations requesting that industrial real estate be designated as an Economic Revitalization Area.

**§ 160.3 is hereby repealed:**

§ 160.4 shall be amended as follows:

**§ 160.04 INVESTIGATION OF APPLICANT AND PROPOSED IMPROVEMENTS**

Pursuant to IC 6-1.1-12.1-2.5, the City Council shall investigate the applicant and the proposed improvements to determine the best interests of the city, and shall hold public hearings thereon if necessary or advisable. Consistent with IC 6-1.1-12.1 *et. seq.*, the City may thereafter adopt a declaratory resolution including the area to be designated as an Economic Revitalization Area.

§ 160.05 is hereby amended as follows:

**§ 160.05 ISSUES TO BE CONSIDERED FOR DESIGNATION**

In considering the advisability of designating industrial real estate as an Economic Revitalization Area, under the provisions of IC 6-1.1-12.1-3, the Council shall make the following findings:

- (1) Whether the estimate of the value of the redevelopment or rehabilitation is reasonable for projects of that nature;
- (2) Whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation;
- (3) Whether the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation;

(4) Whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed described redevelopment or rehabilitation; and

(5) Whether the totality of benefits is sufficient to justify the deduction.

§ 160.06 is hereby amended as follows:

#### **§ 160.06 FILING RESOLUTION; PUBLIC HEARING**

Upon the adoption of a declaratory resolution designating an area as an Economic Revitalization Area by the Council, the Director of Community Development or his or her designee, shall cause the resolution to be filed with the Hamilton County Assessor. Thereafter, a public hearing will be conducted to hear any remonstrances and/or objections from interested persons, and the Director shall publish notice of the adoption and the substance of the declaratory resolution and the date and time for a public hearing in accordance with IC 5-3-1. At the public hearing, the Council will receive and hear any remonstrances and objections from interested persons regarding the declaratory resolution designating an area to be an Economic Revitalization Area, and the Council will then determine whether the qualifications for an Economic Revitalization Area have been met and may confirm, modify and confirm, or rescind their previous resolution.

§ 160.07 is hereby amended as follows:

#### **§ 160.07 STARTING TIME; EXPIRATION; REAPPLICATION.**

If the improvements proposed in the application for Economic Revitalization Area status are not started within three years from the date of designation, then the Economic Revitalization Area designation for the real estate shall expire. However, the applicant may reapply, and such reapplication shall be made within 90 days of the date of the expiration of the three-year period.

**§ 160.09 is hereby repealed.**

#### **§ 160.10 EXPIRATION**

§ 160.10 is hereby repealed

### **CHAPTER 161: PARKING REGULATIONS**

To the extent not previously repealed, Chapter 161 is hereby repealed and replaced by those provisions of Fishers' Unified Development Ordinance ("UDO") concerning or relating to parking regulations. The UDO which is incorporated as if fully stated herein shall control. An electronic copy of the complete, updated UDO is available for review on the Town of Fishers website at [www.fishers.in.us/egov/docs/1163779146868.htm](http://www.fishers.in.us/egov/docs/1163779146868.htm).

### **CHAPTER 162: LANDSCAPE REGULATIONS**



To the extent not previously repealed, Chapter 162 is hereby repealed and replaced by those provisions of Fishers' Unified Development Ordinance ("UDO") concerning or relating to landscape regulations. The UDO which is incorporated as if fully stated herein shall control. An electronic copy of the complete, updated UDO is available for review on the Town of Fishers website at [www.fishers.in.us/egov/docs/1163779146868.htm](http://www.fishers.in.us/egov/docs/1163779146868.htm).

Notwithstanding the foregoing, subsection 162.13 shall remain and shall not be changed by adoption of this ordinance.

### **Nickel Plate District Code Ordinance #111813A, Adopted - February 17, 2014 (Nickel Plate Code)**

The Nickel Plate Code is hereby amended as follows:

Except as otherwise stated below or when referring to past approved acts, all references in to the "town" or "Town" are hereby amended to refer to the "city" or "City", references to the "Town Council" are hereby amended to refer to the "City Council," references to the "Clerk-Treasurer" are hereby amended to refer to the "Clerk", references to the "Town Manager" are hereby amended to refer to the "Mayor", references to the "Town Court" are hereby amended to refer to the "City Court", references to the "Town Judge" are hereby amended to refer to the "City Judge" and references to the "Town Attorney" are hereby amended to refer to "Corporation Counsel or his or her designee".

In addition to the above, the following specifically referenced provisions shall be further amended as follows:

#### **8.2.9: Nickel Plate Review Committee (Nickel Plate Review Committee):**

8.2.9 (1) is hereby amended as follows:

1. Nickel Plate Review Committee: The Nickel Plate Review Committee shall consist of nine (9) individuals appointed for a term of one (1) calendar year as follows:

- a. One (1) member of City Council appointed by the City Council;
- b. Three (3) members of the Plan Commission appointed by the Mayor;
- c. One (1) member of the Fishers Board of Zoning Appeals ("Fishers BZA") appointed by the City Council;
- d. Three (3) property owners or business representatives from the area within the boundaries of the Nickel Plate District or City Center Residential District appointed by the Mayor; and
- e. One (1) at-large member who is a resident of the City and a licensed professional architect or licensed landscape architect appointed by City Council.