

Chapter 1 - GENERAL PROVISIONS

Sec. 1-1. - How Code designated and cited.

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Town Code of Dune Acres, Indiana," and may be so cited. Such ordinances may also be cited as the "Dune Acres Town Code."

State law reference— Codification of ordinances, IC 36-1-5-1 et seq.

Sec. 1-2. - Definitions and rules of construction.

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

Generally. All general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the Town Council may be fully carried out. In the interpretation and application of any provisions of this Code, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the Code imposes greater restrictions upon the subject matter than another more general provision imposed by the Code or other law, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

Citizen member. Whenever the term "Citizen Member" is used, it shall be defined as follows: "A Citizen Member is any Town Resident not elected or appointed to a town position as described on IC 36-7-4-216."

Code. Whenever the term "Code" or "this Code" is referred to without further qualification, it shall mean the Town Code of Dune Acres, Indiana, as designated in section 1-1.

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

Corporate limits, Town limits. The term "corporate limits" or "Town limits" shall mean the legal boundaries of the Town of Dune Acres, except as otherwise provided by law.

Council, Town Council. Whenever the term "Council" or "Town Council" is used, it shall be construed to mean the Town Council of the Town of Dune Acres.

County. The term "the county" or "this county" shall mean the County of Porter in the State of Indiana.

Delegation of authority. Whenever a provision appears requiring a Commissioner or

some other Town officer to do some act or perform some duty, it shall be construed to authorize a Commissioner or other officer to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.

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

IC. The abbreviation "IC" shall mean the Indiana Code, as now or hereafter amended.

Joint authority. All words giving joint authority to Three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

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

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

Number. A word importing the singular number only may extend and be applied to several persons and things as well as to One person or thing, and a word importing the plural may extend to the singular.

Oath. The term "oath" shall be construed to include an affirmation, and the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."

Officers, agencies. Whenever any officer, employee, department, board, commission or agency is referred to by title, such as "Clerk-Treasurer" or "Marshal," such reference shall be construed as if followed by the words "of the Town of Dune Acres."

Or, and. The term "or" may be read "and," and the term "and" may be read "or" if the sense requires it.

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

Person. The term "person" shall extend and be applied to associations, clubs, societies, firms, companies, partnerships, bodies politic and corporate or any other group or entity acting as a unit as well as to natural persons.

Personal property. The term "personal property" includes goods, chattels, evidences of debt, and things in action.

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

President. The term "President" means the President of the Town Council.

Property. The term "property" includes real and personal property.

Public place. The term "public place" shall mean any street or highway, sidewalk, park, cemetery, schoolyard or open space adjacent thereto and any lake or stream.

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

Real property. The term "real property" shall include lands, tenements and hereditaments.

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

Resident. The term "resident" means any person residing in the Town, provided that the Town is his/her address of record for voting and income tax filing.

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

Sidewalk. The term "sidewalk" means the part of a street between the curblines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

Signature, subscription. The term "signature" or "subscription" shall mean the proper handwriting of a person or the person's mark.

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

Street. The term "street" means the entire width between the boundary lines of every way publicly maintained when any part of the way is open to the use of the public for purposes of vehicular travel.

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

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

Town. The term "Town" shall mean the Town of Dune Acres, Indiana.

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

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

(Ord. No. 2007-6, § I, 12-18-2007)

State law reference— Definitions applicable to construction of statutes, IC 1-1-4-5; definitions applicable to motor vehicles, IC 9-13-2-1 et seq.

Sec. 1-3. - Effect of history note.

The presence of a history note such as "(Ord. No. 8-72, § 11, 6-5-1972)" at the end of any section of this Code shall denote the derivation of the Code section; in addition, the

presence of such a history note, or of One similar to it, shall be a declaration and determination by the Town Council that the section is a restatement or reenactment of a previously enacted ordinance, and that each such section shall be deemed reordained by the passage of this Code. The history notes are not intended to have any legal effect.

State law reference— Restatement or reenactment of provisions, IC 36-1-5-6.

Sec. 1-4. - Editor's notes and references.

The editor's notes, cross references and state law references in this Code are not intended to have any legal effect but are merely intended to assist the user of this Code.

Sec. 1-5. - Catchlines of sections.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections, nor as any part of the sections, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted. No provision of this Code shall be held invalid by reason of deficiency in any such catchline or in any heading or title to any chapter, article or division.

Sec. 1-6. - Amendments to Code.

(a) All ordinances passed subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of the Code and printed for inclusion in the Code; or in the case of repealed chapters, sections and subsections or any part thereof, such chapters, sections or subsections, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted affected pages. Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the Council to make them a part of this Code, shall be deemed to be incorporated in this Code, so that a reference to the Code shall be understood and intended to include such additions and amendments.

(b) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in substantially the following language: "That section _____ of the Town Code of Dune Acres, Indiana, is hereby amended to read as follows: ." The new provisions shall then be set out in full as enacted.

(c) If a new section not heretofore existing in the Code is to be added, the following language may be used: "That the Town Code of Dune Acres, Indiana, is hereby amended by adding a section, to be numbered _____, which section reads as follows: ." The new section shall then be set out in full as enacted.

Sec. 1-7. - Supplementation of Code.

(a) By contract or by Town personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the Town Council. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made by the supplement in the Code. The pages of a supplement shall be so numbered that they will fit properly into the

Code and will, where necessary, replace pages that have become obsolete or partially obsolete; and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In the preparation of a supplement to this Code, all portions of the Code that have been repealed shall be excluded from the Code by their omission from reprinted pages.

(c) When preparing a supplement to this Code, the codifier, meaning the person, agency or organization authorized to prepare the supplement, may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified Code. For example, the codifier may:

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement and make changes in such catchlines, headings, and titles;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ through _____," inserting section numbers to indicate the sections of the Code that embody the substantive sections of the ordinance incorporated into the Code; and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1-8. - Effect of repeal of ordinances.

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

(b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed or cause of action arising under the ordinance repealed.

Sec. 1-9. - Jurisdiction of Code.

Except as otherwise provided, the provisions of this Code shall apply only within the corporate limits of the Town.

Sec. 1-10. - General penalty.

Wherever in this Code or in any ordinance of the Town any act is prohibited or is made

or declared to be unlawful or an offense, or the doing of any act is required, or the failure to do any act is declared to be unlawful, where no specific penalty is provided, the violation of any such provision of this Code or ordinance is declared to be punishable by a fine not exceeding Twenty-Five Hundred dollars (\$2,500.00). Every day any violation of this Code or any such ordinance shall continue shall constitute a separate violation. In any prosecution for violation of an ordinance, rule or regulation it shall be necessary to allege only the first day of violation with respect to which any fine is assessable; and upon judgment, the offender shall be assessed for that day and each subsequent day with respect to which it is proven and found that the person did commit such violation.

State law reference— Limitations on penalties, IC 36-1-3-8(a)(8)—(10).

Sec. 1-11. - Offenses punishable under separate provisions.

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

Sec. 1-12. - Unauthorized alterations or tampering with Code.

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

Sec. 1-13. - Severability of parts of Code.

The sections, paragraphs, sentences, clauses and phrases of this Code are severable; and if any phrase, clause, sentence, paragraph or section of this Code, or its application to any persons or circumstances, shall be declared unconstitutional, invalid or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, or their application.

Sec. 1-14. - Miscellaneous actions and ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect any of the following:

- (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code.
- (2) Any ordinance or resolution promising or guaranteeing the payment of money for the Town, or authorizing the issuance of any bonds of the Town, or any evidence of the Town's indebtedness, or any contract or obligations assumed by the Town.
- (3) Administrative ordinances or resolutions of the Town Council not in conflict or inconsistent with the provisions of this Code.
- (4) Any right or franchise granted by any ordinance of the Town.
- (5) Any ordinance dedicating, naming, establishing, locating, relocating, opening,

paving, widening, or vacating any street or public way in the Town.

(6) Any ordinance appropriating, transferring, or authorizing the expenditure of funds of the Town.

(7) Any ordinance levying or imposing taxes.

(8) The master plan, including the subdivision control ordinance, plats, thoroughfare development plan, etc., of the Town.

(9) Any ordinance establishing or prescribing street grades or other such grades in the Town.

(10) Any ordinance providing for local improvements and assessing taxes for such improvements.

(11) Any ordinance extending or contracting the boundaries of the Town.

(12) Any ordinance prescribing the number, classification or compensation of any Town officer or employee, not inconsistent with this Code.

(13) Any ordinance declaring certain property to be a public nuisance and authorizing procedures for the demolition of such property.

All such actions and ordinances are recognized as continuing in full force and effect to the same extent as if set out at length in this Code.