

**REGULAR MEETING OF THE COMMON COUNCIL OF THE CITY OF GOSHEN,
TO BE HELD AUGUST 21, 2018 AT 7:00 P.M. AT THE COUNCIL CHAMBERS
111 EAST JEFFERSON STREET, GOSHEN, INDIANA**

.....
OUT OF RESPECT TO OTHERS IN THIS MEETING, PLEASE TURN ELECTRONIC DEVICES
OFF OR TO SILENT MODE. IF A CONVERSATION IS NECESSARY, PLEASE STEP OUTSIDE
OF THE MEETING ROOM. THANK YOU.

Call to Order by Mayor Jeremy Stutsman

Pledge of Allegiance

Roll Call of Council: Councilwoman Gautsche _____ Councilwoman King _____
Councilman McKee _____ Councilman Nisley _____
Councilman Orgill _____ Councilman Scharf _____
Council President Weddell _____
Youth Advisor Perez-Diener _____

Approval of Agenda and Changes to Agenda

Approval of Minutes

July 17th

Agenda Items:

PRIVILEGE OF FLOOR

1. RESOLUTION 2018-47

**A RESOLUTION APPROVING AN AMENDMENT TO THE COMPREHENSIVE PLAN
AND COMMUNITY VISION 2025 FOR THE CITY OF GOSHEN, INDIANA**

2. PUBLIC HEARING ON ORDINANCE 4947

3. ORDINANCE 4947

**(FIRST READING)
(SECOND READING)**

ADDITIONAL APPROPRIATION

4. ORDINANCE 4960

(FIRST READING)

RESTRICTIONS ON SMOKING AND USE OF E-CIGARETTES, VAPING

5. RESOLUTION 2018-45

A RESOLUTION TO CORRECT AND CLARIFY CERTAIN INFORMATION WITH REGARD TO THE GOSHEN DAM POND DREDGING PROJECT (PROJECT 2012-2028)

APPOINTMENT

- 1. Council Appointment to Economic Development Commission**

Next Council Meeting: September 4, 2018 (Regular Council Meeting)

ADJOURNMENT OF MEETING



Rhonda L. Yoder, AICP
PLANNING & ZONING DEPARTMENT, CITY OF GOSHEN
204 East Jefferson Street, Suite 4 • Goshen, IN 46528-3405

Phone (574) 537-3815 • Fax (574) 533-8626 • TDD (574) 534-3185
rhodayoder@goshencity.com • www.goshenindiana.org

MEMORANDUM

TO: Goshen Common Council

FROM: Rhonda L. Yoder, City Planner

DATE: August 21, 2018

RE: Resolution 2018-47
A Resolution Approving Appendix D, Elkhart and Goshen Bicycle & Pedestrian Master Plan, an Amendment to Uncommonly Great Goshen: Comprehensive Plan & Community Vision 2025

The Goshen City Plan Commission met July 17, 2018, in regular session and approved *Appendix D, Elkhart and Goshen Bicycle & Pedestrian Master Plan, an Amendment to Uncommonly Great Goshen: Comprehensive Plan & Community Vision 2025* as certified in the attached memo from Tom Holtzinger, Secretary of the Goshen Plan Commission.

The Elkhart and Goshen Bicycle & Pedestrian Master Plan and Goshen Executive Summary are available at <http://goshenindiana.org/planning-zoning>



**Planning & Zoning Department
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planning@goshencity.com • www.goshenindiana.org

TO: Goshen Common Council
FROM: ^{TJA} Tom Holtzinger, Secretary, Goshen Plan Commission
DATE: July 17, 2018
RE: Resolution No. 2018-47
A Resolution Approving an Amendment to *Uncommonly Great Goshen: Comprehensive Plan & Community Vision 2025*

This certifies that the public hearing for the proposed Amendment to *Uncommonly Great Goshen: Comprehensive Plan & Community Vision 2025*, Appendix D, Elkhart and Goshen Bicycle & Pedestrian Master Plan, was held at the meeting of the Goshen Plan Commission on July 17, 2018, and was acted upon as follows:

1. Approved and forwarded to the City Council for adoption with a favorable recommendation by a vote of 8-0.

Resolution No. 2018-47

A Resolution Approving an Amendment to the Comprehensive Plan & Community Vision 2025
for the City of Goshen, Indiana

WHEREAS, a Comprehensive Plan Amendment shall be approved by resolution for the promotion of public health, safety, morals, convenience, order, and the general welfare and for the sake of the efficiency and economy in the process of development; and

WHEREAS, the Plan Commission of the City of Goshen, Indiana, has prepared and approved the Comprehensive Plan Amendment, Appendix D, Elkhart and Goshen Bicycle & Pedestrian Master Plan, at a public hearing held on July 17, 2018; and

WHEREAS, the Comprehensive Plan Amendment has been certified to the Common Council of the City of Goshen on July 17, 2018, by Thomas Holtzinger, Secretary of the Plan Commission of the City of Goshen, Indiana.

IT IS NOW THEREFORE RESOLVED BY THE COMMON COUNCIL OF THE CITY OF GOSHEN THAT:

The final report of the Plan Commission of the City of Goshen, known as "Appendix D, Elkhart and Goshen Bicycle & Pedestrian Master Plan" as certified to this Council on July 17, 2018, by Thomas Holtzinger, Secretary of the Plan Commission, is hereby adopted and enacted as a Comprehensive Plan Amendment to the Comprehensive Plan & Community Vision 2025 for the City of Goshen, Indiana.

This resolution shall become effective immediately after its passage by the Common Council of the City of Goshen, Indiana.

Duly adopted by the Common Council of the City of Goshen on the _____ day of _____ 2018.

By: _____
Brett Weddell, Council President

Attest: _____
Angie McKee, Clerk Treasurer

This resolution approved and signed by me on this _____ day of _____ 2018.

Jeremy P. Stutsman, Mayor, City of Goshen, Indiana

ORDINANCE 4974
ADDITIONAL APPROPRIATION ORDINANCE

WHEREAS, it has been determined that it is now necessary to appropriate more money than was appropriated in the annual budget; now therefore:

SECTION 1: Be it ordained by the Common Council of the City of Goshen, Elkhart County, Indiana, that for the expenses of the taxing unit the following additional sums of money are hereby appropriated out the funds named and for the purposes specified, subject to the laws governing the same:

DONATION FUND - 217
Donation/Amish Trail to WalMart 439.0532.....\$3,032.00

PASSED AND ADOPTED, this ____ day of August 2018, by the Common Council of the City of Goshen, Indiana.

Presiding Officer

ATTEST: _____
Angie McKee, Clerk-Treasurer

Presented by me to the Mayor of the City of Goshen, Indiana, on the ____ day of August 2018.

Angie McKee, Clerk-Treasurer

This Ordinance approved and signed by me on the ____ day of August 2018.

Jeremy Stutsman, Mayor



**Engineering Department
CITY OF GOSHEN**

204 East Jefferson Street, Suite 1 • Goshen, IN 46528-3405

Phone (574) 534-2201 • Fax (574) 533-8626 • TDD (574) 534-3185
engineering@goshencity.com • www.goshenindiana.org

August 7, 2018

The City of Goshen Common Council

Dear Council Members:

The Goshen Engineering Department asks that \$3,032.00 given to the City by Aldi in 2016 for the buggy trail construction be put into the Buggy Trail line (217-510-00-439.0532) as they will be needed soon for construction.

Thank you,

A handwritten signature in black ink that reads "Dustin K. Sailor" followed by the date "8/07/18".

Dustin Sailor, P.E., CPESC
Director of Public Works

ORDINANCE 4960

USE OF E-CIGARETTES, VAPING, AND PUBLIC PARKS

WHEREAS, the State of Indiana has enacted a ban on smoking under statute IC 7.1-5-12 Prohibition on Smoking for the health and safety of the residents of the State of Indiana;

WHEREAS, Indiana Code 7.1-5-12-13(a) permits a city to adopt a smoking / nicotine ban that is more restrictive than the State's prohibition.

WHEREAS, this Ordinance prohibits the use of electronic cigarettes (e-cigarettes, e-cigs, electronic water pipes), vaporizers, and vapor products in the same facilities that smoking tobacco and tobacco products are prohibited by I.C. 7.1-5-12.

WHEREAS, this Ordinance prohibits smoking as defined by I.C. 7.1-5-12-3 and the use of electronic cigarettes (e-cigarettes, e-cigs, electronic water pipes), vaporizers, and vapor products in Goshen City's public parks.

NOW THEREFORE, BE IT ORDAINED by the Common Council of the City of Goshen, Indiana, that:

Section 1. Prohibitions

- 1.01 Except as provided in section 2 of this chapter, smoking e-cigarettes, e-cigs, electronic water pipes, vaporizers and vapor products is prohibited in the following locations:
- (A) An enclosed area of a structure in which the public is invited or permitted (public place).
 - (B) A place of employment.
 - (C) The area within eight (8) feet of a public entrance to:
 - 1. a public place; or
 - 2. a place of employment.
- 1.02 An employer shall inform each of the employer's employees and prospective employees of this ordinance's prohibition as it applies to the place of employment.
- 1.03 Smoking or the use of electronic cigarettes (e-cigarettes, e-cigs, electronic water pipes), vaporizers, and vapor products on City Park property or within City Park buildings is prohibited.

Section 2. Exceptions

- 2.01 Use of e-cigarettes, e-cigs, electronic water pipes, vaporizers and vapor products may be allowed in the following locations:

- (A) An establishment owned or leased by a business that was in operation and permitted smoking and/or vaping on December 31, 2016, has continuously permitted smoking and/or vaping and meets the following requirements:
1. The business prohibits entry by an individual who is less than twenty-one (21) years of age.
 2. The owner or operator of the business holds a beer, liquor, or wine retailer's permit.
 3. The person in charge of the business posts in the establishment conspicuous signs that display the message that e-cigarettes, e-cigs, electronic water pipes, vaporizers and vapor products are permitted.
- (B) A premises owned or leased by and regularly used for the activities of a business that meets all of the following:
1. The business is exempt from federal income taxation under 26 U.S.C. 501(c).
 2. The business:
 - a) meets the requirements to be considered a club under IC 7.1-3-20-1; or
 - b) is a fraternal club (as defined in IC 7.1-3-20-7).
 3. The business provides food or alcoholic beverages only to its bona fide members and their guests.
 4. The business:
 - a) provides a separate, enclosed, designated smoking and/or vaping room. The facility is adequately ventilated to prevent migration of smoke and/or vapors to nonsmoking areas of the premises;
 - b) allows smoking of e-cigarettes, e-cigs, electronic water pipes, vaporizers and vapor products only in the room or area described in item (a);
 - c) does not allow an individual who is less than eighteen (18) years of age to enter into the room or area described in item (a); and
 - d) allows a guest in the smoking room or area described in item (a) only when accompanied by a bona fide member of the business.

(C) A retail e-cigarette, vapor store used primarily for the sale of e-cigarettes, e-cigs, electronic water pipes, vaporizers, and vapor product accessories that meets the following requirements:

1. The store prohibits entry by an individual who is less than eighteen (18) years of age.
2. The sale of products other than vapor products and tobacco products and their accessories is merely incidental.
3. Food or beverages are not sold in a manner that permits consumption on the premises, and there is not an area set aside for customers to consume food or beverages on the premises.

(D) A bar or tavern which meets the following conditions:

1. Holds one or more of the following licenses:
 - a) a beer retailer's permit under IC 7.1-3-4;
 - b) a liquor retailer's permit under IC 7.1-3-9; or
 - c) a wine retailer's permit under IC 7.1-3-14;
2. Does not employ an individual who is less than eighteen (18) years of age.

2.02 The owner, operator, manager, or official in charge of an establishment or premises in which smoking or vaping is allowed shall post conspicuous signs in the establishment that read "WARNING: Smoking Or Vaping Is Allowed In This Establishment" or other similar language.

2.03 Vaping or e-cigarettes are not allowed in:

- (A) Any hallway, elevator, or other common area where an individual who is less than eighteen (18) years of age is permitted; and in
- (B) Any room that is intended for use by an individual who is less than eighteen (18) years of age.

Section 3. Enforcement/ Penalties

3.01 Any person found violating this ordinance shall be subject to a fine not exceeding the following:

- (A) Two Thousand Five Hundred Dollars (\$2,500) for the first violation of the ordinance; and
- (B) Seven Thousand Five Hundred Dollars (\$7,500) for the second or subsequent violation of the ordinance.

Section 4. Definitions

- 4.01 **Electronic cigarette** means a device that is capable of providing an inhalable dose of nicotine by delivering a vaporized solution. The term includes the components and cartridges.
- 4.02 **Vapor product** means a powered vaporizer that converts e-liquid to a vapor intended for inhalation.
- 4.03 **E-liquid** means a substance that:
 - (A) may or may not contain nicotine; and
 - (B) is intended to be vaporized and inhaled using a vapor product.
- 4.04 **Vaping** means the process of inhalation or exhalation of the electronic cigarette, e-cigs, electronic water pipe, and vaporizers.
- 4.05 **E-cigs** is another term used to refer to electronic cigarettes.
- 4.06 **Electronic water pipe** means a device that is capable of providing an inhalable dose of nicotine by delivering a vaporized solution. The term includes the components and cartridges.
- 4.07 **Vaporizer** means a device like an e-cigarette that is used to inhale the e-liquid.
- 4.08 **Clubs** means an association or corporation that:
 - (A) Organized under the authority of law
 - (B) Been in active, continuous existence for at least three (3) years
 - (C) Maintained a membership roll for a three (3) year period
 - (D) Shall have a paid-up membership of more than fifty (50) members
 - (E) Shall be the owner, lessee, or occupant of an establishment operated solely for objects of a national, social, patriotic, political, or athletic nature, or the like;
 - (F) Shall not be operated for financial gain
 - (G) The property and advantages belong to its members; and

- (H) It shall maintain an establishment provided with special space and accommodations where, in consideration of payment, food, with or without lodging, is habitually served.

4.09 **Fraternal Clubs; Labor Organizations** means an association or corporation whose membership is comprised of or forms:

- (A) A lodge or local chapter or corresponding unit of a fraternal order or of another association of a like nature; or
- (B) A body whose membership is comprised of persons who have served in the armed forces of the United States;
- (C) Has been in continual existence on a national scale for than five (5) years
- (D) Fraternal clubs and labor organizations need not meet the requirements of the definition of "Clubs," but are considered clubs for all other purposes.

This ordinance shall be effective _____, upon its passage and publication as required by law.

This ordinance is passed by the Common Council of the City of Goshen, Indiana on the ____ day of _____, 2018.

Jeremy P. Stutsman, Presiding Officer

Attest:

Angie McKee, Clerk-Treasurer

This ordinance, having been passed by the Common Council, is presented by me to the Mayor on the _____ day of _____, 2018 at _____ a.m./p.m.

Angie McKee, Clerk-Treasurer

This ordinance, having been passed by the Common Council and presented to me is approved by me and adopted on the _____ day of _____, 2018.

Jeremy P. Stutsman, Mayor

Proposed Revisions:

ORDINANCE 4960

**RESTRICTIONS ON SMOKING AND
USE OF E-CIGARETTES, VAPING**

WHEREAS, the State of Indiana has enacted a ban on smoking under statute IC 7.1-5-12 Prohibition on Smoking for the health and safety of the residents of the State of Indiana;

WHEREAS, Indiana Code 7.1-5-12-13(a) permits a city to adopt a smoking / nicotine ban that is more restrictive than the State's prohibition.

WHEREAS, this Ordinance prohibits the use of Electronic cigarettes (e-cigarettes, e-cigs, Electronic water pipes), vaporizers, and vapor products in the same facilities that smoking tobacco and tobacco products are prohibited by I.C. 7.1-5-12.

WHEREAS, this Ordinance prohibits smoking, as defined by I.C. 7.1-5-12-3, and the use of Electronic cigarettes (e-cigarettes, e-cigs, and Electronic water pipes), vaporizers, and vapor products in Goshen City's public parks and within a greater distance of a public entrance to a public place or a place of employment.

NOW THEREFORE, BE IT ORDAINED by the Common Council of the City of Goshen, Indiana, that:

Section 1. Prohibitions

1.01 Smoking, as defined in I.C. §7.1-5-12-3, and the use of Electronic cigarettes (e-cigarettes, e-cigs, and Electronic water pipes), vaporizers and vapor products are prohibited in the following locations:

- (A) An enclosed area of a structure in which the public is invited or permitted (public place) including, but not limited to:
1. aquariums, galleries, libraries, and museums;
 2. banks, laundromats, professional offices, and retail establishments;
 3. bars;
 4. Bingo facilities;
 5. Child care and adult day care facilities;
 6. convention facilities;
 7. public and private educational facilities;
 8. elevators;
 9. gaming facilities;

10. health care facilities;
 11. hotels and motels;
 12. common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities;
 13. polling places;
 14. public transportation vehicles and related facilities;
 15. restaurants;
 16. shopping malls;
 17. indoor, enclosed, or outdoor sports arenas;
 18. motion picture and live performance theatres;
 19. tobacco specialty bars;
 20. tobacco retail stores; and
 21. all restrooms, lobbies, reception areas, hallways, and other common-use areas of such structures and facilities.
- (B) A place of employment.
- (C) The area within fifteen (15) feet of a public entrance to:
1. a public place; or
 2. a place of employment.
- (D) A City Park property and within City owned buildings and structures.
- (E) Outdoor seating areas of restaurants, bars, and businesses, except those seating areas restricted to individuals over the age of 18.
- (F) The area within fifteen (15) feet of all outdoor public transportation stations, platforms, and shelters.
- 1.02 An employer shall inform each of the employer's employees and prospective employees of this ordinance's prohibition as it applies to the place of employment.

Section 2. Exceptions

- 2.01 Smoking, as defined in I.C. §7.1-5-12-3, and the use of Electronic cigarettes (e-cigarettes, e-cigs, and Electronic water pipes), vaporizers and vapor products may be allowed in the following locations:
- (A) Clubs, Fraternal Clubs and Labor Organizations.

- (B) A premises owned or leased as a private residence, unless such is used as a licensed childcare, adult day care, or health care facility.
- (C) None of the areas set forth as an Exception shall be exempt from the provisions of this Ordinance if smoke from any area enters, either directly or indirectly, through entrances, windows, ventilation systems, or other means, an area where smoking is otherwise prohibited by this Ordinance.

2.02 The owner, operator, manager, or official in charge of an establishment or premises in which smoking or vaping is allowed shall post conspicuous signs in the establishment that read “WARNING: Smoking Or Vaping Is Allowed In This Establishment,” or other similar language.

Section 3. Enforcement/ Penalties

3.01 Any person found violating this ordinance shall be subject to a fine not exceeding the following:

- (A) One Hundred Dollars (\$100) for the first violation of the ordinance; and
- (B) Five Hundred Dollars (\$500) for the second or subsequent violation of the ordinance.

3.02 A person who desires to register a complaint under this Ordinance may register it with the City of Goshen.

Section 4. Definitions

4.01 **Electronic cigarette** means a device that is capable of providing an inhalable dose of nicotine or any other substance intended for human consumption by delivering a vaporized solution that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the device. The term includes the components and cartridges.

4.02 **Vapor product** means a powered vaporizer that converts e-liquid to a vapor intended for inhalation through an Electronic cigarette or an Electronic water pipe.

4.03 **E-liquid** means a substance that:

- (A) may or may not contain nicotine; and
- (B) is intended to be vaporized and inhaled using a vapor product.

4.04 **Vaping** means the process of inhalation or exhalation of the Electronic cigarette, e-cigs, Electronic water pipe, and vaporizers.

4.05 **E-cigs or E-cigarettes** are other terms used to refer to Electronic cigarettes.

4.06 **Electronic water pipe** means a device that is capable of providing an inhalable dose of nicotine or any other substance through water intended for human consumption by delivering a

vaporized solution that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the device.

4.07 **Vaporizer** means a device like an Electronic cigarette that is used to inhale the e-liquid.

4.08 **Clubs** means an association or corporation that:

- (A) Organized under the authority of law;
- (B) Been in active, continuous existence for at least three (3) years;
- (C) Maintained a membership roll for a three (3) year period;
- (D) Shall have a paid-up membership of more than fifty (50) members;
- (E) Shall be the owner, lessee, or occupant of an establishment operated solely for objects of a national, social, patriotic, political, or athletic nature, or the like;
- (F) Shall not be operated for financial gain;
- (G) The property and advantages belong to its members; and
- (H) It shall maintain an establishment provided with special space and accommodations where, in consideration of payment, food, with or without lodging, is habitually served.

4.09 **Fraternal Clubs; Labor Organizations** means an association or corporation whose membership is comprised of or forms:

- (A) A lodge or local chapter or corresponding unit of a fraternal order or of another association of a like nature;
- (B) A body whose membership is comprised of persons who have served in the armed forces of the United States;
- (C) Has been in continual existence on a national scale for than five (5) years;
- (D) Fraternal clubs and labor organizations need not meet the requirements of the definition of "Clubs," but are considered clubs for all other purposes.

4.10 **Bars and Taverns** means an establishment that meets the following conditions:

- (A) Holds one or more of the following licenses:
 - 1. a beer retailer's permit under IC 7.1-3-4;
 - 2. a liquor retailer's permit under IC 7.1-3-9; or
 - 3. a wine retailer's permit under IC 7.1-3-14;
- (B) Does not employ an individual who is less than eighteen (18) years of age;
- (C) Does not allow individuals less than twenty-one (21) years of age to enter.

This ordinance shall be effective upon its passage and publication as required by law, except that this ordinance shall not be effective as to Bars and Taverns until January 1, 2019.

This ordinance is passed by the Common Council of the City of Goshen, Indiana on the ____ day of _____, 2018.

Jeremy P. Stutsman, Presiding Officer

Attest:

Angie McKee, Clerk-Treasurer

This ordinance, having been passed by the Common Council, is presented by me to the Mayor on the ____ day of _____, 2018 at ____ a.m./p.m.

Angie McKee, Clerk-Treasurer

This ordinance, having been passed by the Common Council and presented to me is approved by me and adopted on the ____ day of _____, 2018.

Jeremy P. Stutsman, Mayor

ORDINANCE 4960

**RESTRICTIONS ON SMOKING AND
USE OF E-CIGARETTES, VAPING**

WHEREAS, the State of Indiana has enacted a ban on smoking under statute IC 7.1-5-12 Prohibition on Smoking for the health and safety of the residents of the State of Indiana;

WHEREAS, Indiana Code 7.1-5-12-13(a) permits a city to adopt a smoking / nicotine ban that is more restrictive than the State's prohibition.

WHEREAS, this Ordinance prohibits the use of Electronic cigarettes (e-cigarettes, e-cigs, Electronic water pipes), vaporizers, and vapor products in the same facilities that smoking tobacco and tobacco products are prohibited by I.C. 7.1-5-12.

WHEREAS, this Ordinance prohibits smoking, as defined by I.C. 7.1-5-12-3, and the use of Electronic cigarettes (e-cigarettes, e-cigs, and Electronic water pipes), vaporizers, and vapor products in Goshen City's public parks and within a greater distance of a public entrance to a public place or a place of employment.

NOW THEREFORE, BE IT ORDAINED by the Common Council of the City of Goshen, Indiana, that:

Section 1. Prohibitions

1.01 Smoking, as defined in I.C. §7.1-5-12-3, and the use of Electronic cigarettes (e-cigarettes, e-cigs, and Electronic water pipes), vaporizers and vapor products are prohibited in the following locations:

(A) An enclosed area of a structure in which the public is invited or permitted (public place) including, but not limited to:

1. aquariums, galleries, libraries, and museums;
2. banks, laundromats, professional offices, and retail establishments;
3. bars;
4. Bingo facilities;
5. Child care and adult day care facilities;
6. convention facilities;
7. public and private educational facilities;
8. elevators;
9. gaming facilities;

10. health care facilities;
 11. hotels and motels;
 12. common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities;
 13. polling places;
 14. public transportation vehicles and related facilities;
 15. restaurants;
 16. shopping malls;
 17. indoor, enclosed, or outdoor sports arenas;
 18. motion picture and live performance theatres;
 19. tobacco specialty bars;
 20. tobacco retail stores; and
 21. all restrooms, lobbies, reception areas, hallways, and other common-use areas of such structures and facilities.
- (B) A place of employment.
- (C) The area within fifteen (15) feet of a public entrance to:
1. a public place; or
 2. a place of employment.
- (D) A City Park property and within City owned buildings and structures.
- (E) Outdoor seating areas of restaurants, bars, and businesses, except those seating areas restricted to individuals over the age of 18.
- (F) The area within fifteen (15) feet of all outdoor public transportation stations, platforms, and shelters.
- 1.02 An employer shall inform each of the employer's employees and prospective employees of this ordinance's prohibition as it applies to the place of employment.

Section 2. Exceptions

- 2.01 Smoking, as defined in I.C. §7.1-5-12-3, and the use of Electronic cigarettes (e-cigarettes, e-cigs, and Electronic water pipes), vaporizers and vapor products may be allowed in the following locations:
- (A) Clubs, Fraternal Clubs and Labor Organizations.

- (B) A premises owned or leased as a private residence, unless such is used as a licensed childcare, adult day care, or health care facility.
- (C) None of the areas set forth as an Exception shall be exempt from the provisions of this Ordinance if smoke from any area enters, either directly or indirectly, through entrances, windows, ventilation systems, or other means, an area where smoking is otherwise prohibited by this Ordinance.

2.02 The owner, operator, manager, or official in charge of an establishment or premises in which smoking or vaping is allowed shall post conspicuous signs in the establishment that read "WARNING: Smoking Or Vaping Is Allowed In This Establishment," or other similar language.

Section 3. Enforcement/ Penalties

3.01 Any person found violating this ordinance shall be subject to a fine not exceeding the following:

- (A) One Hundred Dollars (\$100) for the first violation of the ordinance; and
- (B) Five Hundred Dollars (\$500) for the second or subsequent violation of the ordinance.

3.02 A person who desires to register a complaint under this Ordinance may register it with the City of Goshen.

Section 4. Definitions

4.01 **Electronic cigarette** means a device that is capable of providing an inhalable dose of nicotine or any other substance intended for human consumption by delivering a vaporized solution that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the device. The term includes the components and cartridges.

4.02 **Vapor product** means a powered vaporizer that converts e-liquid to a vapor intended for inhalation through an Electronic cigarette or an Electronic water pipe.

4.03 **E-liquid** means a substance that:

- (A) may or may not contain nicotine; and
- (B) is intended to be vaporized and inhaled using a vapor product.

4.04 **Vaping** means the process of inhalation or exhalation of the Electronic cigarette, e-cigs, Electronic water pipe, and vaporizers.

4.05 **E-cigs or E-cigarettes** are other terms used to refer to Electronic cigarettes.

4.06 **Electronic water pipe** means a device that is capable of providing an inhalable dose of nicotine or any other substance through water intended for human consumption by delivering a

vaporized solution that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the device.

4.07 **Vaporizer** means a device like an Electronic cigarette that is used to inhale the e-liquid.

4.08 **Clubs** means an association or corporation that:

- (A) Organized under the authority of law;
- (B) Been in active, continuous existence for at least three (3) years;
- (C) Maintained a membership roll for a three (3) year period;
- (D) Shall have a paid-up membership of more than fifty (50) members;
- (E) Shall be the owner, lessee, or occupant of an establishment operated solely for objects of a national, social, patriotic, political, or athletic nature, or the like;
- (F) Shall not be operated for financial gain;
- (G) The property and advantages belong to its members; and
- (H) It shall maintain an establishment provided with special space and accommodations where, in consideration of payment, food, with or without lodging, is habitually served.

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- (A) A lodge or local chapter or corresponding unit of a fraternal order or of another association of a like nature;
- (B) A body whose membership is comprised of persons who have served in the armed forces of the United States;
- (C) Has been in continual existence on a national scale for than five (5) years;
- (D) Fraternal clubs and labor organizations need not meet the requirements of the definition of "Clubs," but are considered clubs for all other purposes.

4.10 **Bars and Taverns** means an establishment that meets the following conditions:

- (A) Holds one or more of the following licenses:
 - 1. a beer retailer's permit under IC 7.1-3-4;
 - 2. a liquor retailer's permit under IC 7.1-3-9; or
 - 3. a wine retailer's permit under IC 7.1-3-14;
- (B) Does not employ an individual who is less than eighteen (18) years of age;
- (C) Does not allow individuals less than twenty-one (21) years of age to enter.

This ordinance shall be effective upon its passage and publication as required by law, except that this ordinance shall not be effective as to Bars and Taverns until January 1, 2019.

This ordinance is passed by the Common Council of the City of Goshen, Indiana on the ____ day of _____, 2018.

Jeremy P. Stutsman, Presiding Officer

Attest:

Angie McKee, Clerk-Treasurer

This ordinance, having been passed by the Common Council, is presented by me to the Mayor on the ____ day of _____, 2018 at ____ a.m./p.m.

Angie McKee, Clerk-Treasurer

This ordinance, having been passed by the Common Council and presented to me is approved by me and adopted on the ____ day of _____, 2018.

Jeremy P. Stutsman, Mayor

RESOLUTION 2018-45

A Resolution to Correct and Clarify Certain Information with Regard to the Goshen Dam Pond Dredging Project (Project #2012-2028)

WHEREAS the City of Goshen has been formally involved in the planning, management and funding of a project to perform sediment removal/dredging operations in certain portions of the section of the Elkhart River between the Goshen Dam and Kercher Road (Goshen Engineering Project #2012-2028, hereinafter "Project"), commonly known as the Goshen Dam Pond (hereinafter "Pond"), since at least 2012; and

WHEREAS the City of Goshen is party, along with the County of Elkhart and the Goshen Dam Pond Economic Improvement District, to an Interlocal Agreement related to the Project and approved by the Goshen Common Council (Resolution 2016-06) and the Goshen Board of Public Works & Safety and Stormwater Board; and

WHEREAS during the course of Project planning and development certain incomplete and/or incorrect pieces of information have manifested in the general public; and

WHEREAS it is the duty and desire of the Goshen Common Council to provide to the residents and taxpayers of the City of Goshen the most accurate and complete information practicable, and further to base its own policy and fiscal decisions upon such information;

The Goshen Common Council NOW FINDS and CONFIRMS the following:

- A) There is no foreseeable circumstance in which the Goshen Dam remains intact that the available water supply from the Elkhart River to the Millrace Canal will be cut off or substantially reduced due to sediment conditions in the Pond, regardless of whether or not the Project proceeds.
- B) The Project alone would have no appreciable flood mitigation benefits in or around the City of Goshen; the record flooding of February 2018 would not have been reduced had dredging spoils been previously removed from the Pond.
- C) Redevelopment efforts – both public and private – along the Millrace Canal, including in-process and potential housing and a pavilion/ice rink near downtown, are not materially dependent or contingent upon the completion of the Project;
- D) The Pond has served as a sediment trap within the Elkhart River since creation of the Pond; it will continue to collect sediment whether or not the Project proceeds.
- E) The Project would not eliminate the majority of surface or rooted vegetation in the Pond, nor restore open water conditions amenable to the looping and circular movements common to recreational motorboating, waterskiing, tubing, etc.
- F) There are no improvements to public access points, on-shore amenities, or public parks proposed in the Project.
- G) No dredging would occur more than six (6) feet below the water surface, nor at any location within approximately 10-15 feet of the shore or any fixed objects.
- H) Invasive non-native plant species such as Eurasian watermilfoil (*Myriophyllum spicatum*) and Purple loosestrife (*Lythrum salicaria*, *L. virgatum* and combinations thereof) have proliferated in and around the Pond in recent years; the Project does not include specific targeted mitigation of non-native invasive plants.

- I) There is presently an active bald eagle nesting site in the Project area which is being monitored and protected by the U.S. Fish & Wildlife Service and the Indiana Department of Natural Resources.
- J) The Elkhart River Watershed Management Plan (March 2008, <https://www.in.gov/iden/nps/3248.htm>) does not identify sediment dredging as one of the 106 tasks identified in the Programmatic Action Plan (Section 5), as a Preventative or Remedial Best Management Practice (Section 6) generally, nor as a specific Goal or Indicator of Success in the Elkhart River Watershed (Section 9).
- K) Factors including the fluidity of sediment material, the difficulty of forecasting river flows and changes, the pending need to obtain permits from multiple governmental entities, and the likely presence of submerged objects (including trees and stumps) in the Pond create significant uncertainty for potential Project bidders, as well as uncertainty with respect to Project results including, but not limited to: water depth, sediment relocation or redeposition, vegetation patterns, and primary river channel location or relocation.
- L) After significant reduction from the originally-proposed scope of the Project and years of effort to secure funds through numerous public and private sources, the currently-available funds (after subtracting expiring grant funding from Indiana Department of Natural Resources and the Community Foundation of Elkhart County) comprise less than half of the most recent bid amount, or a shortfall of approximately \$1.4M.