Goshen Common Council

6:00 p.m. August 4, 2020 Regular Meeting

Council Chambers, Police & Court Building, 111 East Jefferson Street, Goshen, Indiana

This meeting will be conducted under a declared public health emergency covering all of the State of Indiana. Due to social distancing guidelines there will be very limited spaced for public attendance. Members of the public are encouraged to submit questions or comments ahead of time to elected officials and/or the pertinent city offices.

The meeting will be streamed live via Zoom. For link, see https://goshenindiana.org/calendar)

Call to Order by Mayor Jeremy Stutsman

Pledge of Allegiance

Electronic Meeting Participation Statement and Roll Call:

Megan Eichorn (District 4)	Julia King (At-Large)	Jim McKee (District 1)
Doug Nisley (District 2)	Gilberto Pérez, Jr. (District 5)	Matt Schrock (District 3)
Council President Brett Weddell (At-Large)	Youth Advisor Hazany Palomino (Non-voting)	

Approval of Minutes

Approval of Meeting Agenda

Privilege of the Floor

Elected Official Reports

Special Presentation: **Mobile Crisis Intervention**

Ben Adam Climer
White Bird Clinic: CAHOOTS Program
"Crisis Assistance Helping Out On the Streets"

I. **Ordinance 5049** (2nd Reading): Amending Ordinance Violations Bureau

- Revised version (includes redlined changes)
- Redlined version with amendments suggested by administration
- Mayoral memo
- Ordinance Violations Bureau policy and procedures

II. Ordinance 5051 (Zoning): Amend Ordinance 3011 by Rezoning Real Estate Hereinafter Described, and Commonly Known as 410 West Pike Street, from Commercial B-1 District to Commercial B-2 District

- Plan Commission staff memo
- Planning staff analysis & recommendations
- Location map
- Public comment

III. Ordinance 5052 (1st Reading): Accident Report Fee

- Staff memo

Adjournment

ORDINANCE 5049

AMENDING
ORDINANCE VIOLATIONS BUREAU

WHEREAS, Indiana Code § 33-36-2-1 allows a municipal corporation to establish an ordinance violations bureau;

WHEREAS, Indiana Code § 36-1-6-3 allows municipal corporations to enforce ordinances through admission of violation before an ordinance violations bureau and allows that bureau to turn over to the municipal corporation all sums collected as civil penalties for ordinance violations; and

WHEREAS, the Common Council of the City of Goshen, Indiana established an ordinance violations bureau which is codified in the Goshen City Code at §1.2.1.1; and

WHEREAS, the Common Council of the City of Goshen, Indiana wishes to more clearly define what ordinance violations are subject to admission of violation before the violations clerk, define appropriate levels and amounts of civil penalties to be imposed for violations of the City of Goshen Code, and more clearly describe its Ordinance Violations Bureau.

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

Section 1. **Creation**

1.1. An Ordinance Violations Bureau ("Bureau") was created and shall continue to operate under the authority of I.C. § 33-36-2-1, as amended, and under the terms of this Ordinance.

Section 2. **Violations Clerk; Duties**

2.1. The Clerk of the City Court shall serve as the Violations Clerk, who shall administer the Bureau.

2.2. The Violations Clerk shall accept written appearances, waivers of trial, admissions of violations, and payment of civil penalties as set forth in Section 3 of this Ordinance, but not more than Two Hundred Fifty Dollars ($250).

2.3. The Violations Clerk shall account for all payments received and deliver such penalty payments to the City of Goshen Clerk-Treasurer for all violations of the Goshen City Code, at such intervals as the City of Goshen Clerk-Treasurer determines, to be deposited in the general fund of the City of Goshen.

2.4. The Violations Clerk shall account for all payments received on behalf of every municipal corporation for whom the Violations Clerk has accepted payment of civil penalties pursuant to an interlocal agreement described in I.C. 33-36-2-4, deliver such penalty payments to the appropriate municipal corporation as provided in the interlocal agreement, and deliver records related to such payments to the Clerk-Treasurer's office for civil penalties attributable to the City of Goshen.

Section 3. **Schedule of Civil Penalties**

3.1. Pursuant to I.C. § 33-36-3-1, provisions of the Goshen City Code subject to admission of violation before the Violations Clerk (each such Code provision shall be hereinafter referred to individually as a "Bureau Ordinance") are designated in the Bureau Ordinances Schedule found in this Code Section. Notwithstanding any other enforcement procedures provided by applicable statute, rule, or ordinance, each Bureau Ordinance may be enforced through an admission of violation before the Violations Clerk to the full extent allowed under I.C. § 36-1-6-3(a)(1), as amended, and under the authority of I.C. § 33-36-2-1, as amended. The Bureau Ordinances Schedule below assigns an appropriate Civil Penalty Tier to violations of each City of Goshen Bureau Ordinance.

City of Goshen
Bureau Ordinances Schedule

Goshen Code Section	Type of Violation	Penalty Tier
Animal Control		
3.1.1.1	Animals running at large	3
3.1.1.3	Keeping livestock, fowl or wild animals	3
3.1.1.4	Harboring vicious animal	2
3.1.1.5	Animals disturbing the peace	3
3.1.4.2	Keeping chickens	3
Fire Prevention and Protection		
3.2.1.1	Open burning	3
3.2.1.4	Leaf burning	3
Noise Control		
3.3.1.1	Excessive noise and sound	2
3.3.1.2	Noise level standards for motor vehicles and sound amplification on public property	2
Controlled Parking in Yards; Sidewalks		
4.4.1.1	General parking violations (except parking in designated handicapped space)	4
4.4.1.1	General parking violations- parking in handicapped space	3
4.4.2.1	Parking in prohibited parking areas	4
Buildings and Building Regulations		
6.1.1.7	Building permit required	1
6.1.1.15	Stop work order	1
6.1.1.16	Certificate of occupancy	2

6.1.1.12	Inspection required	3
6.2.1.1	Mechanical and electrical licensing required	1
Neighborhood Preservation		
6.3.1.1	Minimum standards for all structures, except as the ordinance applies to buildings deemed unsafe	2
6.3.1.2	Minimum standards for basic equipment and facilities, except as the ordinance applies to buildings deemed unsafe	2
6.3.1.3	Minimum standards for light, ventilation, egress and heating, except as the ordinance applies to buildings deemed unsafe	2
6.3.1.4	Safe and sanitary maintenance, except as the ordinance applies to buildings deemed unsafe	2
6.3.1.5	Minimum space, use and location requirements, except as the ordinance applies to buildings deemed unsafe	1
6.3.1.6	Responsibility of owners and occupants, except as the ordinance applies to buildings deemed unsafe	2
6.3.1.7	Hotels and rooming houses, except as the ordinance applies to buildings deemed unsafe	3
6.3.1.8	Smoke detectors, except as the ordinance applies to unsafe buildings	2
6.3.1.9	Minimum standards for commercial and industrial properties, except as the ordinance applies to buildings deemed unsafe	1
6.3.1.10	Application for registration receipt, except as the ordinance applies to buildings deemed unsafe	2
6.3.1.11	Inspection, except as the ordinance applies to buildings deemed unsafe	2
Requirements for Stormwater Management Associated with Illicit Discharges		
6.6.1.2	Discharge of any non-stormwater related materials or substances to stormwater drainage systems or any water course that violates applicable water quality standards	1
6.6.1.2	Any illicit connections to the stormwater drainage system or any water course that allows non-stormwater discharges to occur	1
6.6.1.2	Discharge of yard waste (e.g. grass clippings, leaves, etc.) to a stormwater drainage system or any water course	3
6.6.1.2	Failure to take all reasonable steps to ensure the discovery, containment, cleanup, and documentation of any improper or unpermitted release or discharge.	1
Construction Site Stormwater Run-off Control		
6.6.2.1	Working without an approved Stormwater Pollution Prevention Plan or an expired stormwater clearance	1
6.6.2.1	Self-inspection report not performed, or the inspection forms are not provided when requested.	2
6.6.2.4	Concrete/mortar washout	2
6.6.2.4	Perimeter protection	2
6.6.2.4	Construction entrance/exit	2
6.6.2.4	Site stabilization	2
6.6.2.4	Inlet protection	2

6.6.2.4	Dewatering	2
6.6.2.4	Runoff control	2
6.6.2.4	Trash/litter	2
6.6.2.4	Spill control/containment issues	2
6.6.2.4	Direct discharge of pollutants to surface water	1
Uniform Requirements for Post Construction Stormwater Management		
6.6.3.2	Discharge of stormwater directly into a wetland or local waterway without adequate treatment or in violation of applicable state or federal laws	1
6.6.3.3	Failure to comply with Post-Construction Stormwater Management Plan inspection and maintenance of stormwater post-construction measures requirements.	2
6.6.3.3	Failure to maintain natural and constructed drainage systems.	2
Rank Vegetation and Noxious Weeds		
6.9.1.1	Rank Vegetation and Noxious Weeds	3
Accumulation of Materials		
6.10.1.2	Solid waste violations without opportunity to correct violations	3
6.10.1.4	Solid waste violations requiring prior notice of violation	3
Signs in Right of Way		
6.12.3.1	Placing signs in Right of Way	2
Zoning Ordinance 3011		
	Expired plates/unlicensed vehicles in residential district	2
	Trailer/RV/boat in front yard	2
	Vehicles in excess of 1 ton capacity parked in residential area	2
	Parking on unimproved surface/grass	2
	Three or more inoperable vehicles	2
	Auto repair/body work/paint shop in residential area	2
	RV used as residence	2
	Structure/fence/sign/driveway expansion without permit	2
	Development in regulatory floodplain without permit	2
	Temporary/mobile signs without permits	2

3.2. Pursuant to I.C. § 33-36-3-1, provisions of the Elkhart County Code subject to admission of violation before the Violations Clerk (each such Code provision shall be hereinafter referred to individually as a "Bureau Ordinance") are designated in the Bureau Ordinances Schedule found in this Code Section. Notwithstanding any other enforcement procedures provided by applicable statute, rule, or ordinance, each Bureau Ordinance may be enforced through an admission of violation before the Violations Clerk to the full extent allowed under I.C. § 36-

1-6-3(a)(1), as amended, and under the authority of I.C. § 33-36-2-1, as amended. The Bureau Ordinances Schedule below assigns an appropriate Civil Penalty Tier to violations of each Elkhart County Bureau Ordinance.

Elkhart County
Bureau Ordinances Schedule

Elkhart County Code	Type of Violation	Penalty Tier
Zoning		
Chapter 158, Title XV	Land Usage	1
Nuisance		
Chapter 92, Title IX	General Regulations	1

3.3. An admission of violation to a Bureau Ordinance shall cause to be imposed a civil penalty in the amount designated in the Civil Penalty Tiers schedule below that corresponds to the Tier level assigned to each Bureau Ordinance by the Bureau Ordinance Schedule. Second and subsequent admissions of violation of Bureau Ordinances occurring within a Twelve (12) month period will be subject to a greater civil penalty, as designated in the Civil Penalty Tiers schedule found in this Code Section.

Civil Penalty Tiers

	First Offence	Second Offence	Third Offence
Tier 4	$25	$50	$75
Tier 3	$50	$75	$100
Tier 2	$75	$125	$200
Tier 1	$175	$225	$250

Section 4. **Issuance of Citations**

4.1. Any City of Goshen official, employee, or agent authorized by the Goshen City Code or state law to enforce the provisions of the Goshen City Code may issue citations for the violation of Bureau Ordinances. More specifically, the following table identifies who may issue citations for violations of Bureau Ordinances:

Goshen Code Section	Type of Violation	Enforcement Authority
Animal Control		
3.1.1.1	Animals running at large	Ordinance Compliance Officers, Police Officers
3.1.1.3	Keeping livestock, fowl or wild animals	
3.1.1.4	Harboring vicious animal	

3.1.1.5	Animals disturbing the peace	
3.1.4.2	Keeping chickens	
Fire Prevention and Protection		
3.2.1.1	Open burning	Ordinance Compliance Officers, Police Officers
3.2.1.4	Leaf burning	
Noise Control		
3.3.1.1	Excessive noise and sound	Ordinance Compliance Officers, Police Officers
3.3.1.2	Noise level standards for motor vehicles and sound amplification on public property	
Controlled Parking in Yards; Sidewalks		
4.4.1.1	General parking violations (except parking in designated handicapped space)	Ordinance Compliance Officers, Police Officers
4.4.1.1	General parking violations- parking in handicapped space	
4.4.2.1	Parking in prohibited parking areas	
Buildings and Building Regulations		
6.1.1.7	Building permit required	The Building Commissioner
6.1.1.15	Stop work order	
6.1.1.16	Certificate of occupancy	
6.1.1.12	Inspection required	
6.2.1.1	Mechanical and electrical licensing required	
Neighborhood Preservation		
6.3.1.1	Minimum standards for all structures, except as the ordinance applies to buildings deemed unsafe	The Building Commissioner
6.3.1.2	Minimum standards for basic equipment and facilities, except as the ordinance applies to buildings deemed unsafe	
6.3.1.3	Minimum standards for light, ventilation, egress and heating, except as the ordinance applies to buildings deemed unsafe	
6.3.1.4	Safe and sanitary maintenance, except as the ordinance applies to buildings deemed unsafe	
6.3.1.5	Minimum space, use and location requirements, except as the ordinance applies to buildings deemed unsafe	
6.3.1.6	Responsibility of owners and occupants, except as the ordinance applies to buildings deemed unsafe	
6.3.1.7	Hotels and rooming houses, except as the ordinance applies to buildings deemed unsafe	
6.3.1.8	Smoke detectors, except as the ordinance applies to buildings deemed unsafe	

6.3.1.9	Minimum standards for commercial and industrial properties, except as the ordinance applies to buildings deemed unsafe	
6.3.1.10	Application for registration receipt, except as the ordinance applies to buildings deemed unsafe	
6.3.1.11	Inspection, except as the ordinance applies to buildings deemed unsafe	
Requirements for Stormwater Management Associated with Illicit Discharges		
6.6.1.2	Discharge of any non-stormwater related materials or substances to stormwater drainage systems or any water course that violates applicable water quality standards	Superintendent of the Department of Stormwater Management
6.6.1.2	Any illicit connections to the stormwater drainage system or any water course that allows non-stormwater discharges to occur	
6.6.1.2	Repeat violations of the discharge of yard waste (e.g. grass clippings, leaves, etc.) to a stormwater drainage system or any water course	
6.6.1.2	Failure to take all reasonable steps to ensure the discovery, containment, cleanup, and documentation of any improper or unpermitted release or discharge.	
Construction Site Stormwater Run-off Control		
6.6.2.1	Working without an approved Stormwater Pollution Prevention Plan or an expired stormwater clearance	Superintendent of the Department of Stormwater Management
6.6.2.1	Self-inspection report not performed, or the inspection forms are not provided when requested.	
6.6.2.4	Concrete/mortar washout	
6.6.2.4	Perimeter protection	
6.6.2.4	Construction entrance/exit	
6.6.2.4	Site stabilization	
6.6.2.4	Inlet protection	
6.6.2.4	Dewatering	
6.6.2.4	Runoff control	
6.6.2.4	Trash/litter	
6.6.2.4	Spill control/containment issues	
6.6.2.4	Direct discharge of pollutants to surface water	
Uniform Requirements for Post Construction Stormwater Management		
6.6.3.2	Discharge of stormwater directly into a wetland or local waterway without adequate treatment or in violation of applicable state or federal laws	Superintendent of the Department of Stormwater Management

6.6.3.3	Failure to comply with Post-Construction Stormwater Management Plan inspection and maintenance of stormwater post-construction measures requirements.	
6.6.3.3	Failure to maintain natural and constructed drainage systems.	
Rank vegetation and Noxious Weeds		
6.9.1.1	Rank Vegetation and Noxious Weeds	Ordinance compliance officer, police officer, or member of Legal Department.
Accumulation of Materials		
6.10.1.2	Solid waste violations without opportunity to correct violations	Members of Legal Department, Building Department, Police Department, or Ordinance Compliance Officer.
6.10.1.4	Solid waste violations requiring prior notice of violation	
Signs in Right of Way		
6.12.3.1	Placing signs in Right of Way	Ordinance compliance officer, police officer, or member of Legal Department.
Zoning Ordinance 3011		
	Expired plates/unlicensed vehicles in residential district	Planning and Zoning Administrator, Assistant Planning and Zoning Administrator, Building Commissioner, Ordinance compliance officer, Police department
	Trailer/RV/boat in front yard	
	Vehicles in excess of 1 ton capacity parked in residential area	
	Parking on unimproved surface/grass	
	Three or more inoperable vehicles	
	Auto repair/body work/paint shop in residential area	
	RV used as residence	
	Structure/fence/sign/driveway expansion without permit	
	Development in regulatory floodplain without permit	
	Temporary/mobile signs without permits	

4.2. Any official, employee, or agent from Elkhart County government authorized by Elkhart County ordinances or by state law to enforce Elkhart County's code may issue citations for the violation of Elkhart County Bureau Ordinances.

4.3. Citations issued under this ordinance shall include the following information:
(a) The name of the responsible person;
(b) A description of the alleged violation, including the date thereof, and the code section;
(c) The time within which the person must contact the Bureau for purposes of admitting or denying responsibility for the violation;

(d) The amount of the schedule civil penalty for the violation;
(e) The methods by which the alleged violation may be admitted or denied;
(f) The consequences of failing to pay the required fines/costs or contact the Bureau within the required time;
(g) The address of the Violations Clerk; and
(h) The days and hours that the Ordinance Violations Bureau is open.

4.4. A copy of the citation shall be served by personally delivering the citation to the person alleged to have violated Bureau Ordinances, unless the alleged violation relates to the use or occupancy of land, a building, or other structure, in which case the citation may be posted on the property and a copy mailed by first class mail to the owner of such land, building, or other structure at the last known address of the alleged violator.

Section 5. Duty to Appear

5.1. Any person upon whom a citation is issued pursuant to this Ordinance shall, within ten (10) days of the issuance of the citation, appear at the Violations Clerk's office to either admit or deny the violation, enter a written denial, or deliver an admission with the corresponding penalty payment.

Section 6. Payment

6.1. Upon admission of a Bureau Ordinance before the Violations Clerk, the Violations Clerk shall assess civil penalties and accept payment from the violator in the amounts designated in the Bureau Ordinances Schedule and Civil Penalties Tiers.

Section 7. Right to Trial; Denial of Violation, Failure to Satisfy Civil Penalty Assessed

7.1. Nothing in this Ordinance shall be construed to limit a person charged with an ordinance violation to that person's right to a trial on the allegations found in a citation, nor shall it be construed to limit any right the person might have to appeal, whether such appeal would be to the Goshen Board of Public Works and Safety or other authority. If a person charged with an ordinance violation wants to exercise the right to trial, the person shall appear before the Violations Clerk and deny the violation, or enter a written denial with the Violations Clerk.

7.2. If a person denies the allegations found in a citation, fails to satisfy a civil penalty assessed after having entered an admission of violation, or fails to deny or admit the violation, the Violations Clerk shall report this fact to the City of Goshen Legal Department or to legal counsel of a unit utilizing the Bureau under an interlocal agreement, who may then initiate proceedings in court against the person for the alleged ordinance violation.

Section 8. Other Legal Action

8.1. Nothing in this ordinance shall be deemed to require initiation of ordinance enforcement activity by issuing an ordinance violation citation subject to admission of violation in the Ordinance Violations Bureau. The procedure made available by I.C § 36-1-6-3 and this Ordinance may be bypassed, and enforcement may be initiated by filing a Complaint in an appropriate court to enforce Bureau Ordinances or seek enforcement through the Board of Works.

Jeremy P. Stutsman, Mayor

8.2. The filing of citations in the Ordinance Violations Bureau shall not preclude the filing of a Complaint in an appropriate court to enforce Bureau Ordinances if a person served with a citation denies the violation alleged in the citation, requests a trial on the allegations contained in the citation, or fails to respond to the citation filed in the Ordinance Violations Bureau.

Section 9. Other Ordinances

9.1. All Ordinances, or parts thereof, inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency. All Ordinances, or parts thereof, not inconsistent with this Ordinance shall remain in full force and effect.

Section 10. Severability

10.1. The provisions of this ordinance are severable, and the invalidly of any phrase, clause or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

Section 11. Effective Date

11.1. This ordinance shall be in full force and effect from and after its passage, approval and publication according to the laws of the State of Indiana.

PASSED by the City of Goshen Common Council on _____th day of _____, 2020.

_____
Presiding Officer

ATTEST

_____
Adam Scharf, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on the ____ day of _____, 2020, at _____ _____ a.m./p.m.

_____
Adam Scharf, Clerk-Treasurer

APPROVED and ADOPTED on the __ day of _____, 2020, at _____ a.m./p.m.

_____
Jeremy P. Stutsman, Mayor

ORDINANCE 5049

AMENDING
ORDINANCE VIOLATIONS BUREAU

WHEREAS, Indiana Code § 33-36-2-1 allows a municipal corporation to establish an ordinance violations bureau;

WHEREAS, Indiana Code § 36-1-6-3 allows municipal corporations to enforce ordinances through admission of violation before an ordinance violations bureau and allows that bureau to turn over to the municipal corporation all sums collected as civil penalties for ordinance violations; and

WHEREAS, the Common Council of the City of Goshen, Indiana established an ordinance violations bureau which is codified in the Goshen City Code at §1.2.1.1; and

WHEREAS, the Common Council of the City of Goshen, Indiana wishes to more clearly define what ordinance violations are subject to admission of violation before the violations clerk, define appropriate levels and amounts of civil penalties to be imposed for violations of the City of Goshen Code, and more clearly describe its Ordinance Violations Bureau.

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

Section 1. **Creation**

1.1. An Ordinance Violations Bureau ("Bureau") was created and shall continue to operate under the authority of I.C. § 33-36-2-1, as amended, and under the terms of this Ordinance.

Section 2. **Violations Clerk; Duties**

2.1. The Clerk of the City Court shall serve as the Violations Clerk, who shall administer the Bureau.

2.2. The Violations Clerk shall accept written appearances, waivers of trial, admissions of violations, and payment of civil penalties as set forth in Section 3 of this Ordinance, but not more than Two Hundred Fifty Dollars ($250).

2.3. The Violations Clerk shall account for all payments received and deliver such penalty payments to the City of Goshen Clerk-Treasurer for all violations of the Goshen City Code, at such intervals as the ~~Violations Clerk and~~ City of Goshen Clerk-Treasurer determines, to be deposited in the general fund of the City of Goshen.

2.4. The Violations Clerk shall account for all payments received on behalf of every municipal corporation for whom the Violations Clerk has accepted payment of civil penalties pursuant to an interlocal agreement described in I.C. 33-36-2-4, ~~and~~ deliver such penalty payments to the appropriate municipal corporation as provided in the interlocal agreement, and deliver records related to such payments to the Clerk-Treasurer's office for civil penalties attributable to the City of Goshen.

Section 3. **Schedule of Civil Penalties**

3.1. Pursuant to I.C. § 33-36-3-1, provisions of the Goshen City Code subject to admission of violation before the Violations Clerk (each such Code provision shall be hereinafter referred to individually as a "Bureau Ordinance") are designated in the Bureau Ordinances Schedule found in this Code Section. Notwithstanding any other enforcement procedures provided by applicable statute, rule, or ordinance, each Bureau Ordinance may be enforced through an admission of violation before the Violations Clerk to the full extent allowed under I.C. § 36-1-6-3(a)(1), as amended, and under the authority of I.C. § 33-36-2-1, as amended. The Bureau Ordinances Schedule below assigns an appropriate Civil Penalty Tier to violations of each City of Goshen Bureau Ordinance.

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3.2.1.1	Open burning	3
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	Development in regulatory floodplain without permit	2
	Temporary/mobile signs without permits	2

3.2. Pursuant to I.C. § 33-36-3-1, provisions of the Elkhart County Code subject to admission of violation before the Violations Clerk (each such Code provision shall be hereinafter referred to individually as a "Bureau Ordinance") are designated in the Bureau Ordinances Schedule found in this Code Section. Notwithstanding any other enforcement procedures provided by applicable statute, rule, or ordinance, each Bureau Ordinance may be enforced through an admission of violation before the Violations Clerk to the full extent allowed under I.C. § 36-

1-6-3(a)(1), as amended, and under the authority of I.C. § 33-36-2-1, as amended. The Bureau Ordinances Schedule below assigns an appropriate Civil Penalty Tier to violations of each Elkhart County Bureau Ordinance.

Elkhart County
Bureau Ordinances Schedule

Elkhart County Code	Type of Violation	Penalty Tier
Zoning		
Chapter 158, Title XV	Land Usage	1
Nuisance		
Chapter 92, Title IX	General Regulations	1

3.3. An admission of violation to a Bureau Ordinance shall cause to be imposed a civil penalty in the amount designated in the Civil Penalty Tiers schedule below that corresponds to the Tier level assigned to each Bureau Ordinance by the Bureau Ordinance Schedule. Second and subsequent admissions of violation of Bureau Ordinances occurring within a Twelve (12) month period will be subject to a greater civil penalty, as designated in the Civil Penalty Tiers schedule found in this Code Section.

Civil Penalty Tiers

	First Offence	Second Offence	Third Offence
Tier 4	$25	$50	$75
Tier 3	$50	$75	$100
Tier 2	$75	$125	$200
Tier 1	$175	$225	$250

Section 4. Issuance of Citations

4.1. Any City of Goshen official, employee, or agent authorized by the Goshen City Code or state law to enforce the provisions of the Goshen City Code may issue citations for the violation of Bureau Ordinances. More specifically, the following table identifies who may issue citations for violations of Bureau Ordinances:

Goshen Code Section	Type of Violation	Enforcement Authority
Animal Control		
3.1.1.1	Animals running at large	Ordinance Compliance Officers, Police Officers
3.1.1.3	Keeping livestock, fowl or wild animals	
3.1.1.4	Harboring vicious animal	

3.1.1.5	Animals disturbing the peace	
3.1.4.2	Keeping chickens	
Fire Prevention and Protection		
3.2.1.1	Open burning	Ordinance Compliance Officers, Police Officers
3.2.1.4	Leaf burning	
Noise Control		
3.3.1.1	Excessive noise and sound	Ordinance Compliance Officers, Police Officers
3.3.1.2	Noise level standards for motor vehicles and sound amplification on public property	
Controlled Parking in Yards; Sidewalks		
4.4.1.1	General parking violations (except parking in designated handicapped space)	Ordinance Compliance Officers, Police Officers
4.4.1.1	General parking violations- parking in handicapped space	
4.4.2.1	Parking in prohibited parking areas	
Buildings and Building Regulations		
6.1.1.7	Building permit required	The Building Commissioner
6.1.1.15	Stop work order	
6.1.1.16	Certificate of occupancy	
6.1.1.12	Inspection required	
6.2.1.1	Mechanical and electrical licensing required	
Neighborhood Preservation		
6.3.1.1	Minimum standards for all structures, except as the ordinance applies to buildings deemed unsafe	The Building Commissioner
6.3.1.2	Minimum standards for basic equipment and facilities, except as the ordinance applies to buildings deemed unsafe	
6.3.1.3	Minimum standards for light, ventilation, egress and heating, except as the ordinance applies to buildings deemed unsafe	
6.3.1.4	Safe and sanitary maintenance, except as the ordinance applies to buildings deemed unsafe	
6.3.1.5	Minimum space, use and location requirements, except as the ordinance applies to buildings deemed unsafe	
6.3.1.6	Responsibility of owners and occupants, except as the ordinance applies to buildings deemed unsafe	
6.3.1.7	Hotels and rooming houses, except as the ordinance applies to buildings deemed unsafe	
6.3.1.8	Smoke detectors, except as the ordinance applies to buildings deemed unsafe	

6.3.1.9	Minimum standards for commercial and industrial properties, except as the ordinance applies to buildings deemed unsafe	
6.3.1.10	Application for registration receipt, except as the ordinance applies to buildings deemed unsafe	
6.3.1.11	Inspection, except as the ordinance applies to buildings deemed unsafe	
Requirements for Stormwater Management Associated with Illicit Discharges		
6.6.1.2	Discharge of any non-stormwater related materials or substances to stormwater drainage systems or any water course that violates applicable water quality standards	Superintendent of the Department of Stormwater Management
6.6.1.2	Any illicit connections to the stormwater drainage system or any water course that allows non-stormwater discharges to occur	
6.6.1.2	Repeat violations of the discharge of yard waste (e.g. grass clippings, leaves, etc.) to a stormwater drainage system or any water course	
6.6.1.2	Failure to take all reasonable steps to ensure the discovery, containment, cleanup, and documentation of any improper or unpermitted release or discharge.	
Construction Site Stormwater Run-off Control		
6.6.2.1	Working without an approved Stormwater Pollution Prevention Plan or an expired stormwater clearance	Superintendent of the Department of Stormwater Management
6.6.2.1	Self-inspection report not performed, or the inspection forms are not provided when requested.	
6.6.2.4	Concrete/mortar washout	
6.6.2.4	Perimeter protection	
6.6.2.4	Construction entrance/exit	
6.6.2.4	Site stabilization	
6.6.2.4	Inlet protection	
6.6.2.4	Dewatering	
6.6.2.4	Runoff control	
6.6.2.4	Trash/litter	
6.6.2.4	Spill control/containment issues	
6.6.2.4	Direct discharge of pollutants to surface water	
Uniform Requirements for Post Construction Stormwater Management		
6.6.3.2	Discharge of stormwater directly into a wetland or local waterway without adequate treatment or in violation of applicable state or federal laws	Superintendent of the Department of Stormwater Management

6.6.3.3	Failure to comply with Post-Construction Stormwater Management Plan inspection and maintenance of stormwater post-construction measures requirements.	
6.6.3.3	Failure to maintain natural and constructed drainage systems.	
Rank vegetation and Noxious Weeds		
6.9.1.1	Rank Vegetation and Noxious Weeds	Ordinance compliance officer, police officer, or member of Legal Department.
Accumulation of Materials		
6.10.1.2	Solid waste violations without opportunity to correct violations	Members of Legal Department, Building Department, Police Department, or Ordinance Compliance Officer.
6.10.1.4	Solid waste violations requiring prior notice of violation	
Signs in Right of Way		
6.12.3.1	Placing signs in Right of Way	Ordinance compliance officer, police officer, or member of Legal Department.
Zoning Ordinance 3011		
	Expired plates/unlicensed vehicles in residential district	Planning and Zoning Administrator, Assistant Planning and Zoning Administrator, Building Commissioner, Ordinance compliance officer, Police department
	Trailer/RV/boat in front yard	
	Vehicles in excess of 1 ton capacity parked in residential area	
	Parking on unimproved surface/grass	
	Three or more inoperable vehicles	
	Auto repair/body work/paint shop in residential area	
	RV used as residence	
	Structure/fence/sign/driveway expansion without permit	
	Development in regulatory floodplain without permit	
	Temporary/mobile signs without permits	

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4.2. Any official, employee, or agent from Elkhart County government authorized by Elkhart County ordinances or by state law to enforce Elkhart County's code may issue citations for the violation of Elkhart County Bureau Ordinances.

4.3. Citations issued under this ordinance shall include the following information:
(a) The name of the responsible person;
(b) A description of the alleged violation, including the date thereof, and the code section;
(c) The time within which the person must contact the Bureau for purposes of admitting or denying responsibility for the violation;

(d) The amount of the schedule civil penalty for the violation;
(e) The methods by which the alleged violation may be admitted or denied;
(f) The consequences of failing to pay the required fines/costs or contact the Bureau within the required time;
(g) The address of the Violations Clerk; and
(h) The days and hours that the Ordinance Violations Bureau is open.

4.4. A copy of the citation shall be served by personally delivering the citation to the person alleged to have violated Bureau Ordinances, unless the alleged violation relates to the use or occupancy of land, a building, or other structure, in which case the citation may be posted on the property and a copy mailed by first class mail to the owner of such land, building, or other structure at the last known address of the alleged violator.

Section 5. Duty to Appear

5.1. Any person upon whom a citation is issued pursuant to this Ordinance shall, within ten (10) days of the issuance of the citation, appear at the Violations Clerk's office to either admit or deny the violation, enter a written denial, or deliver an admission with the corresponding penalty payment.

Section 6. Payment

6.1. Upon admission of a Bureau Ordinance before the Violations Clerk, the Violations Clerk shall assess civil penalties and accept payment from the violator in the amounts designated in the Bureau Ordinances Schedule and Civil Penalties Tiers.

Section 7. Right to Trial; Denial of Violation, Failure to Satisfy Civil Penalty Assessed

7.1. Nothing in this Ordinance shall be construed to limit a person charged with an ordinance violation to that person's right to a trial on the allegations found in a citation, nor shall it be construed to limit any right the person might have to appeal, whether such appeal would be to the Goshen Board of Public Works and Safety or other authority. If a person charged with an ordinance violation wants to exercise the right to trial, the person shall appear before the Violations Clerk and deny the violation, or enter a written denial with the Violations Clerk.

7.2. If a person denies the allegations found in a citation, fails to satisfy a civil penalty assessed after having entered an admission of violation, or fails to deny or admit the violation, the Violations Clerk shall report this fact to the City of Goshen Legal Department or to legal counsel of a unit utilizing the Bureau under an interlocal agreement, who may then initiate proceedings in court against the person for the alleged ordinance violation.

Section 8. Other Legal Action

8.1. Nothing in this ordinance shall be deemed to require initiation of ordinance enforcement activity by issuing an ordinance violation citation subject to admission of violation in the Ordinance Violations Bureau. The procedure made available by I.C § 36-1-6-3 and this Ordinance may be bypassed, and enforcement may be initiated by filing a Complaint in an appropriate court to enforce Bureau Ordinances or seek enforcement through the Board of Works.

8.2. The filing of citations in the Ordinance Violations Bureau shall not preclude the filing of a Complaint in an appropriate court to enforce Bureau Ordinances if a person served with a citation denies the violation alleged in the citation, requests a trial on the allegations contained in the citation, or fails to respond to the citation filed in the Ordinance Violations Bureau.

Section 9. **Other Ordinances**

9.1. All Ordinances, or parts thereof, inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency. All Ordinances, or parts thereof, not inconsistent with this Ordinance shall remain in full force and effect.

Section 10. **Severability**

10.1. The provisions of this ordinance are severable, and the invalidly of any phrase, clause or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

Section 11. **Effective Date**

11.1. This ordinance shall be in full force and effect from and after its passage, approval and publication according to the laws of the State of Indiana.

PASSED by the City of Goshen Common Council on _____th day of _____, 2020.

_____
Presiding Officer

ATTEST

_____
Adam Scharf, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on the ____ day of _____, 2020, at ____ _____ a.m./p.m.

_____
Adam Scharf, Clerk-Treasurer

APPROVED and ADOPTED on the __ day of _____, 2020, at _____ a.m./p.m.

_____

Jeremy P. Stutsman, Mayor
CITY OF GOSHEN
202 South Fifth Street, Suite 1 • Goshen, IN 46528-3714

Phone (574) 533-9322 • Fax (574) 533-3074
mayor@goshencity.com • www.goshenindiana.org

Memo

To: Goshen City Council

From: Mayor Jeremy Stutsman

Subject: Ordinance Violations Bureau: Proposed Policy and Ordinance Amendment

Date: June 4, 2020

The City Administration has been discussing more effective ways to enforce the City Code. After discussing Code enforcement with multiple departments, a consensus of opinion arose leading to the conclusion that the current Ordinance setting out the City's Ordinance Violations Bureau should be amended to provide a more effective tool for use in enforcing the City Code.

Purpose of Ordinance Violations Bureau

An Indiana State statute allows municipalities to create ordinance violations bureaus to process citations issued for violations of the municipal code and to collect civil penalties assessed for violations. Goshen established an Ordinance Violations Bureau (the "OVB") through the adoption of Ordinance 3846 in 1998. Many communities throughout Indiana have adopted ordinances creating ordinance violations bureaus.

Schedule of Violations (existing)

A community having an ordinance violations bureau must adopt a schedule of penalties that sets the amount of civil penalties that are to be assessed for the specific ordinance violations listed in the schedule. Goshen's current schedule of penalties is overly simple and does not take into account the severity of the violation entering the OVB. The schedule of penalties adopted by other cities and towns lists a variety of violations and the amount of civil penalties that can be assessed for each type of violation. The amount assessed for civil penalties typically varies, depending on the severity of the violation. The current Goshen OVB ordinance, however, only lists two types of violations within the schedule of penalties:

1. Parking violations
2. All other code violations

Upon admission of a violation, the OVB is currently authorized to accept civil penalties based on the following schedule:

Type of Violation	Civil Penalties
Parking Violations- First Offense	$150.00
Parking Violations- Second Offense	$200.00
Parking Violations- Third Offense	$250.00
All other Code Violations- First Offense	$175.00
All other Code Violations- Second Offense	$225.00
All other Code Violations- Third Offense	$250.00

The civil penalties listed in the table above are fixed and, based on statute, cannot be reduced at the discretion of the city official empowered to issue citations or by the OVB. This proposed ordinance amendment includes a detailed list of common violations and a new schedule that reduces penalties to reflect the severity of specific violations.

Schedule of Violations (Proposed)

The proposed amendment to the existing ordinance would create four distinct tiers which would establish lower civil penalties than currently allowed. The proposed tiers are as follows:

	First Offense	Second Offense	Third Offense
Tier 4	$25	$50	$75
Tier 3	$50	$75	$100
Tier 2	$75	$125	$200
Tier 1	$175	$225	$250

Tier 1 offenses involve more serious offense, with Tier 2, Tier 3, and Tier 4 involving progressively less serious offenses. The proposed ordinance amendment provides a table of offenses with the corresponding Tier level.

Inter-local Agreement with Elkhart County

The General Assembly enacted a statute in 2018 that allowed Goshen City Court to act as an ordinance violations bureau for municipalities that lacked a court. Elkhart County approached the City and our OVB ordinance was amended in 2018 to allow processing citations from Elkhart County for code violations that occur in the unincorporated areas of the County. The County and City of Goshen entered into an inter-local agreement and the County started filing zoning and nuisance violation citations in the OVB in 2018. Since the County began using Goshen City Court as its ordinance violations bureau, approximately one-half of the citations have been paid, approximately one-quarter have been dismissed, and approximately one-quarter have resulted in judgments that have been sent to collections.

Right to Trial

The OVB does not limit the rights of a person charged with a code violation to a trial. If a person cited for a code violation wants to exercise the right to trial, they can appear before the Violations Clerk and deny the violation. Judgment cannot be entered against an individual unless a complaint is filed and the person has an opportunity to contest the alleged violation. The Goshen ordinance names the Clerk of the City Court as the Violations Clerk, who administers the bureau.

Proposed Policy and Procedures

Goshen currently lacks formal administrative guidelines defining how the OVB is used as a tool for ordinance enforcement. I have attached to this memo a document that outlines proposed policies and procedures that will serve to ensure that ordinance violations being enforced through the OVB are handled in a consistent manner by City departments responsible for ordinance enforcement. These departments include: Fire, Planning, Building, Engineering and Police. Included in this policy is a requirement that the department head must approve all citations issued by the department.

Ordinance Violations Bureau
Policy and Procedures

Overview

Indiana Code I.C. §33-36-2-1 allows a municipality to establish an ordinance violations bureau. I.C. §36-1-6-3 allows municipal corporations to enforce ordinances through admission of violation before the ordinance violations bureau. The ordinance violations bureau processes citations issued for violations of the Goshen City Code, and collects civil penalties. Goshen City Code § 1.2.1.1 *et seq*. establishes and describes the City's Ordinance Violations Bureau. The Clerk of the City Court serves as the Violations Clerk, who administers the Bureau. The Violations Clerk accepts written appearances, waivers of trial, admissions of violations, and payment of civil penalties.

Schedule of Penalties

For violations that are not parking violations, a schedule of civil penalties has been established by ordinance (Exhibit A). All violations are assigned to one of the following tiers:

	First Offense	Second Offense	Third Offense
Tier 4	$25	$50	$75
Tier 3	$50	$75	$100
Tier 2	$75	$125	$200
Tier 1	$175	$225	$250

The amounts listed in the schedule of penalties are fixed and cannot be reduced other than by amending the ordinance. Penalties increase for subsequent violations that occur within one year from the date of the first offense. The maximum civil penalty allowed by statute is $250.00.

Duties of Violations Clerk

The duties of the Violations Clerk are to accept:

1. Written appearances;
2. Waivers of trial;
3. Admissions of responsibility for violations; and
4. Payment of civil penalties up to the amounts in the schedule of penalties.

The Violations Clerk may accept payment by cash, cashier's check, money order or credit card. The Violations Clerk will maintain records of ordinance violations, including copies of violation notices, admissions and denials of responsibility and the amount of penalties collected.

Issuance of Violation Notices

City officials responsible for enforcement of city codes will generally follow the following enforcement process prior to the issuance of a citation:

1. The official will complete a site investigation and document the alleged violation.
2. The property owner will be given a written notice of the alleged violation. The notice will include:
    a. A description of the alleged violation;
    b. The specific section of the Goshen City Code that governs the alleged violation;
    c. A deadline for compliance (at least 10 days from date of written notice); and
    d. Notice that a civil penalty may be imposed if the alleged violation is not abated by the deadline.
3. An inspection shall be completed following the compliance deadline to determine if the alleged violation has been abated.
4. The official will have the option of extending the deadline, if reasonable progress has been made in addressing the alleged violation.
5. If the alleged violation continues to exist and an extension is not granted, the official will proceed with notice (write a citation and provide to responsible party) and file the citation with the Ordinance Violations Bureau.
6. If the ordinance being enforced has specific notice requirements, the notice requirements will be followed prior to the issuance of a citation.

Circumstances Leading to Issuance of Citations

At the discretion of the authorized city official, he or she may issue a citation under the following circumstances:

1. The authorized city official witnesses a person commit a Goshen City Code violation;
2. Based on investigation, the official has a reasonable cause to believe that the person is responsible for a Goshen City Code violation; or
3. Based upon the investigation of a complaint by someone who allegedly witnessed the person commit a Goshen City Code violation, the official has reasonable cause to believe that the person alleged to have committed the code violation is responsible for the violation, and the City attorney has approved the issuance of the citation.

Service of Citations

Citations for alleged Goshen City Code violations shall be served by authorized city officials as follows:

1. A city official shall personally serve a copy of the citation upon the alleged violator, except as provided in the following paragraph.
2. If an alleged violation involves the use or occupancy of land, a building, or other structure, a copy of the citation does not need to be personally served up the alleged violator, but may be posted on the property. In addition, a copy of the citation shall be sent by first class mail to the owner at the owner's last known address.

Compliance Deadlines

The deadline for compliance from the time of the first notification to a property owner for most violations will be ten (10) calendar days. The official enforcing the Goshen City Code will have the option of reducing the compliance deadline from the time of the first notification to a property owner for the following violations to a minimum of 24 hours:

6.6.1	**Requirements for Stormwater Management Associated with Illicit Discharges**
6.6.1.2	Discharge of any non-stormwater related materials or substances to stormwater drainage systems or any water course that violates applicable water quality standards
6.6.1.2	Any illicit connections to the stormwater drainage system or any water course that allows non-stormwater discharges to occur
6.6.1.2	Failure to take all reasonable steps to ensure the discovery, containment, cleanup, and documentation of any improper or unpermitted release or discharge.
6.6.2	**Construction Site Stormwater Run-off Control**
6.6.2.1	Working without an approved Stormwater Pollution Prevention Plan or an expired stormwater clearance
6.6.2.4	Direct discharge of pollutants to an MS4 conveyance or surface water
6.6.3	**Uniform Requirements for Post Construction Stormwater Management**
6.6.3.2	Discharge of stormwater directly into a wetland or local waterway without adequate treatment or in violation of applicable state or federal laws

Contents of a Citation Imposing a Civil Penalty

Notices of an alleged Goshen City Code violation, with the corresponding civil penalty, will include the following information:

1. A description of the alleged violation and reference to Goshen City Code section in violation;
2. The authorized official who witnessed the alleged violation and the date witnessed;
3. The amount of the civil penalty;
4. Methods of payment;
5. The consequences of failing to pay the required fees; and
6. Location and hours of the Violation Clerk.
7. The citation will inform the person receiving the citation they may do one of the following:
    a. Admit responsibility for the alleged violation.
    b. Deny responsibility for the alleged violation.

Department Head Approval of Citation

All citations will require the approval of the Department Head whose department is responsible for enforcement prior to the issuance of citations, unless exigent circumstances exist that require immediate issuance of a citation. If a citation is issued prior to Department Head approval, the person issuing the Citation shall report the issuance of the citation to the Department Head as

soon as possible. If the Department Head decides that the Citation should not have been issued, the Department Head may remove the citation from the Ordinance Violations Bureau.

Right to Trial

A person cited for an ordinance violation is entitled to a trial before a court, unless the person waives the right to trial and enters an admission of the violation with the Violations Clerk, and pays the required civil penalty. If a person wants to exercise the right to trial, the Violations Clerk will accept a written denial of the violation. The Violations Clerk will report denials to the Legal Department, who will then confer with the Department Head responsible for enforcement to determine whether to initiate proceedings with the Board of Works or in court, as the Goshen City Code being enforced may require. A person found liable for an Ordinance Violation after trial can be ordered to pay Court Costs, as well as any fines or damages allowed under the applicable ordinance, in amounts potentially much greater than the original amount of the civil penalty associated with the citation.

Failure to Pay Civil Penalty

If a person cited for an ordinance violation denies the violation, fails to pay the civil penalty, or fails to deny or admit the violation, such persons will be referred to the Legal Department, who will then confer with the Department Head responsible for enforcement to determine whether to initiate proceedings with the Board of Works or in court, as the Goshen City Code being enforced may require.

Reporting

The Violations Clerk will provide the Mayor a monthly report of the Bureau's activities. The report will include the total number of citations issued, the types of violations, the admissions or denials of responsibility, and a record of payments received.

Exhibit A
Ordinance Violations Schedule of Penalties

	First Offense	Second Offense	Third Offense
Tier 4	$25	$50	$75
Tier 3	$50	$75	$100
Tier 2	$75	$125	$200
Tier 1	$175	$225	$250

Municipal Code Section	Type of Violation	Penalty Tier
Animal Control		
3.1.1.1	Animals running at large	3
3.1.1.3	Keeping livestock, fowl or wild animals	3
3.1.1.5	Animals disturbing the peace	3
3.1.4.2	Keeping chickens	3
Fire Prevention and Protection		
3.2.1.1	Open burning	3
3.2.1.4	Leaf burning	3
Noise Control		
3.3.1.1	Excessive noise and sound	2
3.3.1.2	Noise level standards for motor vehicles and sound amplification on public property	2
Controlled Parking in Yards; Sidewalks		
4.4.1.1	General parking violations (except parking in designated handicapped space)	4
4.4.1.1	General parking violations- parking in handicapped space	3
4.4.2.1	Parking in prohibited parking areas	4
Buildings and Building Regulations		
6.1.1.7	Building permit required	1
6.1.1.15	Stop work order	1
6.1.1.16	Certificate of occupancy	2
6.1.1.12	Inspection required	3
6.2.1.1	Mechanical and electrical licensing required	1
Neighborhood Preservation		
6.3.1.1	Minimum standards for all structures	2
6.3.1.2	Minimum standards for basic equipment and facilities	2

6.3.1.3	Minimum standards for light, ventilation, egress and heating	2
6.3.1.4	Safe and sanitary maintenance	2
6.3.1.5	Minimum space, use and location requirements	1
6.3.1.6	Responsibility of owners and occupants	2
6.3.1.7	Hotels and rooming houses	3
6.3.1.8	Smoke detectors	2
6.3.1.9	Minimum standards for commercial and industrial properties	1
6.3.1.10	Application for registration receipt	2
6.3.1.11	Inspection	2
Requirements for Stormwater Management Associated with Illicit Discharges		
6.6.1.2	Discharge of any non-stormwater related materials or substances to stormwater drainage systems or any water course that violates applicable water quality standards	1
6.6.1.2	Any illicit connections to the stormwater drainage system or any water course that allows non-stormwater discharges to occur	1
6.6.1.2	Repeat violations of the discharge of yard waste (e.g. grass clippings, leaves, etc.) to a stormwater drainage system or any water course	3
6.6.1.2	Failure to take all reasonable steps to ensure the discovery, containment, cleanup, and documentation of any improper or unpermitted release or discharge.	1
Construction Site Stormwater Run-off Control		
6.6.2.1	Working without an approved Stormwater Pollution Prevention Plan or an expired stormwater clearance	1
6.6.2.1	Self-inspection report not performed, or the inspection forms are not provided when requested.	2
6.6.2.4	Concrete/mortar washout	2
6.6.2.4	Perimeter protection	2
6.6.2.4	Construction entrance/exit	2
6.6.2.4	Site stabilization	2
6.6.2.4	Inlet protection	2
6.6.2.4	Dewatering	2
6.6.2.4	Runoff control	2
6.6.2.4	Trash/litter	2
6.6.2.4	Spill control/containment issues	2
6.6.2.4	Direct discharge of pollutants to surface water	1
Uniform Requirements for Post Construction Stormwater Management		
6.6.3.2	Discharge of stormwater directly into a wetland or local waterway without adequate treatment or in violation of applicable state or federal laws	1
6.6.3.3	Failure to comply with Post-Construction Stormwater Management Plan inspection and maintenance of stormwater post-construction measures	2

	requirements.	
6.6.3.3	Failure to maintain natural and constructed drainage systems.	2
Accumulation of Materials		
6.10.1.2	Solid waste violations without opportunity to correct violations	3
6.10.1.4	Solid waste violations requiring prior notice of violation	3
Signs in Right of Way		
6.12.3.1	Placing signs in Right of Way	2
Zoning Ordinance 3011		
	Expired plates/unlicensed vehicles in residential district	2
	Trailer/RV/boat in front yard	2
	Vehicles in excess of 1 ton capacity parked in residential area	2
	Parking on unimproved surface/grass	2
	Three or more inoperable vehicles	2
	Auto repair/body work/paint shop in residential area	2
	RV used as residence	2
	Structure/fence/sign/driveway expansion without permit	2
	Development in regulatory floodplain without permit	2
	Temporary/mobile signs without permits	2

Rhonda L. Yoder, AICP
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MEMORANDUM

TO: Goshen Common Council

FROM: Rhonda L. Yoder, City Planner

DATE: August 4, 2020

RE: Ordinance 5051

The Goshen Plan Commission met on July 21, 2020, in regular session and considered a request for a rezoning from Commercial B-1 District to Commercial B-2 District for subject property generally located at 410 W Pike Street, to address the existing non-conformity in order to facilitate future use, with the following outcome:

Forwarded to the Goshen Common Council with a favorable recommendation by a vote of 8-0.

The recommendation is based on the following:

1. The rezoning is consistent with the existing zoning and land use in the area.
2. The rezoning will allow a range of moderate intensity commercial uses, reduce the developmental non-conformities of the property, and facilitate future use so the property does not remain vacant.
3. The rezoning is consistent with the Comprehensive Plan, including:
   - Land Use, Goal L-1: Prioritize the reuse and redevelopment of existing land and structures.
   - Economic Development, Objective E-5.2: Promote mixed-use development in select districts.
4. The B-2 District requirements will be met, except for the existing side (west) building and parking/driving aisle setbacks.

Prior to the Plan Commission meeting, the following comments/questions were received:

- Raymond Jorgeson, 307 New Street, email in support of rezoning, question about traffic issues
- Adjacent residential property owner, question about proposed use

At the Plan Commission meeting, there were no public comments.

Ordinance 5051

Amend Ordinance 3011 by Rezoning Real Estate Hereinafter Described, and Commonly Known as 410 West Pike Street, from Commercial B-1 District to Commercial B-2 District

WHEREAS The Arnovitz Family Ltd and Abonmarche Consultants submitted an application on the 1st day of July 2020 to rezone the real estate hereinafter described from Commercial B-1 District to Commercial B-2 District, and the Goshen City Plan Commission did after proper legal notice conduct a hearing on said Petition as provided by the Law on the 21st day of July 2020, and recommended the adoption of this Ordinance by a vote of 8-0.

NOW, THEREFORE be it ordained by the Common Council of the City of Goshen, Indiana, that:

Property generally located on the south side of Pike Street and the west side of New Street, with a common address of 410 W Pike Street, and more particularly described as follows:

SITUATE IN THE CITY OF GOSHEN, COUNTY OF ELKHART AND STATE OF INDIANA AND BEING THE EAST TWO-THIRDS (110 FEET) OF LOTS NUMBERED 278, 279 AND 280, IN HOODS ADDITION TO THE TOWN, NOW CITY OF GOSHEN, SOMETIMES DESIGNATED AS HOOD AND BRITTON'S ADDITION TO THE CITY OF GOSHEN, INDIANA.

LESS AND EXCEPTING:
A PART OF LOT 280 IN HOOD AND BRITTON'S ADDITION TO THE TOWN OF GOSHEN, A SUBDIVISION IN SECTION 9, TOWNSHIP 36 NORTH, RANGE 6 EAST, ELKHART TOWNSHIP, ELKHART COUNTY, INDIANA, THE PLAT OF WHICH SUBDIVISION IS RECORDED IN DEED RECORD 1, PAGES 36-37 IN THE OFFICE OF THE RECORDER OF SAID COUNTY, AND BEING THAT PART OF THE GRANTOR(S) LAND LYING WITHIN THE RIGHT-OF-WAY LINES DEPICTED ON THE ATTACHED RIGHT-OF-WAY PARCEL PLAT, MARKED EXHIBIT "B", DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID LOT THENCE SOUTH 1 DEGREE 10 MINUTES 37 SECONDS EAST 8.75 FEET ALONG THE EAST LINE OF SAID LOT TO THE POINT DESIGNATED "1023" ON SAID PARCEL PLAT; THENCE NORTH 48 DEGREES 26 MINUTES 30 SECONDS WEST 12.96 FEET TO THE NORTH LINE OF SAID LOT DESIGNATED AS POINT "1022" ON SAID PARCEL PLAT; THENCE NORTH 89 DEGREES 06 MINUTES 18 SECONDS EAST 9.52 FEET ALONG SAID NORTH LINE TO THE POINT OF BEGINNING AND CONTAINING 42 SQUARE FEET, MORE OR LESS.

All of the above shall be rezoned from Commercial B-1 District to Commercial B-2 District, and the zone maps designated and referred to in Ordinance No. 3011 shall hereby be amended and ordered amended to reflect such classification and rezoning of said real estate.

PASSED by the Common Council of the City of Goshen on _____, 2020.

_____
Presiding Officer

Attest:

_____
Adam C. Scharf, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on _____, 2020 at _____ a.m./p.m.

_____
Adam C. Scharf, Clerk-Treasurer

APPROVED AND ADOPTED by the Mayor of the City of Goshen on _____, 2020.

_____
Jeremy P. Stutsman, Mayor

To:	Goshen City Plan Commission/Goshen Common Council
From:	Rhonda L. Yoder, Planning & Zoning Administrator
Subject:	20-04R – Rezoning *410 W Pike Street, Commercial B-1 to Commercial B-2*
Date:	July 21, 2020

ANALYSIS

The Arnovitz Family Ltd and Abonmarche Consultants request a rezoning from Commercial B-1 District to Commercial B-2 District for subject property generally located at 410 W Pike Street. The rezoning is requested to address the existing non-conformity in order to facilitate future use.

The subject property is located at the southwest corner of Pike and New Street, and is the former Monteith Tire & Auto Service Center, now a vacant commercial building and parking lot. Prior to INDOT's recent redevelopment of Pike Street, the property had direct access to Pike Street, and was apparently using some of the public right of way as part of the site, for parking/driving aisles. With the full public right of way redeveloped by INDOT, and direct access to Pike Street removed, and as a non-conforming use, the site faces challenges in meeting requirements for a new commercial use.

The historic zoning of the subject property has been B-1 since the adoption of Goshen's first Zoning Ordinance (ZO) in 1961. According to Planning office records, the building for the tire store was approved in January 1965, and under the ZO in place at the time auto related uses were permitted in the B-1 District, which was called "local business district." Under the current ZO (adopted in 1984), tire sales & service is not permitted in the B-1 District, so the tire sales use as it continued was a lawful, non-conforming use. The specific tire sales non-conforming use is allowed to continue, but new commercial uses must meet the B-1 District requirements, which as the neighborhood commercial district allows very limited commercial uses. Any use not allowed in the B-1 District would require a use variance application to the Board of Zoning Appeals (BZA).

The existing non-conformity creates a cumbersome process for approving new commercial uses, when a use variance application would be required for each specific commercial use. Because there is existing adjacent B-2 District (Central Business District) zoning, and because the neighborhood is already a mixed use neighborhood (which the B-2 District allows), a solution to facilitate future commercial use is a rezoning to B-2 District.

The B-2 District allows a wide range of commercial uses, but not the most intensive commercial uses (such as auto-related and drive-through uses) which may have the potential to adversely impact the residential portions of the existing neighborhood. A rezoning to B-3 District (where more intense uses are permitted) would complicate rather than facilitate ongoing use of the property, as in the B-3 District there would be on site parking requirements for each commercial use, and the site has limited on-site parking. If rezoned to B-3 District, it is very likely that most commercial uses would not meet parking requirements, and would then require a developmental variance application to the BZA.

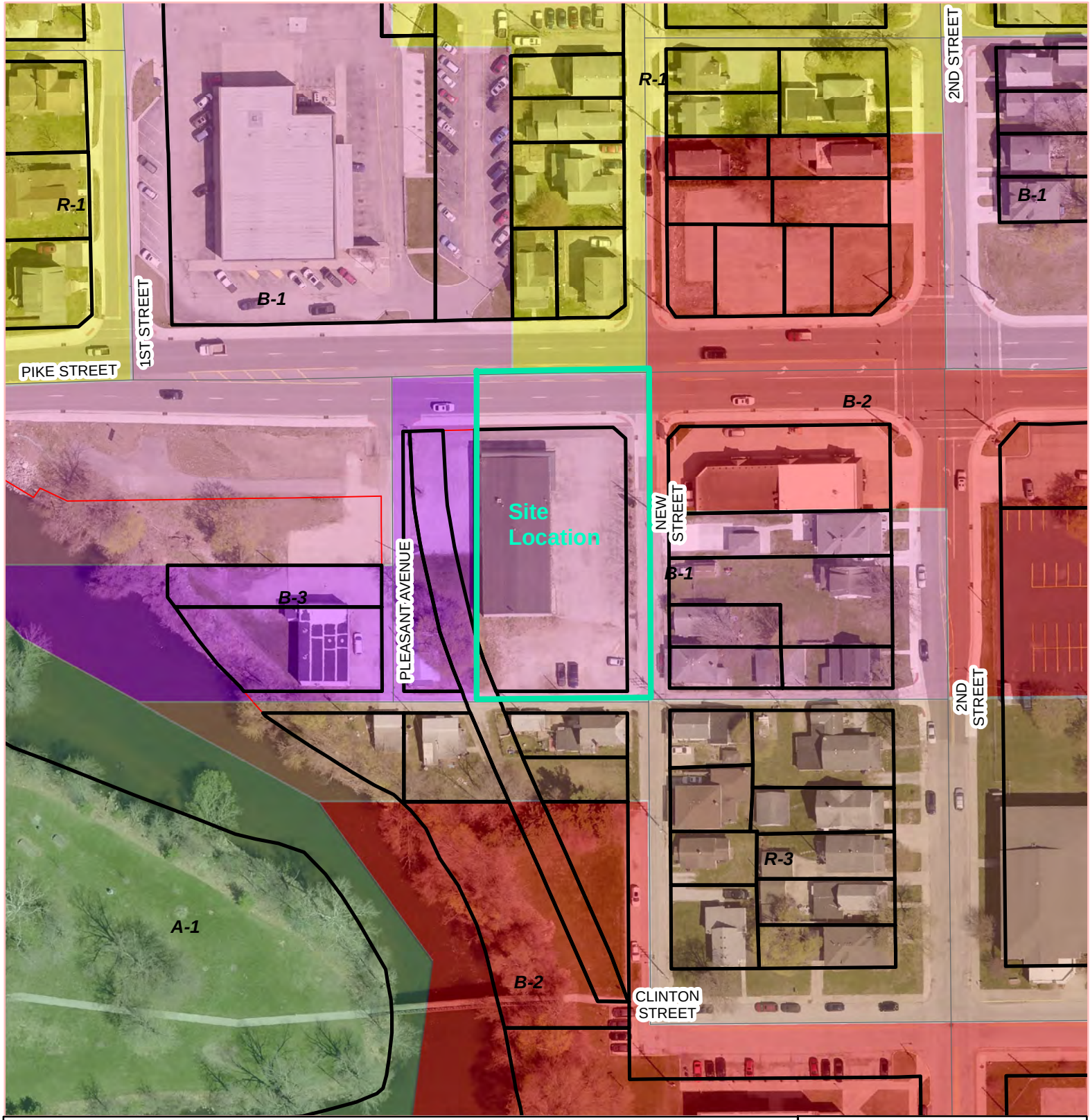
A rezoning to B-2 District matches the adjacent B-2 zoning on the east side of New Street, and is consistent with the recently approved rezoning to B-2 District on the north side of Pike Street at 301 W Pike Street. The B-2 District allows development with minimal setbacks, which is consistent with existing area neighborhood commercial development, and also has no parking requirements for commercial uses.

The site plan submitted with the rezoning is not part of the rezoning and is not being reviewed by the Plan Commission or Council, but shows the existing development. The site does not meet the 5' side (west) building and parking/driving aisle setback, but this appears to be the only developmental deficiency, and as it is existing it is allowed to continue. The existing site in the B-1 District is much more non-conforming, not meeting any developmental requirements for building/parking/driving aisle setbacks, so the rezoning to B-2 decreases the non-conformity, with only one setback (side, west) continuing as non-conforming.

RECOMMENDATIONS

Staff recommends the Plan Commission forward a favorable recommendation to Goshen Common Council for the rezoning from Commercial B-1 District to Commercial B-2 District for subject property generally located at 410 W Pike Street, based upon the following:

1. The rezoning is consistent with the existing zoning and land use in the area.
2. The rezoning will allow a range of moderate intensity commercial uses, reduce the developmental non-conformities of the property, and facilitate future use so the property does not remain vacant.
3. The rezoning is consistent with the Comprehensive Plan, including:
   - Land Use, Goal L-1: Prioritize the reuse and redevelopment of existing land and structures.
   - Economic Development, Objective E-5.2: Promote mixed-use development in select districts.
4. The B-2 District requirements will be met, except for the existing side (west) building and parking/driving aisle setbacks.



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N

Feet

0 25 50 100

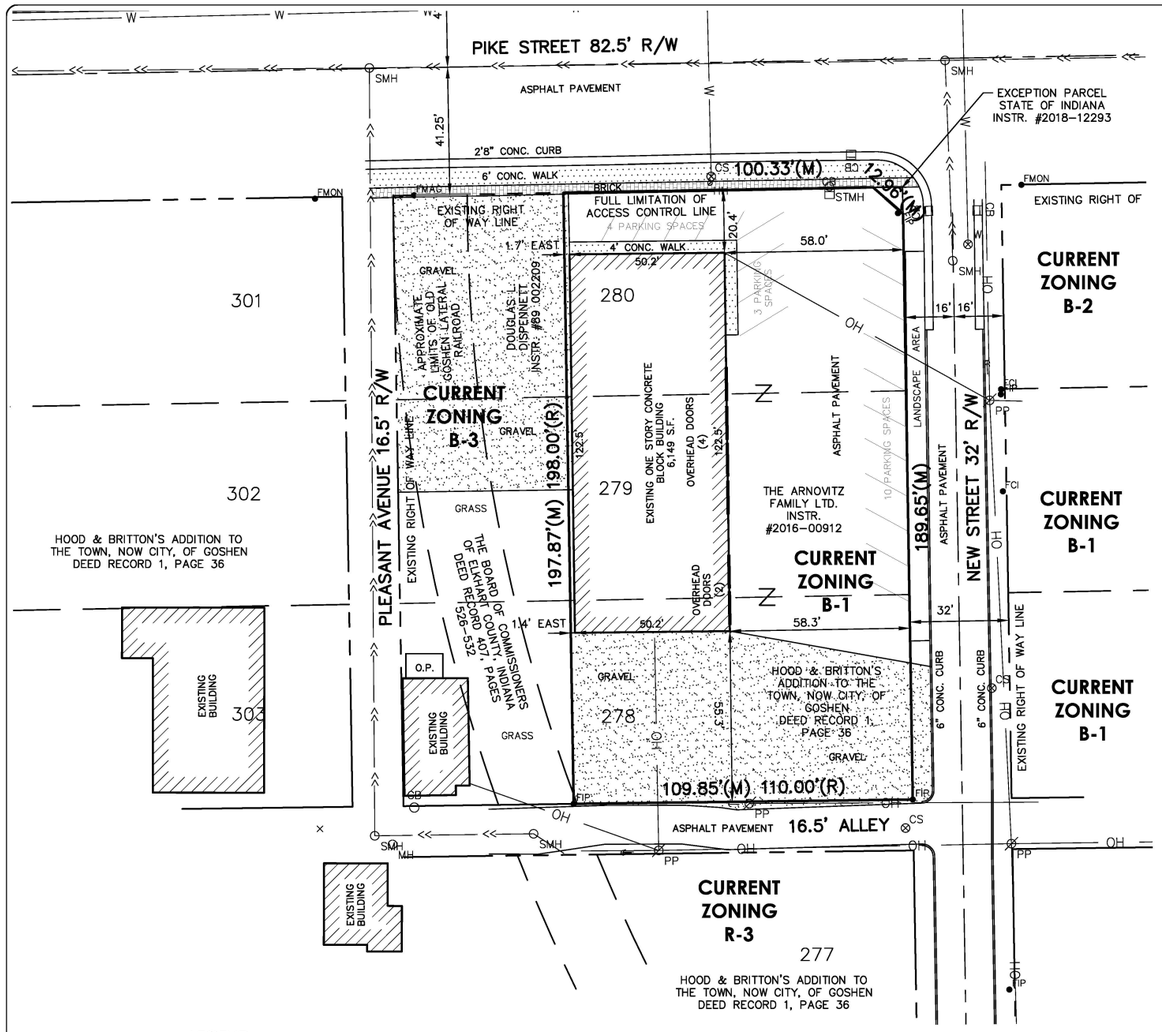
1 inch = 100 feet

410 W Pike Street

2019 Aerial

Printed July 7, 2020

The City of Goshen
Department of
Planning & Zoning
204 East Jefferson Street, Goshen, Indiana 46528
Phone: 574-534-3600 Fax: 574-533-8626



REZONING SKETCH

ADDRESS: 410 WEST PIKE STREET, GOSHEN, INDIANA 46526
A PART OF THE EAST TWO-THIRDS OF LOTS NUMBERED 278, 279, AND 280 IN HOOD AND BRITTON'S ADDITION TO THE CITY OF GOSHEN, INDIANA, A SUBDIVISION IN SECTION 9, ELKHART TOWNSHIP, CITY OF GOSHEN, ELKHART COUNTY, INDIANA
PARCEL NUMBER: 20-11-09-185-002.000-015

LEGAL DESCRIPTION

SITUATE IN THE CITY OF GOSHEN, COUNTY OF ELKHART AND STATE OF INDIANA AND BEING THE EAST TWO-THIRDS (110 FEET) OF LOTS NUMBERED 278, 279 AND 280, IN HOODS ADDITION TO THE TOWN, NOW CITY OF GOSHEN, SOMETIMES DESIGNATED AS HOOD AND BRITTON'S ADDITION TO THE CITY OF GOSHEN, INDIANA.

LESS AND EXCEPTING:
A PART OF LOT 280 IN HOOD AND BRITTON'S ADDITION TO THE TOWN OF GOSHEN, A SUBDIVISION IN SECTION 9, TOWNSHIP 36 NORTH, RANGE 6 EAST, ELKHART TOWNSHIP, ELKHART COUNTY, INDIANA, THE PLAT OF WHICH SUBDIVISION IS RECORDED IN DEED RECORD 1, PAGES 36-37 IN THE OFFICE OF THE RECORDER OF SAID COUNTY, AND BEING THAT PART OF THE GRANTOR(S) LAND LYING WITHIN THE RIGHT-OF-WAY LINES DEPICTED ON THE ATTACHED RIGHT-OF-WAY PARCEL PLAT, MARKED EXHIBIT "B", DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID LOT THENCE SOUTH 1 DEGREE 10 MINUTES 37 SECONDS EAST 8.75 FEET ALONG THE EAST LINE OF SAID LOT TO THE POINT DESIGNATED "1023" ON SAID PARCEL PLAT; THENCE NORTH 48 DEGREES 26 MINUTES 30 SECONDS WEST 12.96 FEET TO THE NORTH LINE OF SAID LOT DESIGNATED AS POINT "1022" ON SAID PARCEL PLAT; THENCE NORTH 89 DEGREES 06 MINUTES 18 SECONDS EAST 9.52 FEET ALONG SAID NORTH LINE TO THE POINT OF BEGINNING AND CONTAINING 42 SQUARE FEET, MORE OR LESS.

ZONING LEGEND

CITY OF GOSHEN

R-3 : RESIDENTIAL DISTRICT (MULTI-FAMILY)

B-1 : COMMERCIAL DISTRICT (NEIGHBORHOOD COMMERCIAL)
B-2 : COMMERCIAL DISTRICT (CENTRAL BUSINESS DISTRICT)
B-3 : COMMERCIAL DISTRICT (GENERAL COMMERCIAL)

LEGEND

- CB = CATCH BASIN
- CB = CURB CATCH BASIN
- FCI = FOUND CAPPED IRON
- FMON = FOUND MONUMENT
- FIP = FOUND IRON PIPE
- FMAG = FOUND MAG NAIL
- MH = GENERAL MANHOLE
- GUY WIRE
- HH = HAND HOLE
- PP = POWER POLE
- SMH = SANITARY MANHOLE
- STMH = STORM MANHOLE
- CS = WATER CURB STOP
- W = WATER VALVE
- W = EXISTING WATER MAIN
- >> = EXISTING SANITARY SEWER
- > = EXISTING STORM SEWER
- OH = OVERHEAD UTILITIES

FLOOD NOTE

THIS PARCEL IS NOT WITHIN 1% ANNUAL CHANCE FLOOD (SPECIAL FLOOD HAZARD AREA) AS SCALED AND DEPICTED ON THE FEMA/FIRM COMMUNITY PANEL NUMBER 18039C0254D, EFFECTIVE MAP DATE: AUGUST 2, 2011.

811 Know what's below. Call before you dig.

GRAPHIC SCALE
30 0 15 30 60
(IN FEET)
1 inch = 30 ft.

OWNERS

THE ARNOVITZ FAMILY LTD.
INSTR. #2016-00912

NO.	REVISION DESCRIPTION:	BY:	DATE:

ABONMARCHE
Portage/Kalamazoo
Benton Harbor
South Haven
Fort Wayne
Goshen
Lafayette
South Bend
Valparaiso
Engineering · Architecture · Land Surveying
1309 South Ninth Street
Goshen, Indiana 46526
T 574.533.1613
F 574.533.9911
abonmarche.com
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PROJECT:
A PART OF THE EAST TWO-THIRDS OF LOTS NUMBERED 278, 279, AND 280 IN HOOD AND BRITTON'S ADDITION TO THE CITY OF GOSHEN, INDIANA

SHEET TITLE:
REZONING SKETCH
410 WEST PIKE STREET
GOSHEN, INDIANA

DRAWN BY: DAJ
DESIGNED BY:
PM REVIEW: GCS
QA/QC REVIEW: GCS
DATE: 06/26/2020
SCALE:
HORZ: 1"=30'
VERT:
ACI JOB # 20-0781
SHEET NO. 1 of 1

Yoder, Rhonda

From: Lipscomb, Lori
Sent: Tuesday, July 14, 2020 10:46 AM
To: Yoder, Rhonda
Subject: FW: 410 W Pike Street

-----Original Message-----
From: [redacted]
Sent: Tuesday, July 14, 2020 10:39 AM
To: Lipscomb, Lori <lorilipscomb@goshencity.com>
Subject: 410 W Pike Street

We live at 307 New Street and have no issue with the zoning change. The only problem we would see is with traffic. Ther e is no direct access from Pike Street since the State closed the drive when they redid Pike Street/US33. Entry is from Ne w Street South of Pike or Pleasant Ave which is a very narrow street with a sharp curve. Persons coming out of the site go ing West would have to deal with zip Pike Street traffic or going south on New to the County building then to 2nd Street for the light. Raymond Jorgeson 307 New Street.

CITY OF GOSHEN LEGAL DEPARTMENT
City Annex
204 East Jefferson Street, Suite 2
Goshen, Indiana 46528-3405
Phone (574) 537-3820 • Fax (574) 537-3817 • TDD (574) 534-3185
www.goshenindiana.org

August 4, 2020

To: Goshen Common Council

From: Shannon Marks

Subject: Ordinance 5052, Accident Report Fee

The Goshen Police Department is required to investigate motor vehicle accidents resulting in property damage of at least $1000, or the injury or death to a person. The Police Department is required to submit all accident reports to the state's Automated Report Information Exchange System (ARIES). The Indiana State Police contracts with LexisNexis Coplogic Solutions Inc. (LN Coplogic) to operate ARIES. That agreement (which the City is not a party) permits LN Coplogic to operate a website known as BuyCrash.com in which the public may purchase online copies of accident reports submitted to ARIES. BuyCrash.com charges $12 for a copy of an accident report. Pursuant to an agreement between the City and LN Coplogic, LN Coplogic distributes $8 to the City for each accident report submitted by the Goshen Police Department to ARIES that is subsequently sold on BuyCrash.com.

The public may also obtain a copy of an accident report directly from the Goshen Police Department. The Police Department currently charges a $5 fee for a copy of an accident report obtained from the Department. This fee was set by Ordinance 4366 in 2006. Ordinance 5052 increases this fee to $8 for each copy of an accident report.

ORDINANCE 5052

Accident Report Fee

WHEREAS, in accordance with Indiana Code § 9-26-9-3, the Goshen Police Department may charge a fee for a copy of an accident report, and the fee collected must be deposited in the local law enforcement continuing education fund established by Indiana Code § 5-2-8-2.

WHEREAS the accident report fee must be fixed by ordinance of the Common Council.

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

(1) The Goshen Police Department shall charge a fee of Eight Dollars ($8) for a copy of each accident report.

(2) All ordinances and parts of ordinances inconsistent or in conflict with the terms of this ordinance are repealed to the extent of the inconsistency or conflict. This ordinance specifically repeals Ordinance 4366.

(3) This ordinance shall be in full force and effect from and after its passage, approval and adoption according to the laws of the State of Indiana.

PASSED by the Goshen Common Council on _____, 2020.

_____
Presiding Officer

ATTEST:

_____
Adam C. Scharf, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on _____, 2020, at _____ a.m./p.m.

_____
Adam C. Scharf, Clerk-Treasurer

APPROVED and ADOPTED on _____, 2020.

_____
Jeremy P. Stutsman, Mayor