



Agenda for the Goshen Common Council
6:00 p.m., December 16, 2024 Regular Meeting
Council Chamber, Police & Court Building, 111 East Jefferson Street, Goshen, IN

Call to Order by Mayor Gina Leichty

Pledge of Allegiance led by Lucas Graber (a Model Elementary School student)

Roll Call:

Linda Gerber (At-Large) **Phil Lederach** (District 5) **Doug Nisley** (District 2)
Megan Peel (District 4) **Donald Riegsecker** (District 1) **Matt Schrock** (District 3)
Council President Brett Weddell (At-Large)
Youth Adviser Tageeya Galeb (Non-voting)

Approval of Minutes: October 28 and November 18 Regular meetings

Approval of Meeting Agenda

Privilege of the Floor

1) Announcement/Swearing In: Results of the Kid Mayor and Kid Council election and swearing in students for service in 2025

2) Presentation and request for support: For Lacasa's development of Lot 3 of the Lincoln Avenue Subdivision into an eight-unit affordable income housing project

3) Resolution 2024-21, A Resolution Condemning Hate Speech and the Distribution of Hate-Based Materials

4) Ordinance 5207, Amend Title 2, Civil Rights, Article 1, Community Relations of the Goshen City Code

5) Ordinance 5208, Amend Title 2, Civil Rights, Article 2, Fair Housing of the Goshen City Code



6) Ordinance 5206, Amend Ordinance 4899, City of Goshen Building Department Fee Ordinance

7) Ordinance 5211, Revisions to Ordinance 5156 Accumulation of Materials To Increase the Maximum Fine that May be Imposed for a Violation

8) Resolution 2024-22, A Resolution Declaring the Continued Need and Intent to Utilize American Rescue Plan Funding

9) Ordinance 5205, Amend Ordinance 5199, 2025 Compensation Ordinance for Fire Department Employees

10) Ordinance 5210, An ordinance of the City of Goshen authorizing the issuance of waterworks revenue bonds for the purpose of providing funds to pay the cost of certain additions, extensions and improvements to the municipal waterworks of said City, the issuance of revenue bonds to provide for the cost thereof, the collection, segregation and distribution of the revenues of said works, providing for the safeguarding of the interests of the owners of said bonds, other matters connected therewith, including the issuance of notes in anticipation of bonds, and repealing ordinances inconsistent herewith

11) Ordinance 5209, City of Goshen Stormwater Management Ordinance (First Reading)

Elected Official Reports

Adjournment



**Department of Community Development
CITY OF GOSHEN**

204 East Jefferson Street, Suite 2 • Goshen, IN 46528-3405

Phone (574) 537-3824 • Fax (574) 533-8626 • TDD (574) 534-3185
communitydevelopment@goshencity.com • www.goshenindiana.org

Memorandum

TO: City Council

FROM: Becky Hutsell, Redevelopment Director

RE: Development Request for Lot 3 of the Lincoln Avenue Subdivision

DATE: December 16, 2024

In order to allow for the addition of a turn lane at Olive Street and Steury Avenue along Lincoln Avenue, Redevelopment purchased several homes in the 600 and 700 block of East Lincoln and completed demolition of the properties several years ago. Since that time, we have created a three (3) lot subdivision, titled the Lincoln Avenue Subdivision, with Lot 3 being identified as a potential development lot.

Lacasa has approached the City with an interest in developing Lot 3 into an eight (8) unit affordable income housing project. Their intent is to apply for two different types of state funding for this project and there is a deadline of March 1st for the application. At the December 16th City Council meeting, we have asked that they present their vision for the project and the approvals that are necessary in advance of submitting their application. If the Council is supportive of this project, an agreement will be brought to the December 30th meeting for approval, allowing them to then submit their application by January 2nd for Plan Commission. One important note is that all land within the Lincoln Avenue Subdivision was placed into the City of Goshen's name, instead of the Redevelopment Commission's name, which is why the request is coming before the Council.

A copy of Lacasa's request and details on their project is attached for review in advance of their presentation.



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December 10, 2024

Re: Multi family housing project, 700 Block of E. Lincoln Ave., Goshen, IN 46528

City Council

Lacasa has been working with Becky Hutsell and city staff on a development plan for the non-floodplain land in the 700 block of E. Lincoln. We are proposing to build an 8 unit building on this parcel of land. See details of proposed building in attachments hereto.

In order to facilitate application to IHCDA for HOME funds to build the building, Lacasa needs to achieve site control of the property and make necessary modifications to the existing situation to facilitate construction of our proposed building. This process at this location more particularly includes the following: Partial vacation of platted setback and re-zoning the lot from R-1 to R-3. Our proposed site control will be a memorandum of intent to lease the land contingent on Lacasa receiving HOME funds from IHCDA during the 2025 funding round. Our intention is to apply to Plan Commission by their January 2nd deadline for a January 21st public hearing on the petition. After Plan commission the petition will come back to the council for action in the February meeting cycle. The overall goal is to have this entire process completed by March 1st and for a submittal for HOME funding to IHCDA by the due date of March 17th, 2025.

Schedule:

December 2024	Site control with City Council
January 2025	Plan Commission hearing on rezoning and partial vacation of platted setback
February 2025	Approval by City Council of the vacation and rezoning
March 2025	Application to IHCDA for HOME funds
June 2025	Award announcement from IHCDA's board of directors
November 2025	Assuming award of the HOME funds we will get release of funds sometime in Nov.2025
January 2026	Submittal of plan for technical review by city
April 2026	Break ground on project
December 2026	Completion of building and residents moving in

Respectfully submitted

Brad Hunsberger
VP Real Estate Development
Lacasa of Goshen Inc.

Lacasa - Goshen
202 N. Cottage Ave.
Goshen, IN 46528
(574) 533-4450

Lacasa - Elkhart
516 S. Main Street
Elkhart, IN 46516
(574) 533-4450



Proposed front elevation

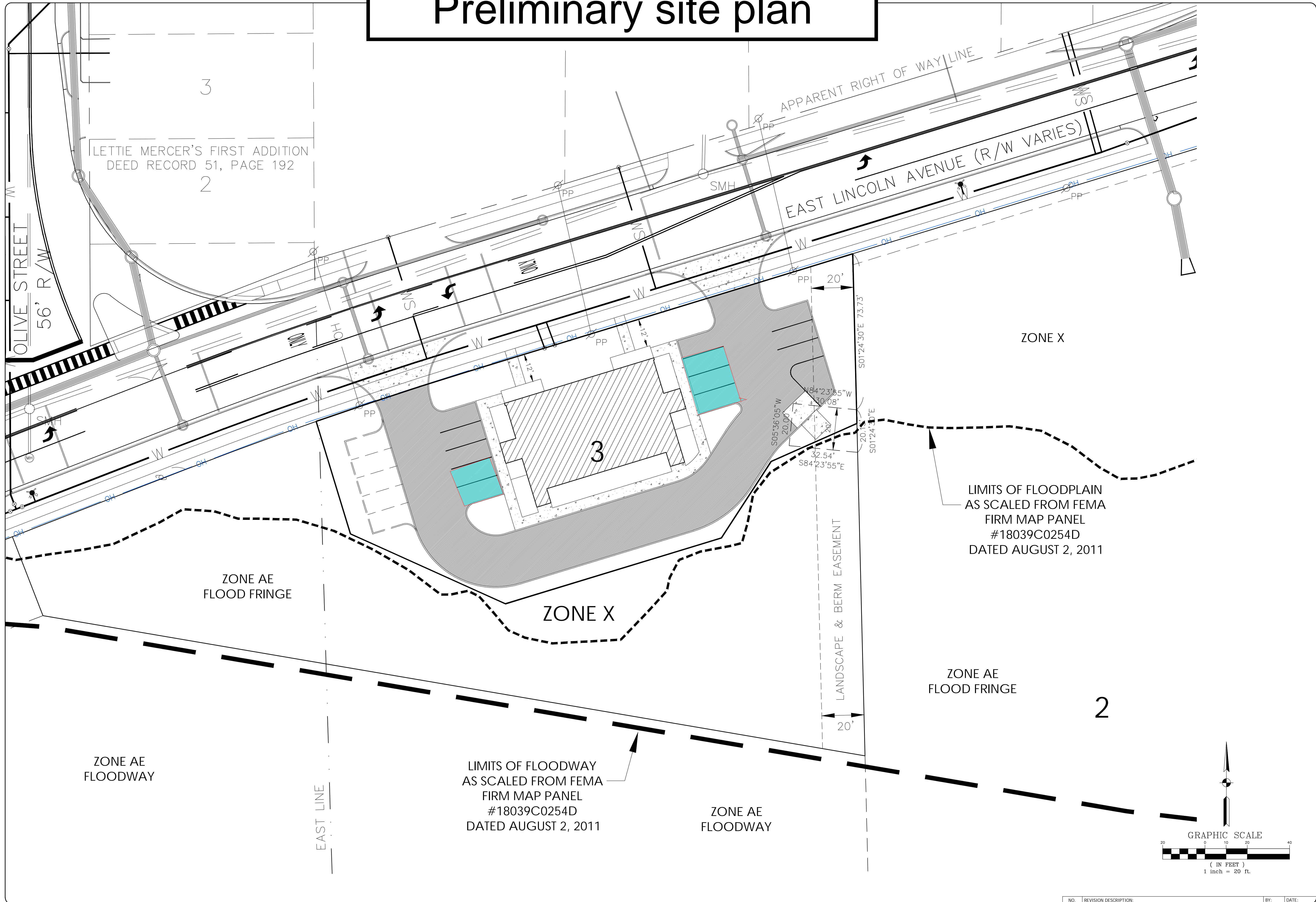






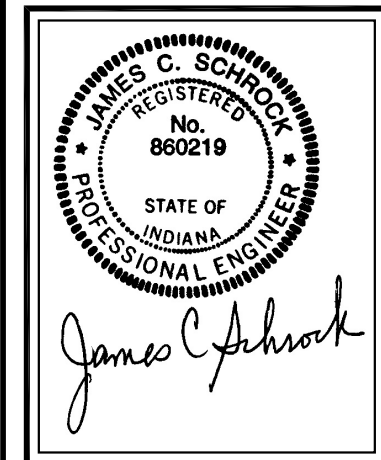


Preliminary site plan



NO.	REVISION DESCRIPTION	BY	DATE

East Lincoln Ave., Goshen 8 unit building



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LA CASA - DIVISION STREET APARTMENTS
511 DIVISION STREET
ELKHART, INDIANA

COVER SHEET

REVISIONS:

NO.	DESCRIPTION	DATE
1	FOR PRICING	12-14-22
2	STATE SUBMITTAL	5-30-23
3	FOR CONSTRUCTION	11-11-23

JOB NO: 22-0-012
DATE: 12-14-22
SCALE: SEE DWGS
DRAWN BY: AKE

Sheet
CS

GENERAL NOTES:

- SEE CIVIL DRAWINGS (BY OTHERS) FOR INFORMATION REGARDING SIDEWALKS, PARKING LOT, LANDSCAPING, UTILITIES AND GRADING

FIRE SUPPRESSION:

- PROVIDE AND INSTALL PIPING, SPRINKLERS AND EQUIPMENT AS REQUIRED FOR A COMPLETE AND FULLY OPERATIONAL FIRE SPRINKLER SYSTEM TO NFPA 13R STANDARD THAT IS ACCEPTABLE FOR AUTHORITIES HAVING JURISDICTION.

UNIVERSAL DESIGN FEATURES:

A MINIMUM OF FIVE FEATURES REQUIRED FOR EACH OF THREE SECTIONS (15 TOTAL REQUIRED)

- COLUMN A:**
- A WALK-IN SHOWER WITH A FOLDING SEAT PROVIDED IN 5% OF THE UNITS-(2) TOTAL PROVIDED - UNITS 102 & 103
 - RANGE/OVEN W/ CONTROLS LOCATED TO NOT REQUIRE REACHING OVER BURNER ON 10% OF THE UNITS (2) TOTAL PROVIDED - UNITS 102 & 103
 - CURB CUTS ALONG ACCESSIBLE ROUTE THROUGHOUT DEVELOPMENT PER ANSI A117.1, SECTION 406.13. ALL FIRST FLOOR UNITS AND PUBLIC SPACES PROVIDED WITH "NO STEP" ENTRANCES (SEE SITE PLAN)
 - DUSK-TO-DAWN CONTROLS PROVIDED FOR THE OUTSIDE LIGHTS OF ALL RESIDENTIAL UNIT ENTRANCES
 - GRAB BARS TO BE PROVIDED IN BATHROOM AND SHOWERS IN 10% OF UNITS (2) TOTAL PROVIDED - UNITS 102 & 103
- COLUMN B:**
- ALL INTERIOR DOORS PROVIDE A MINIMUM CLEAR WIDTH OPENING OF 31-3/4".
 - ADJUSTABLE HEIGHT SHELVING PROVIDED IN ALL KITCHEN WALL CABINETS IN ALL UNITS
 - IN ALL KITCHENS, A 30" X 48" CLEAR FLOOR SPACE ADJACENT THE SINK, DISHWASHER, COOKTOP/OVEN AND REFRIGERATOR/FREEZER IS PROVIDED.
 - IN ALL BATHROOMS, A 30" X 48" CLEAR FLOOR SPACE IS PROVIDED OUTSIDE THE SWING OF THE DOOR
 - ALL DOORS INTENDED FOR USER PASSAGE PROVIDE A MINIMUM CLEAR WIDTH OPENING OF 31-3/4".
- COLUMN C:**
- LIGHT SWITCHES LOCATED 48" MAX ABOVE THE FINISHED FLOOR IN ALL UNITS
 - OVER BATHROOM LAVS, MIRRORS W/ THE BOTTOM EDGE OF THE REFLECTING SURFACE SHALL BE 40" MAX A.F.F. IN ALL UNITS
 - LEVER HANDLE FAUCETS SHALL BE PROVIDED ON LAVS AND SINKS IN ALL UNITS
 - ALL DRAWERS AND CABINETS TO RECEIVE PULLS
 - ELECTRIC OUTLETS SHALL BE 15" MIN A.F.F. IN ALL UNITS

SHEET INDEX:

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SI.1	FOOTING AND FOUNDATION PLAN
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S3.1	ROOF FRAMING PLAN AND TRUSS PROFILES
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A1.2	SECOND FLOOR PLAN
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A2.2	ENLARGED UNIT PLANS - TWO BEDROOM
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A4.1	WALL SECTIONS
A4.2	WALL SECTIONS
A4.3	WALL SECTIONS
A4.4	STAIR SECTIONS
A5.1	DOOR AND ROOM FINISH SCHEDULES - CABINET ELEVATIONS
A5.2	BATHROOM ELEVATIONS
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PI.2	SECOND FLOOR DWV PLUMBING PLAN - SANITARY ISOMETRIC
P2.1	FIRST FLOOR PIPING DISTRIBUTION PLAN
P2.2	SECOND FLOOR PIPING DISTRIBUTION PLAN
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E2.1	FIRST FLOOR LIGHTING PLAN - FIXTURE SCHEDULE
E2.2	SECOND FLOOR LIGHTING PLAN

CURRENT CODES:

674 IAC 12	GENERAL ADMINISTRATIVE RULES
675 IAC 13-26	INDIANA BUILDING CODE, 2014 EDITION (IBC, 2012 EDITION, 1st PRINTING) ANSI A117.1 - 2009 EDITION
675 IAC 16-1.4	INDIANA PLUMBING CODE, 2012 EDITION (IPC, 2006 EDITION)
675 IAC 17-1.8	INDIANA ELECTRICAL CODE (NFPA 70-2008)
675 IAC 18-1.6	INDIANA MECHANICAL CODE, 2014 EDITION (IMC, 2012 EDITION, 1st PRINTING)
675 IAC 19-4	INDIANA ENERGY CONSERVATION CODE, 2010 (ASHRAE 90.1 - 2010 EDITION, AS AMENDED)
675 IAC 22-2.3	INDIANA FIRE CODE, 2014 (IFC 2012 EDITION)

CODE DATA:

AREA: FIRST FLOOR --- 3,476 SQ.FT.
SECOND FLOOR --- 3,212 SQ.FT.
TOTAL --- 6,688 SQ.FT.

NUMBER OF STORIES --- 2 STORIES - NO BASEMENT

NUMBER OF DWELLING UNITS --- (4) ONE BEDROOM UNITS
(4) TWO BEDROOM UNITS

OCCUPANCY GROUP --- R-2

TYPE OF CONSTRUCTION --- V-B

ALLOWABLE AREA --- BASIC ALLOWABLE = 7,000 SF

FIRE SUPPRESSION --- NFPA 13R - QUICK RESPONSE (NOT REQ'D AT ATTIC SPACE)

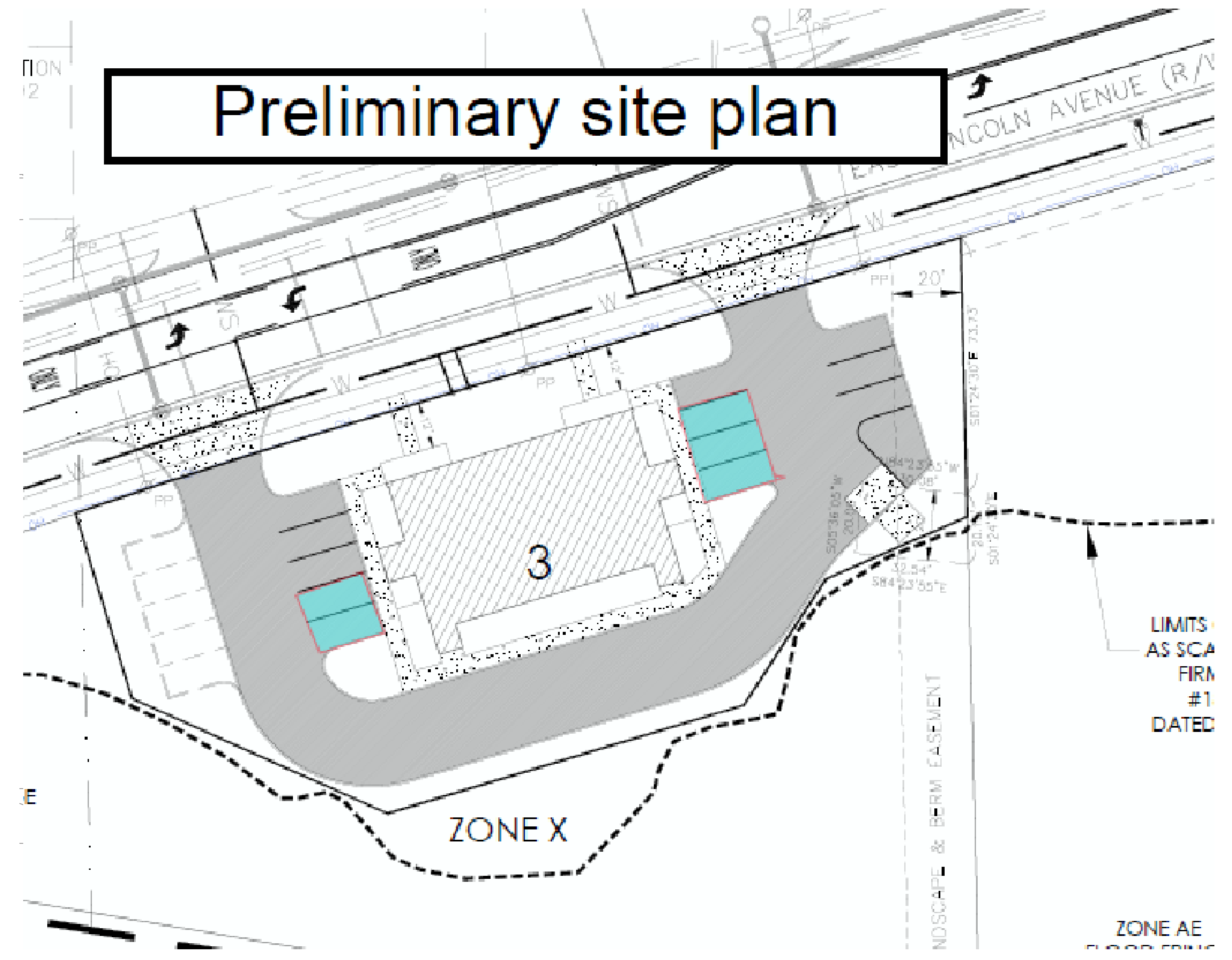
FIRE ALARM SYSTEM --- NOT REQ'D

FIRE RATED CONSTRUCTION:
DWELLING SEPARATION WALLS = 1 HR.
DWELLING SEPARATION FLOOR = 1 HR.

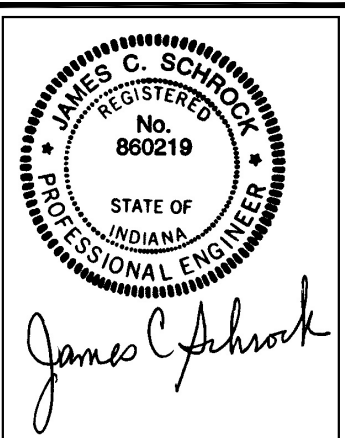
INTERIOR FINISHES --- TYPE 'C' THROUGHOUT

ACCESSIBILITY REQ'S --- DWELLING UNITS:
(1) TYPE A @ FIRST FLOOR
(3) TYPE B @ FIRST FLOOR (W/ TOILET & BATHING ROOM OPTION 1A)
(0) REQUIRED @ SECOND FLR

INDIANA ENERGY CONSERVATION CODE --- MET
ASHRAE 90.1 - 2007 EDITION



ARCHITECTURAL SITE PLAN
SCALE: 1" = 20'



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FIRST FLOOR PLAN

REVISIONS:

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SCALE: SEE DWGS
DRAWN BY: AKE

Sheet
A1.1

GENERAL NOTES:

- ALL DIMENSIONS SHOWN TAKEN FROM FACE OF STUD/CONCRETE TO FACE OF STUD/CONCRETE UNLESS OTHERWISE NOTED. VERIFY ALL DIMENSIONS PRIOR TO CONSTRUCTION
- GENERAL CONTRACTOR TO VERIFY AND PROVIDE ALL REQUIRED BLOCKING FOR ITEMS SUCH AS GRAB BARS, TOILET ACCESSORIES, SHELVING, CASEWORK, MILLWORK, ETC.
- FOR THE PURPOSES OF "ACCESSIBILITY" REQUIREMENTS PER ANGI A117.1 - 2007, UNIT 105 SHALL BE DESIGNATED AS TYPE "A" DWELLING UNIT. ALL REMAINING UNITS AT FIRST FLOOR SHALL BE DESIGNATED AS A TYPE "B" DWELLING UNITS. UNITS AT SECOND FLOOR NOT REQUIRED TO MEET THESE REQUIREMENTS.
- AT DWELLING UNITS DESIGNATED AS TYPE A AND TYPE B UNITS, THE FOLLOWING ITEMS SHALL BE MOUNTED AT THE HEIGHTS LISTED:
 - LIGHT SWITCHES = 48" MAX.
 - TYPICAL RECEPTACLES = 18" MIN TO 48" MAX.
 - RECEPTS AT COUNTERTOPS = 44" MAX.
 - APPLIANCE CONTROLS = 18" MIN TO 48" MAX.
- "RED" ADHESIVE-BACKED, FIRE-TAPE SHALL NOT BE USED. ONLY JOINT COMPOUND SHALL BE USED AT DRYWALL JOINT AND PENETRATION ANNULAR SPACES
- ANY PENETRATIONS OF FIRE PARTITIONS SHALL BE FIRESTOPPED UTILIZING THROUGH-PENETRATION SYSTEMS MEETING REQUIREMENTS OF ASTM E814, ASTM E84 AND UL423.

AIR SEALING NOTES:

- EXTERIOR WALLS:
 - TAPE ALL SEAMS OF ZIP PANELS & JOINT AT FOUNDATION INSUL BOARD
 - SPRAY FOAM ANNULAR SPACES AT ALL WALL PENETRATIONS
 - SPRAY FOAM WALL CAVITIES BEHIND ELECTRICAL J-BOXES
 - CONTINUOUS FOAM SILLS SEALER AT BOTTOM PLATE & SLAB/FLOOR DECKING JOIST
 - 3" THICK SPRAY FOAM AT ALL RIM BOARDS & ROOF TRUSS HEEL/INSULATION DAMS
- DWELLING UNIT COMMON WALLS & FLOOR/CEILINGS:
 - FIRE CAULK ANNULAR SPACES AT ALL PENETRATIONS
- DWELLING UNIT CEILING/ATTIC SPACE (2nd FLOOR UNITS)
 - SPRAY FOAM INSULATION ATOP ALL WALL TOP PLATES AFTER DRYWALL INSTALLED AND PRIOR TO BLOW-IN CELLULOSE
- FLOOR & CEILING OF ALL CHASES

WALL TYPE LEGEND:

- 2x4 OR 2x6 WOOD STUDS AT 16" O.C. WITH DBL TOP PLATE (DOUBLE BOTTOM PLATE AT 2nd FLOOR)
- 2x4 WOOD STUDS AT 16" O.C. WITH (1) LAYER 5/8" TYPE 'X' DRYWALL EACH SIDE = 1-HOUR RATED FIRE PARTITION PER IBC TABLE 720.1(2); ITEM NO. 14-1.3. (NOTE: WALLS TO RUN UP TO UNDERNEATH SIDE OF FLOOR DECKING OR CEILING ABOVE) PROVIDE R-II UNFACED FIBERGLASS BATT INSULATION EACH STUD SPACE

WINDOW SCHEDULE

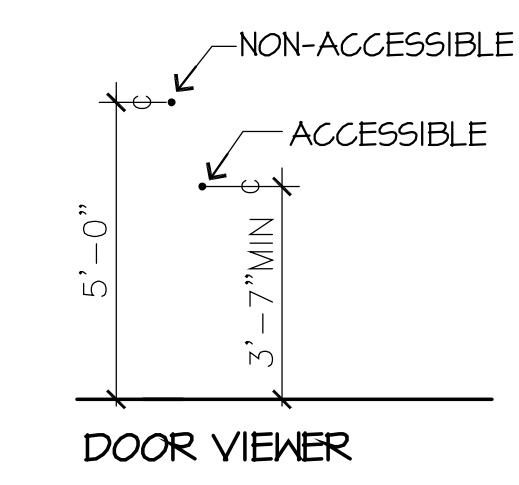
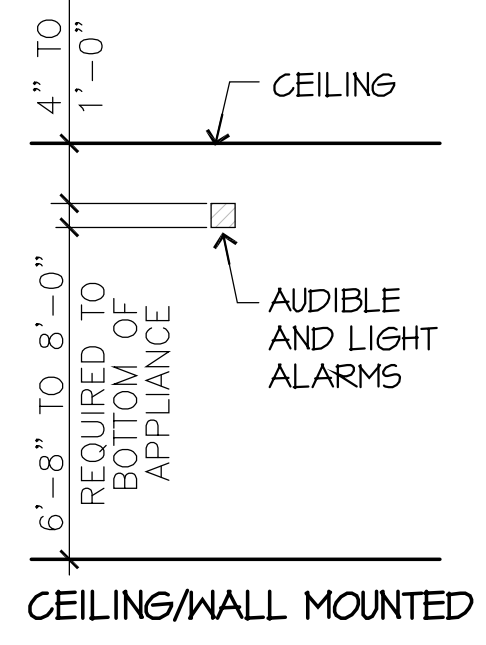
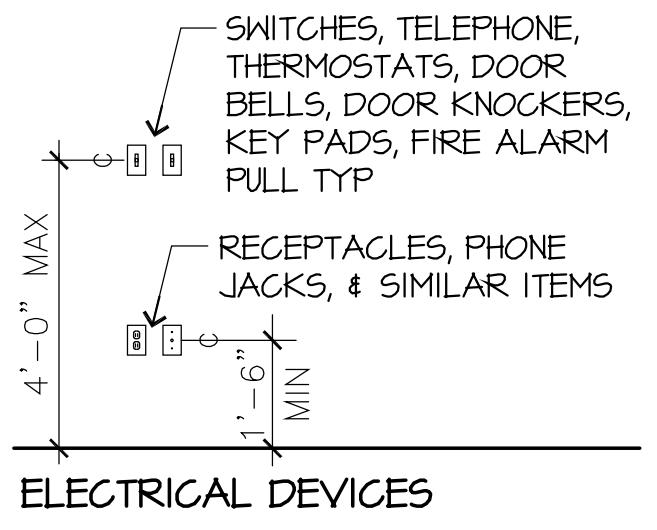
MK	UNIT SIZE	TYPE:	HEADER SIZE:
(A)	2/8 X 5/0	SINGLE HUNG	(2) 2 X 8 #1 SYP (SEE WALL SECTIONS)
(B)	5/4 X 5/0	THINNED SINGLE HUNG	(2) 2 X 10 #1 SYP (SEE WALL SECTIONS)
(C)	2/8 X 4/0	STATIONARY (TEMPERED)	(2) 2 X 10 #1 SYP (SEE WALL SECTIONS)
(D)	2/8 X 4/4	SINGLE HUNG	(2) 2 X 8 #1 SYP

NOTE 1: WINDOWS TO BE WHITE AND BE PROVIDED WITH LOW-E PGB/ARGON GAS FILLED, DBL-PANED GLAZING AND FULL SCREENS AT OPERABLE UNIT. ALL WINDOWS SHALL MEET "NORTHERN" CLIMATE ENERGY STAR REQ'S

NOTE 2: ALL GAPS AROUND DOORS AND WINDOW FRAMES SHALL BE FILLED WITH NON-EXPANDING SPRAY FOAM INSULATION TO MINIMIZE AIR INFILTRATION

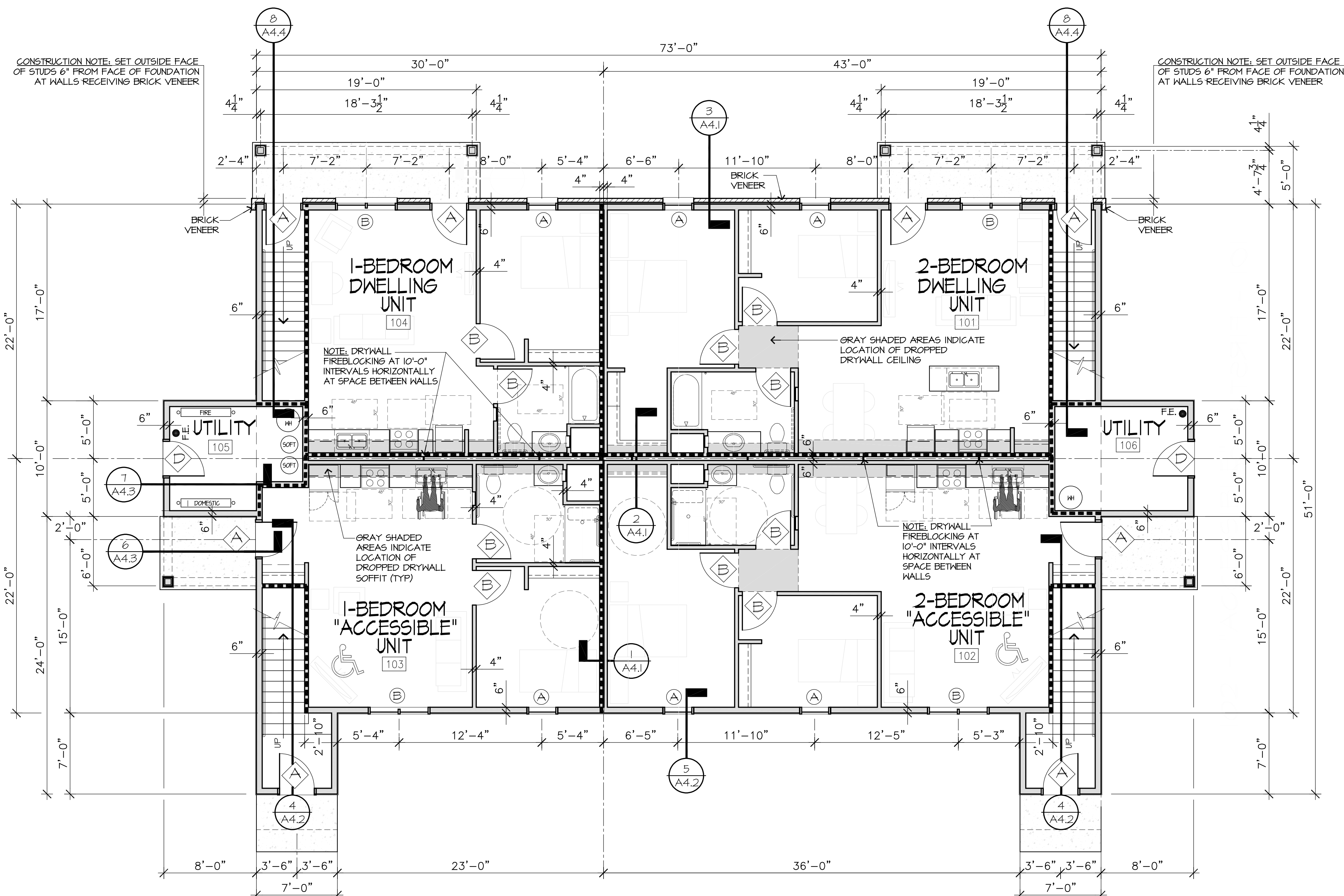
NOTE 3: TRIM AT ALL WINDOWS SHALL HAVE INTEGRAL, EXTERIOR, VINYL J-CHANNEL

NOTE 4: ALL WINDOW FLANGES SHALL BE SEALED TO SHEATHING UTILIZING PROPRIETARY "ZIP" TAPING SYSTEM.

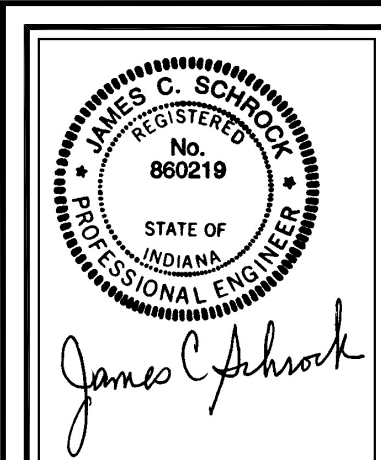


ADA-COMPLIANCE

SCALE: NONE



FIRST FLOOR PLAN
SCALE: 3/16" = 1'-0"



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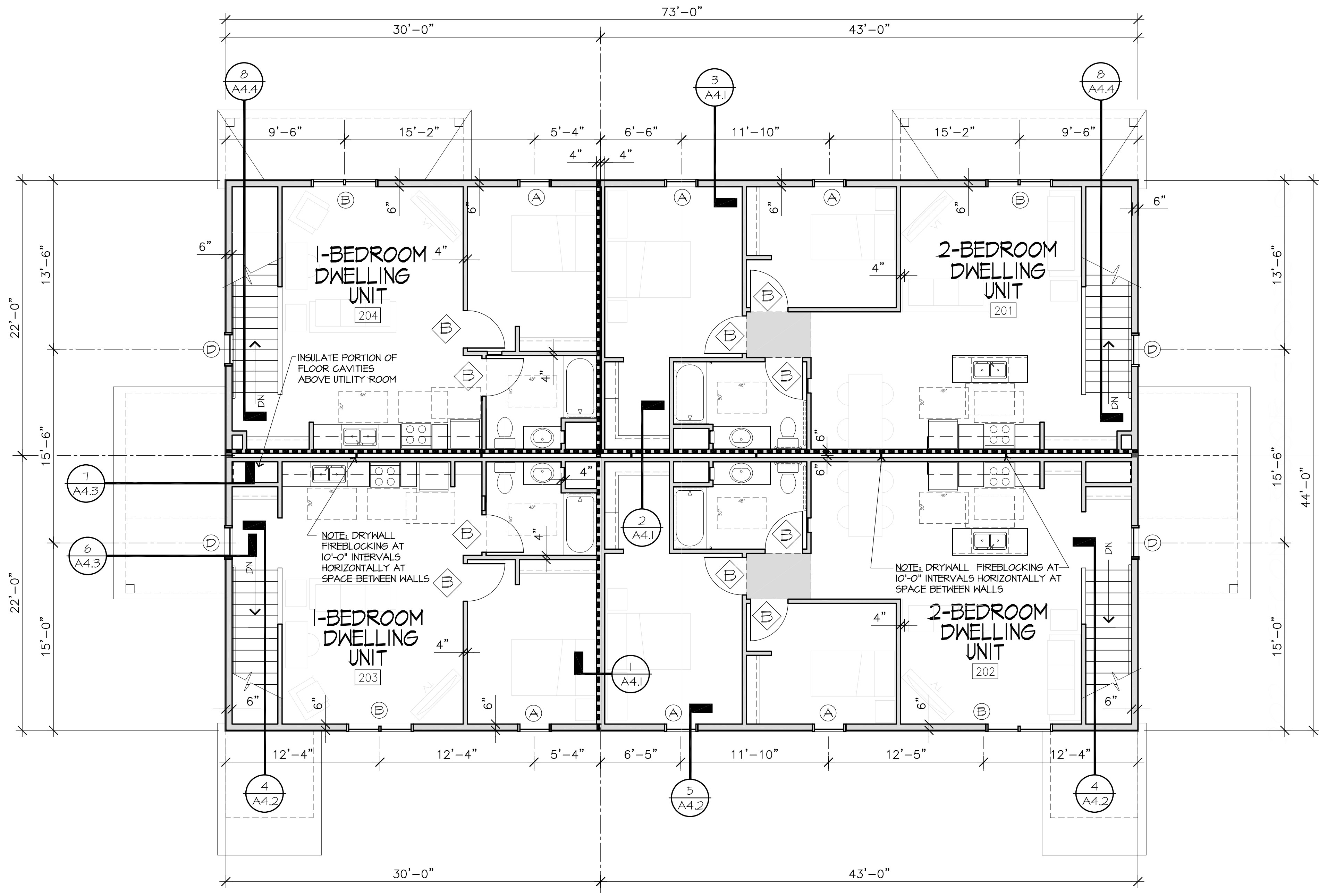
SECOND FLOOR PLAN

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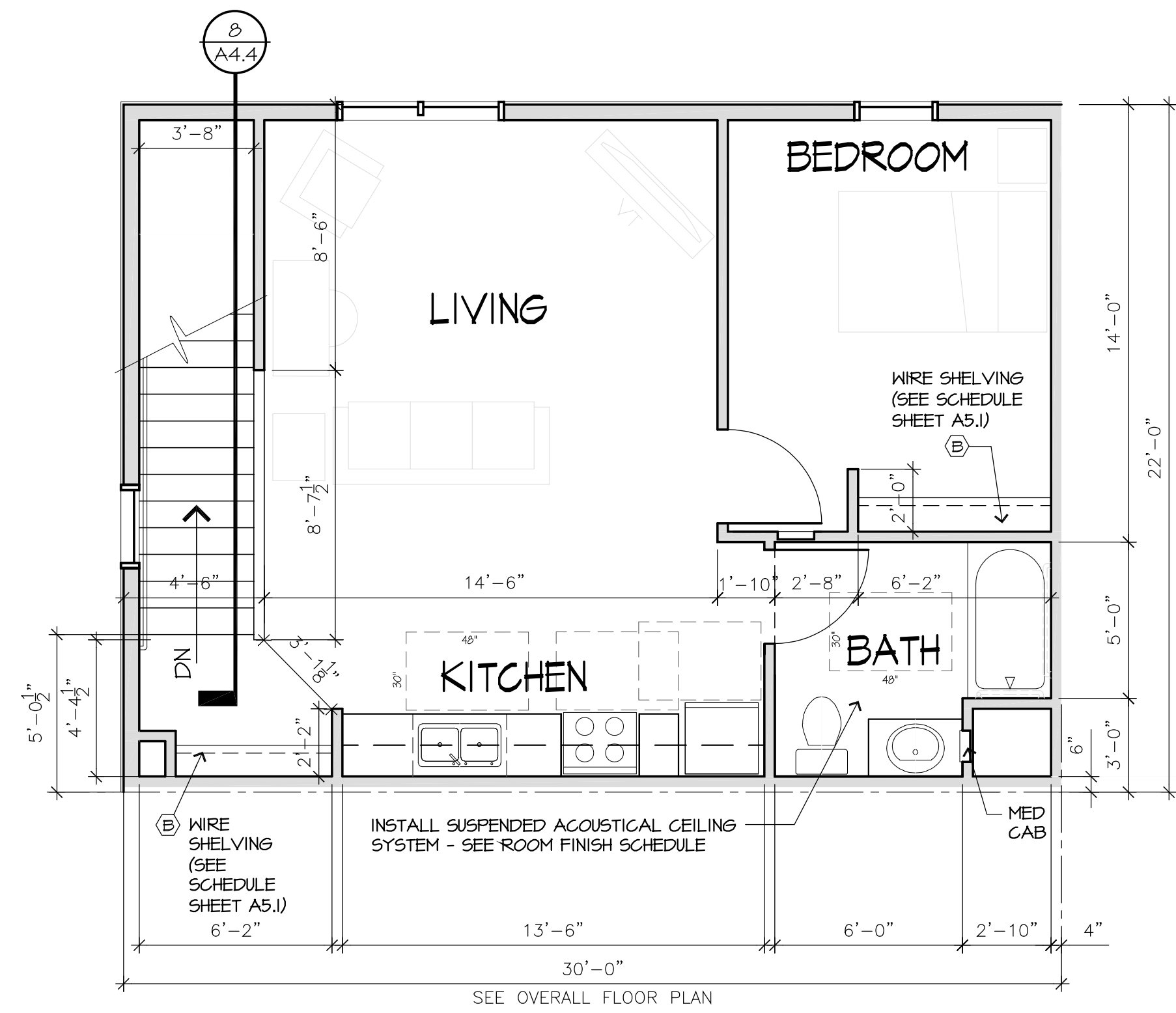
JOB NO: 22-0-012
DATE: 12-14-22
SCALE: SEE DWGS
DRAWN BY: AKE

Sheet
A1.2

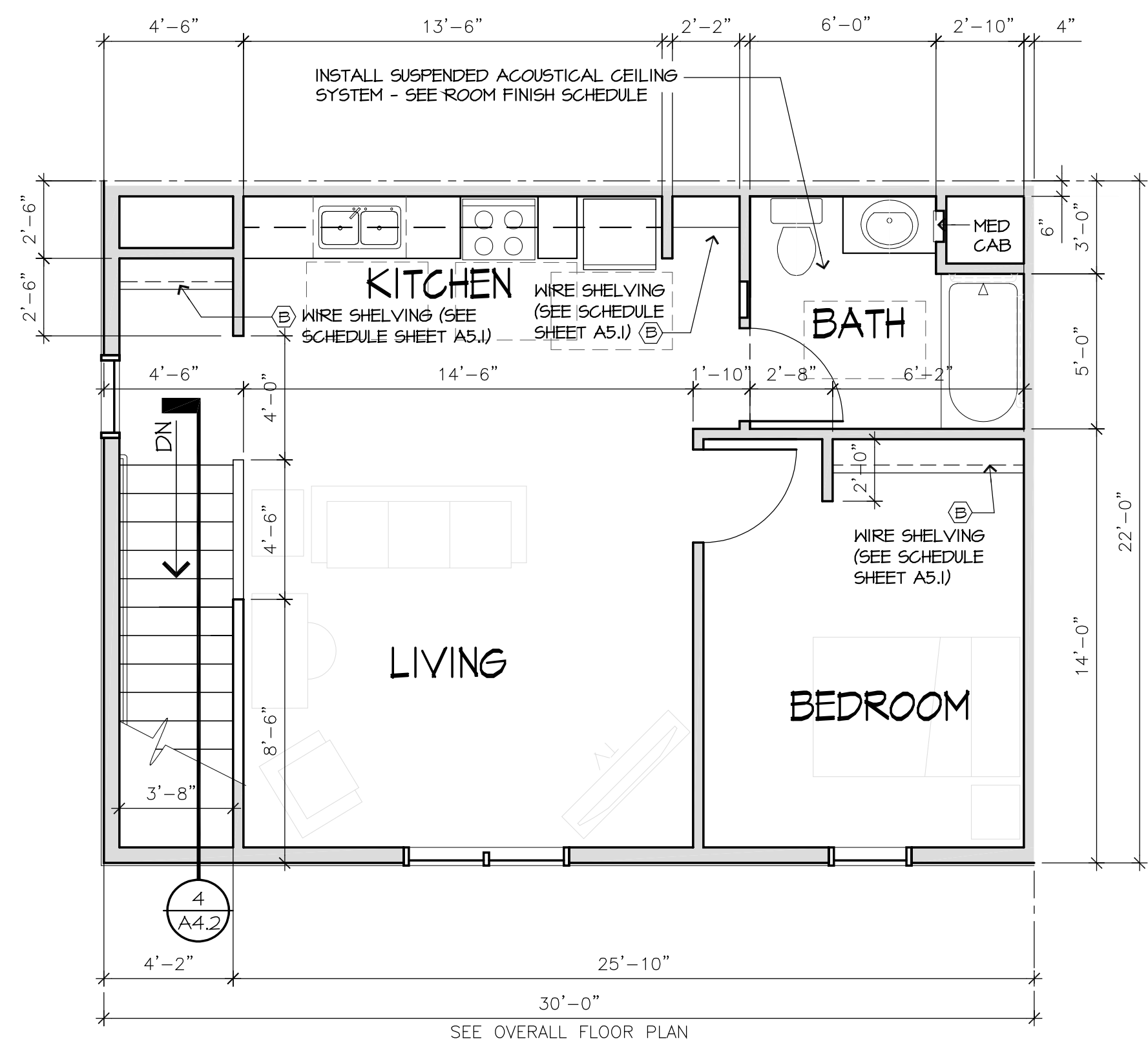


SECOND FLOOR PLAN
SCALE: 3/16" = 1'-0"

13-6"

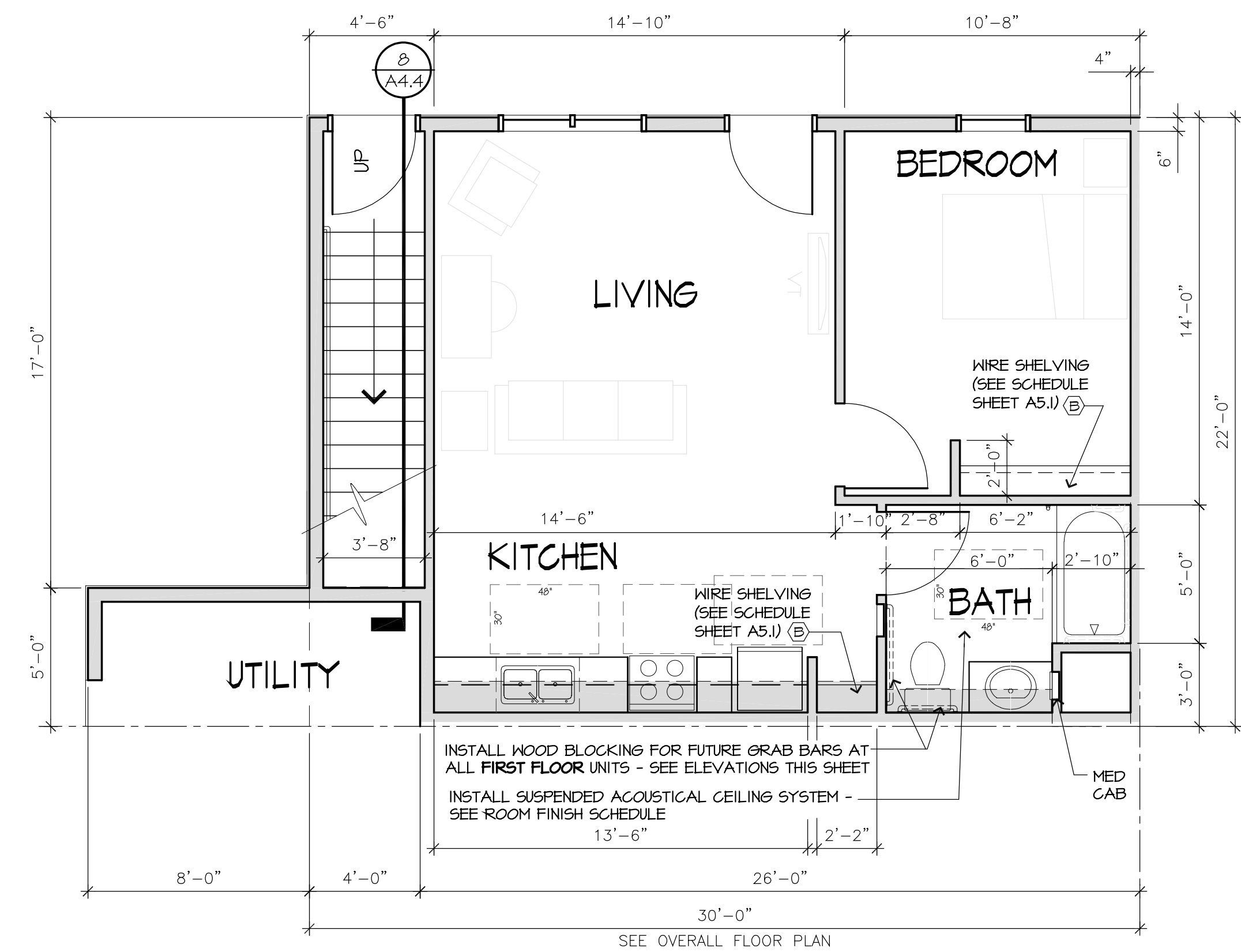


204 ONE BEDROOM UNIT
2nd FLOOR



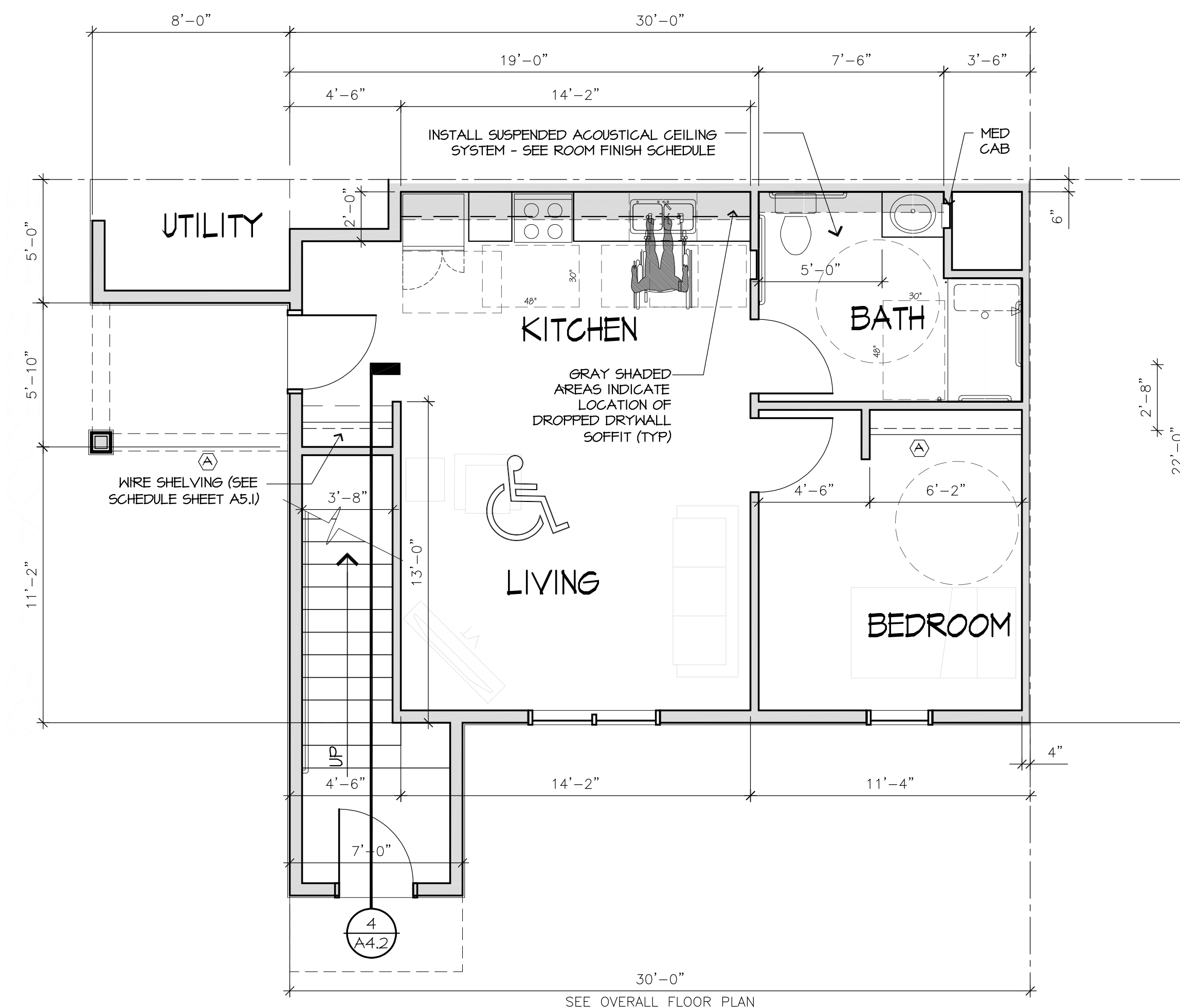
203 ONE BEDROOM UNIT
2nd FLOOR

NOTE: SEE SHEET A5.1 FOR CABINET AND SHELVING ELEVATIONS. SEE SHEET A5.2 FOR BATHROOM ELEVATIONS



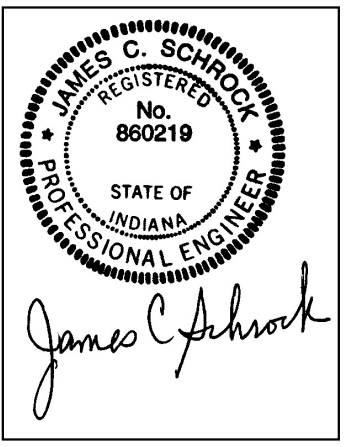
104 ONE BEDROOM UNIT
1st FLOOR

SCALE: 1/4" = 1'-0"



103 "ACCESSIBLE" ONE BEDROOM UNIT
1st FLOOR

SCALE: 1/4" = 1'-0"



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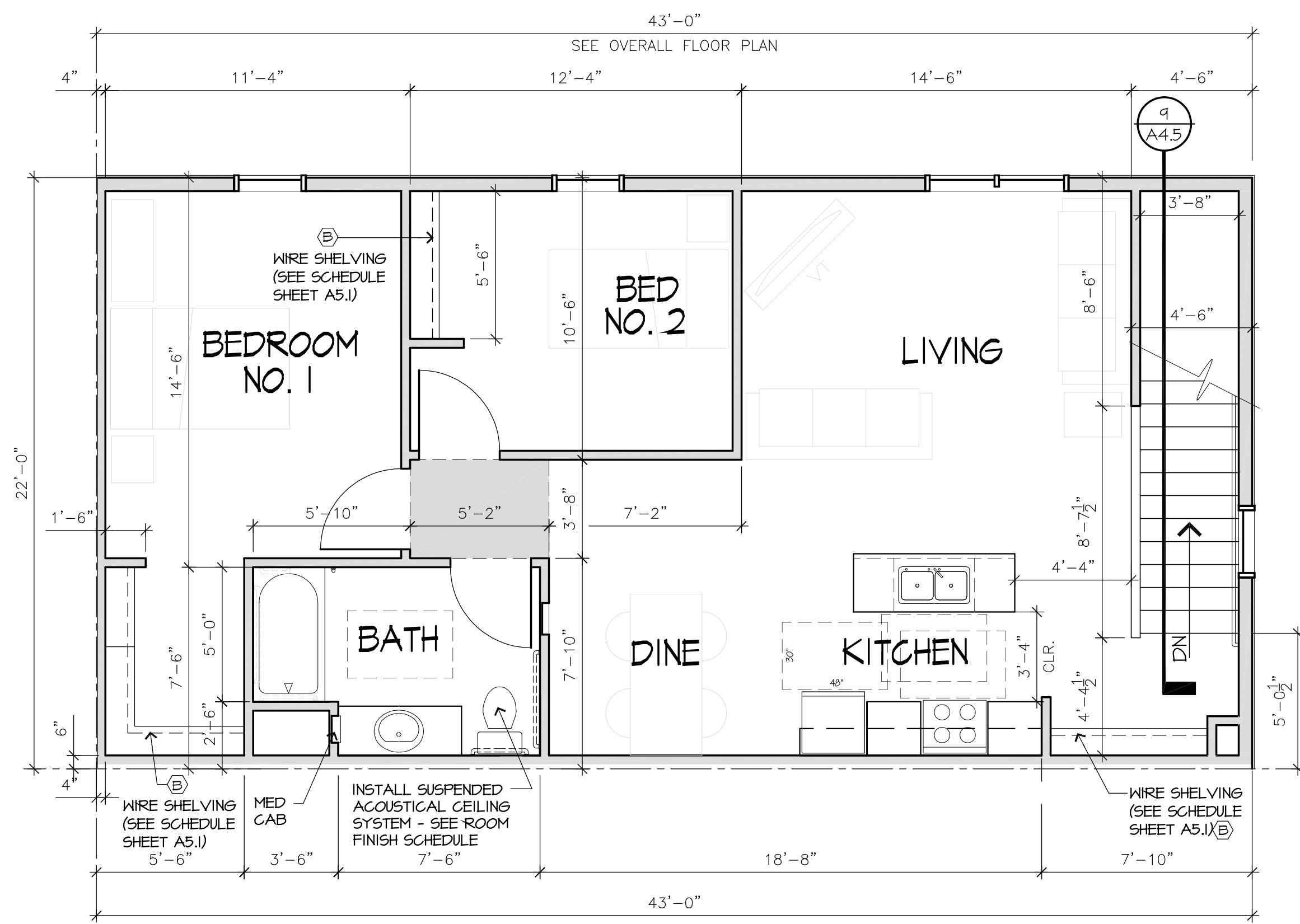
ONE BEDROOM UNIT FLOOR PLANS

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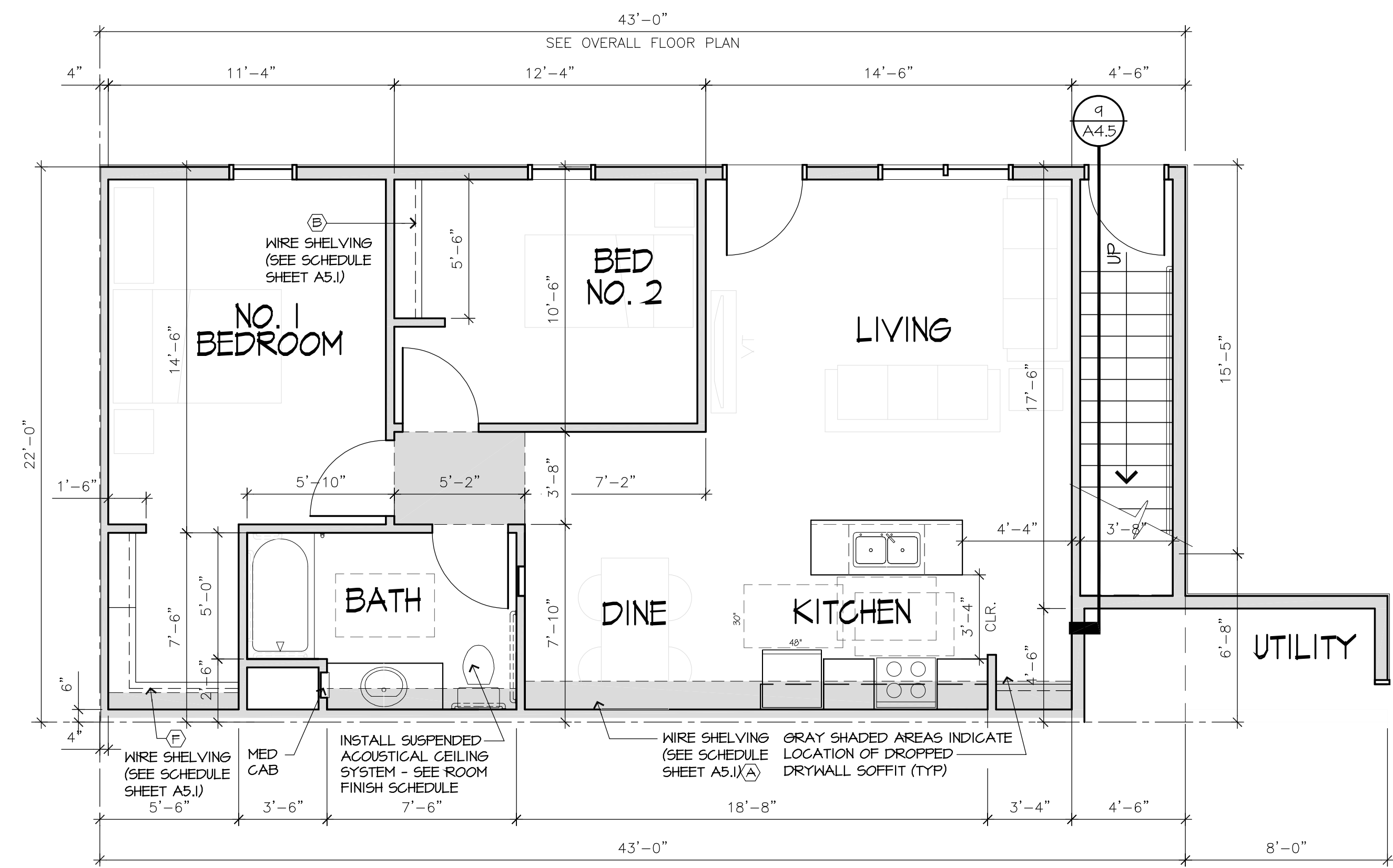
JOB NO: 22-0-012
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Sheet
A2.1



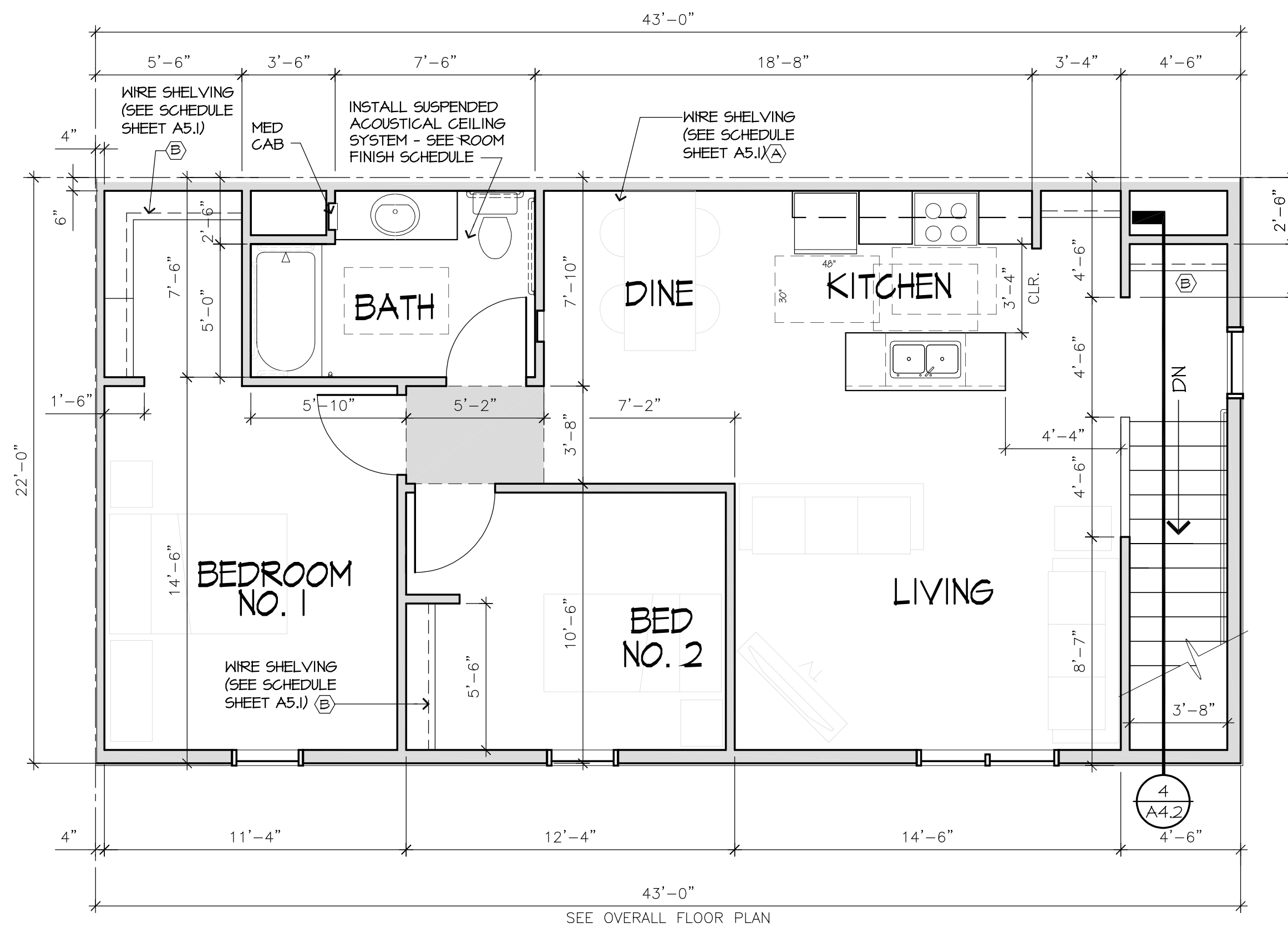
201 TWO BEDROOM UNIT
2nd FLOOR

SCALE: 1/4" = 1'-0"



101 TWO BEDROOM UNIT
1st FLOOR

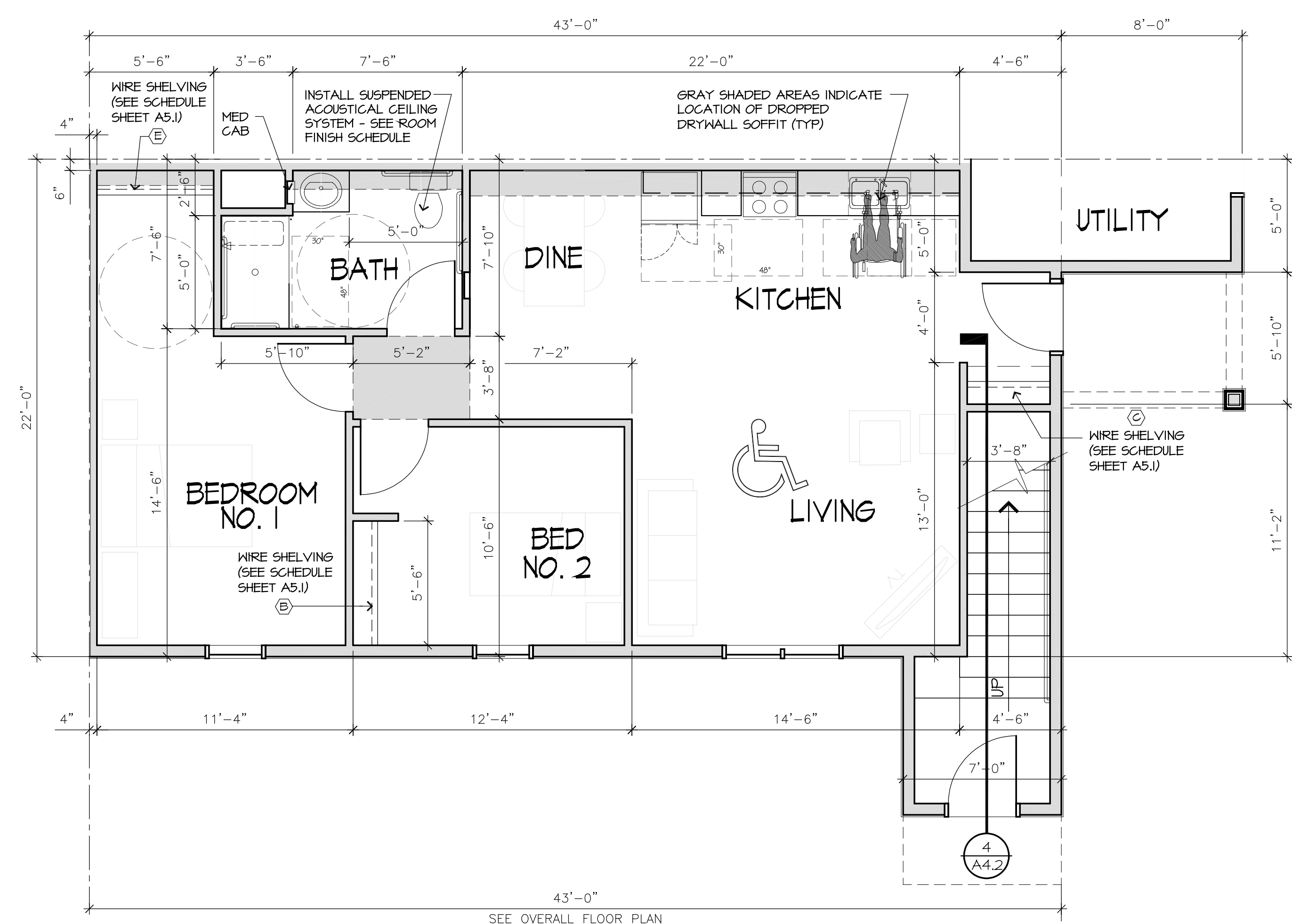
SCALE: 1/4" = 1'-0"



202 TWO BEDROOM UNIT
2nd FLOOR

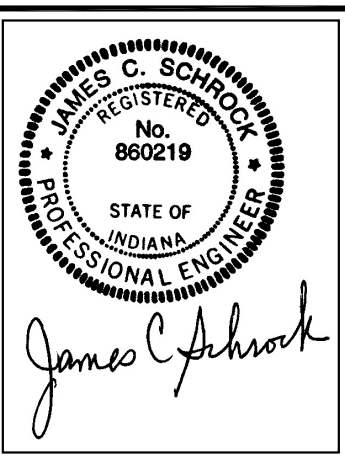
SCALE: 1/4" = 1'-0"

NOTE: SEE SHEET A5.1 FOR CABINET AND SHELVING ELEVATIONS. SEE SHEET A5.2 FOR BATHROOM ELEVATIONS



102 "ACCESSIBLE" TWO BEDROOM UNIT
1st FLOOR

SCALE: 1/4" = 1'-0"



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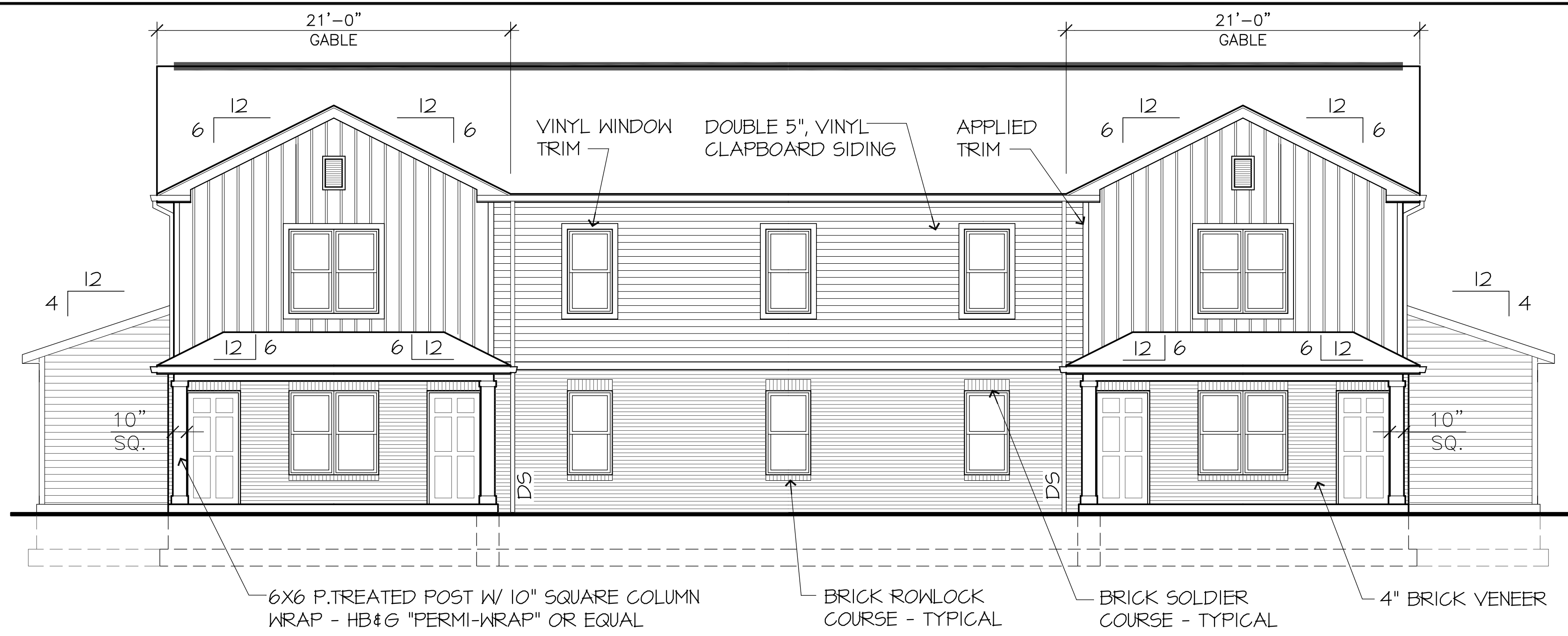
TWO BEDROOM UNIT FLOOR PLANS

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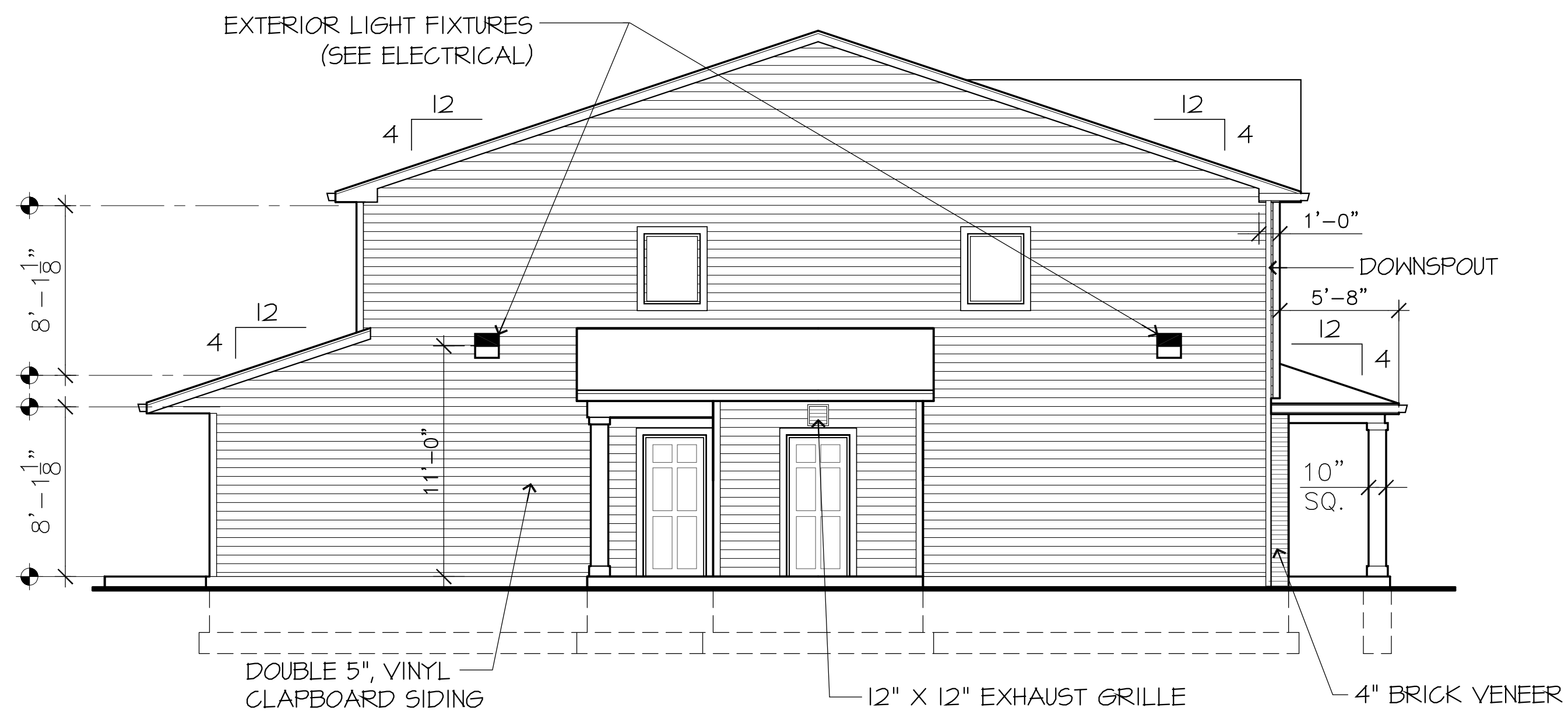
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A2.2



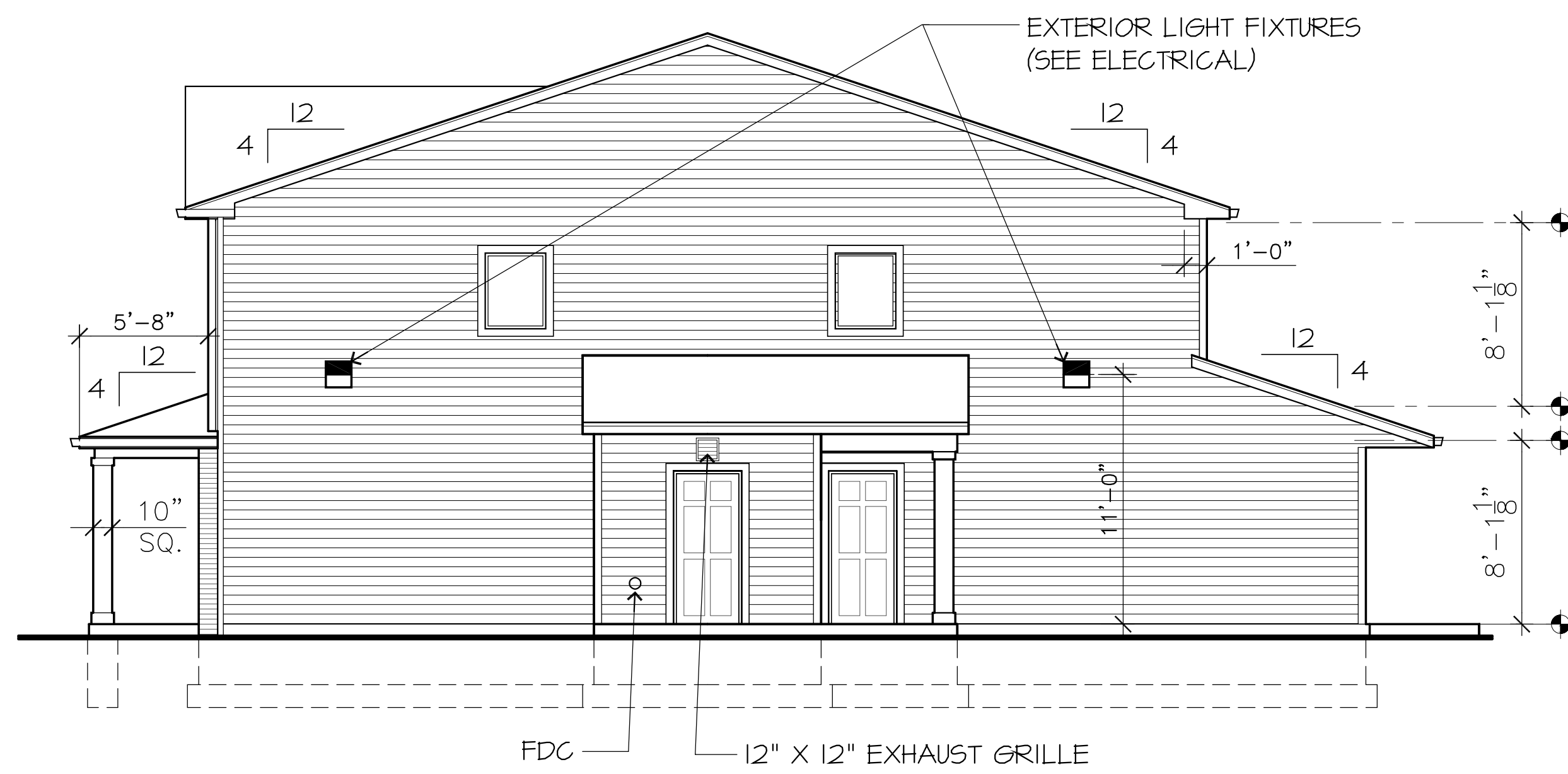
NORTH ELEVATION - STREET SIDE

SCALE: 3/16" = 1'-0"



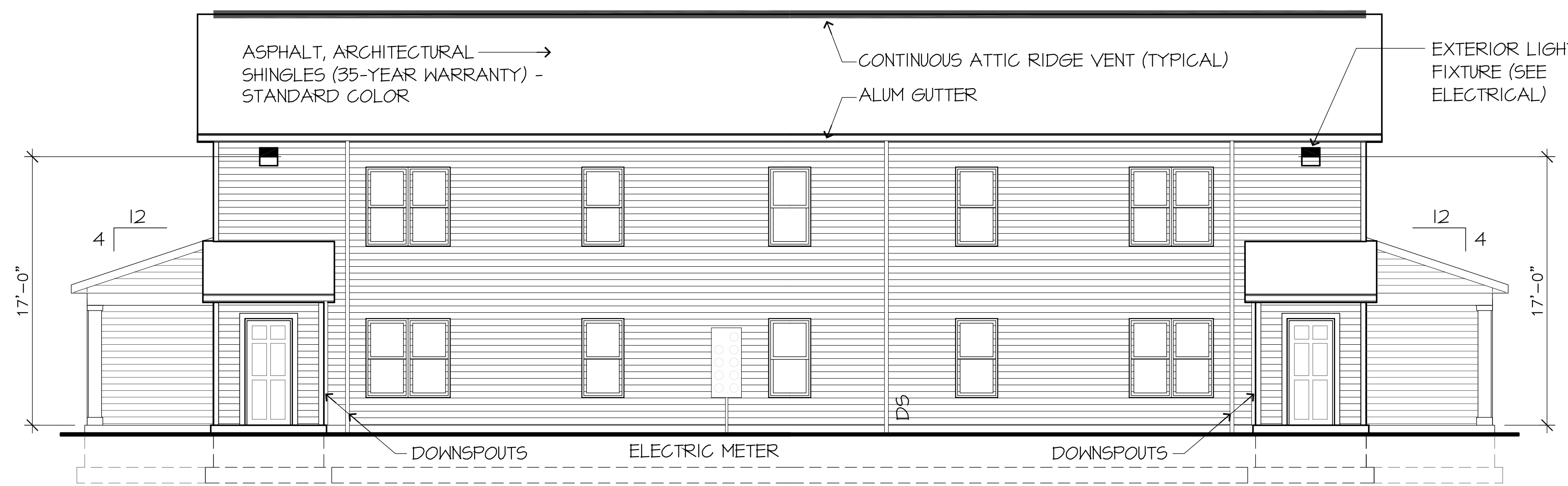
EAST ELEVATION

SCALE: 3/16" = 1'-0"



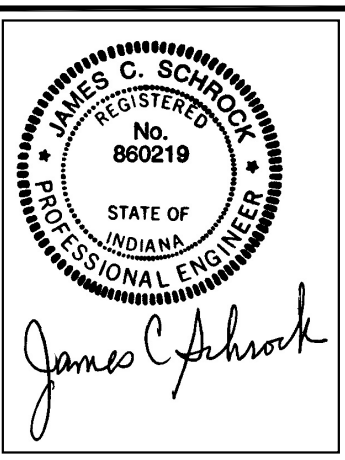
WEST ELEVATION

SCALE: 3/16" = 1'-0"



SOUTH ELEVATION - PARKING LOT SIDE

SCALE: 3/16" = 1'-0"



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ELKHART, INDIANA

EXTERIOR ELEVATIONS

REVISIONS:

NO.	DESCRIPTION	DATE
1	FOR PRICING	12-14-22
2	STATE SUBMITTAL	5-30-23
3	FOR CONSTRUCTION	7-11-23

JOB NO: 22-0-012
DATE: 12-14-22
SCALE: SEE DWGS
DRAWN BY: AKE

Sheet
A3.1

**GOSHEN COMMON COUNCIL
RESOLUTION 2024-21**

**A Resolution Condemning Hate Speech
and the Distribution of Hate-Based Materials**

WHEREAS, Goshen is committed to fostering a community of respect, diversity, and inclusion for all residents;

WHEREAS, recent incidents involving the dissemination of hate speech and hate-based materials, such as fliers promoting discriminatory ideologies and recruiting new members to their organization, have been reported in Goshen;

WHEREAS, these acts are inconsistent with the values of our city and contribute to a climate of fear, division, and intimidation, undermining the social fabric of our community;

WHEREAS, at the November 19, 2024, meeting of the Common Council Goshen Mayor Gina Leichty read a “Statement ... on Recent Hate-Organization Fliers Found by Residents” in response to the distribution of hate-based materials which included: “Goshen stands united against any form of discrimination, intimidation, or harassment...Hate-filled messages like those distributed this weekend have no place in our community;”

WHEREAS, the Goshen Common Council previously pledged support for “non-discrimination and support for equality under the law within our City and our schools” and added its “voice and commitment to fostering and upholding an atmosphere of unity and non-discrimination in the City of Goshen” in Resolution 2016-45 passed on December 29, 2016; and

WHEREAS, in 2009 the Community Relations Commission of Goshen developed core principles as a guide for relating in our City which were then updated in 2019.

NOW, THEREFORE, BE IT RESOLVED by the Goshen Common Council:

1. Endorsement and Adoption: The Goshen Common Council endorses and adopts Mayor Leichty’ s November 18, 2024, statement on “Recent Hate-Organization Fliers Found by Residents.”
2. Condemnation of Hate Speech: The Goshen Common Council unequivocally condemns any form of hate speech, including the distribution of hate-based fliers, and strongly condemns all forms of hate speech, hate crimes, and the activities of hate groups operating within the City of Goshen.
3. Encouragement of Reporting: The Goshen Common Council encourages residents to report any instances of hate speech or hate-based material to local law enforcement.
4. Education and Awareness: The Goshen Common Council commits to supporting educational initiatives to combat hate and promote understanding among all community members.
5. Law Enforcement: The Goshen Common Council will encourage local law enforcement to investigate and address the distribution of hate-based materials in accordance with state and federal laws.

6. Commitment to Inclusion: The City of Goshen reaffirms its commitment to being a welcoming, inclusive community that respects and values diversity and reaffirms the core principles of the Community Relations Commission of Goshen and Resolution 2016-45.

BE IT FURTHER RESOLVED, this resolution shall take effect immediately upon adoption.

PASSED by the Goshen Common Council on _____, 2024.

Presiding Officer

ATTEST:

Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on _____, 2024, at _____
a.m./p.m.

Clerk-Treasurer

APPROVED and ADOPTED on _____, 2024.

Mayor

STATEMENT FROM GOSHEN MAYOR GINA LEICHTY ON RECENT HATE-ORGANIZATION FLIERS FOUND BY RESIDENTS dated 18 November 2024

To our Goshen Community,

This past weekend, some Goshen residents discovered racist recruitment fliers from a Kentucky-based chapter of the Ku Klux Klan littered on their lawns. These fliers, intended to spread fear and division, urged residents to spy on their neighbors and report them to authorities. Similar incidents have occurred in nearby cities, with police confirming that this group periodically conducts such activities to recruit members.

Let me be clear: **Goshen stands united against any form of discrimination, intimidation, or harassment.**

Our local law enforcement remains focused on its mission of serving and protecting all residents. Hate-filled messages like those distributed this weekend have no place in our community.

Goshen was founded and has prospered through the contributions of immigrants from all continents. Each generation of newcomers has shaped our community's identity, enriching our culture and driving our success. We remain committed to ensuring that all who work toward the good of Goshen are treated with dignity and respect.

Immigration policy is a complex issue that must be addressed thoughtfully at the federal level. We urge our representatives in Washington to work toward bipartisan solutions that meet the needs of all communities while upholding the principles of our nation.

Thank you

Mayor Gina Leichty

RESOLUTION 2016-45

**A Resolution of Goshen, Indiana City
Council Affirming the Value of
Community Unity, Safety and Trust**

WHEREAS, in accordance with the oath of office, Goshen City Council is responsible for representing the interests of all residents, ensuring the impartial, effective and efficient delivery of municipal services, and fostering the health, safety and welfare of the City,

WHEREAS, City Council acknowledges that Goshen's strength is in its people and our residents come from both near and far, seeking peace, stability, and a good quality of life for themselves and their families.

WHEREAS, Goshen has a rich heritage deriving from many nations over many generations and a significant population of foreign-born residents, whose economic, cultural and social contributions greatly enrich our community,

WHEREAS, roughly 30 languages are spoken in the Goshen Community Schools and more than half of the students are of Hispanic/Latino ancestry (born inside and outside the United States),

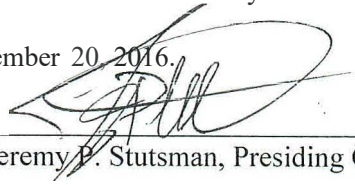
WHEREAS, the Goshen City Council recognizes that positive relationships and trust between each person regardless of race, religion, color, sex, physical abilities, national origin or ancestry are critical to promote public safety, as is trust between City of Goshen municipal service providers, public safety officers, and all Goshen residents.

WHEREAS, all residents should go about their daily lives in our community confident that both their human dignity and their Constitutional rights will be respected and protected,

NOW, THEREFORE, BE IT RESOLVED the Goshen City Council affirms the recent statements from the Mayor, the Community Relations Commission, and the Goshen Schools Superintendent pledging non-discrimination and support for equality under the law within our City and our schools, copies of which are attached to this resolution; and

BE IT FURTHER RESOLVED that City Council adds its voice and commitment to fostering and upholding an atmosphere of unity and non-discrimination in the City of Goshen.

PASSED by the Goshen Common Council on December 20, 2016.


Jeremy P. Stutsman, Presiding Officer

ATTEST:



Tina M. Bontrager, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on December 29th, 2016 at 6:42

a.m./p.m. (p.m.)


Tina M. Bontrager, Clerk-Treasurer

APPROVED and ADOPTED on December 30, 2016.


Jeremy P. Stutsman, Mayor

The Community Relations Commission serves Goshen by developing programs and policies that aim for a city without racism or discrimination of any kind, and builds capacity for creative problem-solving, resilience, understanding, and compassion among the diverse people in our community. They are guided by the following principles:

1. Honor the dignity of each person and each person's rights
2. Listen to the diverse voices of the community
3. Cultivate constructive communication and engagement
4. Value honesty, truthfulness, and integrity
5. Promote a community that is safe for all
6. Acknowledge and accept the challenge of change – that may have both positive and negative consequences
7. Promote the acceptance of differences
8. Promote the equality and freedom from discrimination

Updated by the CRC in August 2019

ORDINANCE 5207

Amend Title 2, Civil Rights, Article 1, Community Relations of the Goshen City Code

WHEREAS, the Goshen Common Council created a Community Relations Commission in 2004 as part of Ordinance 4201, as amended by Ordinance 4339, Ordinance 4526, and Ordinance 5178.

WHEREAS, the Common Council seeks to amend and clarify the powers and duties of the Community Relations Commission.

WHEREAS, Ordinance 4201, as amended by Ordinance 4339, Ordinance 4526, and Ordinance 5178, are codified in Goshen City Code Title 2, Civil Rights, Article 1, Community Relations.

NOW, THEREFORE, BE IT ORDAINED by the Goshen Common Council that Goshen City Code Title 2, Article 1 shall be amended to be read as follows:

Chapter 1. Public Policy

2.1.1.1 Equal Opportunity

Sec. 1 (a) It is the public policy of the City of Goshen to provide all of its citizens equal opportunity for education, employment, access to public conveniences and accommodations, to eliminate segregation or separation based solely on race, religion, color, sex, disability, national origin or ancestry, since such segregation is an impediment to equal opportunity. Equal education and employment opportunities and equal access to and use of public accommodations are declared to be civil rights to be protected by the City of Goshen by the means of this Code article.

(b) The practice of denying these rights to properly qualified persons by reason of the race, religion, color, sex, disability, national origin, or ancestry of such person is contrary to the principles of freedom and equality of opportunity and is a burden to the objectives of the public policy of the City and shall be considered as discriminatory practices. The promotion of equal opportunity without regard to race, religion, color, sex, disability, national origin, or ancestry through reasonable methods is the purpose of this Code article.

(c) It is also the public policy of the City to protect employers, labor organizations, and employment agencies from unfounded charges of discrimination.

2.1.1.2 Commission created.

Sec. 2 There is created a local civil rights commission to be known as the Goshen Community Relations Commission to effectuate within the City limits of Goshen the public policy of the City as declared in 2.1.1.1 of this Code.

2.1.1.3 Membership of commission; appointment; term; vacancies; removal.

Sec. 3 (a) The Goshen Community Relations Commission shall consist of a minimum of seven (7) members, and a maximum of nine (9) members, all who must be residents of the City of Goshen.

(b) The Mayor shall appoint five (5) members of the Commission, and the Goshen Common Council shall appoint four (4) members of the Commission. In making the appointments to the Commission, the appointing authority shall take into consideration all interests in the community's diversity.

(c) All members shall be appointed for a term of three (3) years. All terms expire on the first Monday in January, but a member continues in office until his or her successor is appointed; however, if the appointing authority provides written notice to the member whose term expires, and to the Community Relations Commission, that a successor will not be appointed, the member's term expires.

(d) If a vacancy occurs on the Commission during the term of an appointed member, then the appointing authority shall appoint a successor to serve the remainder of the unexpired term.

(f) The appointing authority may remove a member from the Commission for cause which shall include repeated failure to attend meetings of the Commission; failure or refusal to discharge duties as a Commissioner; commission of a felony; willful or repeated failure or refusal to follow lawful procedures in the conduct of office; or gross misconduct bringing the member, the City or the Commission into discredit. Commission members will automatically be removed for missing in excess of four (4) scheduled meetings during a calendar year unless an exception is made for an excuse ruled acceptable by the appointing authority. In

the event of such removal, the appointing authority shall certify in writing to the member and the Community Relations Director the cause for such removal.

2.1.1.4 Meetings; officers; quorum.

Sec. 4 (a) At the first meeting of every calendar year, the Commission shall elect from among its membership a Chairperson who shall serve until the first meeting of the following calendar year.

(b) The Commission shall hold one (1) regular meeting each month, and such called meetings as its Chairperson may deem to be necessary.

(c) A majority of the appointed members of the Commission (four (4) members if seven (7) members are appointed and five (5) members if either eight (8) or nine (9) members are appointed) must be present to constitute a quorum. It shall take the concurrence of a majority of the Commission membership present at a proper quorum to take official action.

2.1.1.5 Powers and duties.

Sec 5 (a) The Commission may study and recommend to the Common Council and Mayor programs and policies that enhance communications and understanding among all residents of the community.

(b) The Commission may develop and maintain programs that build positive relations among the community and enhance problem-solving skills among residents throughout the community.

(c) The Commission shall actively engage with and support neighborhood association groups within the City of Goshen to foster a sense of community and collaboration. This engagement shall include, but is not limited to, assisting in the formation and organization of new neighborhood associations, facilitating regular meetings and communications among existing associations, and serving as a resource for neighborhood groups seeking guidance on best practices for community engagement, conflict resolution, and local improvement initiatives. The Commission shall work to coordinate efforts between neighborhood associations, City departments, and other community organizations to address neighborhood-specific concerns, promote beautification projects, and enhance overall neighborhood well-being.

(d) The Commission shall seek to foster overall community engagement within the City of Goshen. This includes identifying emerging community issues and proactively developing strategies to address them through collaboration with residents, local organizations, businesses, and City leadership. This may include organizing town hall meetings, public forums, and listening sessions, as well as creating task forces or working groups as needed to address specific community needs. The aim of these efforts is to build trust, strengthen connections between the City and its residents, and foster a culture of open communication and shared responsibility.

(e) The Commission may formulate policies to effectuate the purpose of this ordinance and make recommendations to the Common Council to effectuate such policies.

(f) The Commission shall receive complaints alleging practices that are contrary to the public policy stated in this ordinance. Upon receipt, the Commission, via the Mayor or the Mayor's designee, shall refer said complaints received hereunder to the Indiana Civil Rights Commission as set forth in Section 2.1.1.5(g).

(g) Notwithstanding the provisions of I.C. § 22-9.5-4-8, the City of Goshen, because of lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under this Article, herein elects to refer all formal complaints of violation of sections of this Article by complainants to the Indiana Civil Rights Commission for administrative enforcement actions pursuant to I.C. § 22-9.5-6, and the Community Relations Commission shall refer all said complaints to the Indiana Civil Rights Commission for purposes of investigation, resolution, and appropriate relief as provided for under I.C. § 22-9.5-6.

2.1.1.6 Funding.

Sec. 7 No funding, whether budgeted or by special appropriation, will occur in 2008 or after without the Common Council conducting an assessment of the activities of the Community Relations Commission and taking action to approve the continuation of the Commission.

2.1.1.7 Definitions.

Sec. 8 With the exception of the definitions set forth below, the definitions set forth in Indiana Code § 22-9-1-3, Indiana Code § 22-9-1-12.1, Indiana Code § 22-9.5-2-1, Indiana Code § 22-9.5-1-2 and Indiana Code § 22-9-5, et al. are adopted by reference and shall apply to the interpretation of this article.

(1) COMMISSION. The Goshen Community Relations Commission.

(2) EMPLOYER. The City of Goshen, or any other political subdivision or civil subdivision located in the City of Goshen, and any person employing six (6) or more persons within the City of Goshen, except that the term "employer" does not include:

(A) any nonprofit corporation or association organized exclusively for fraternal or religious purposes;

(B) any school, educational, or charitable religious institution owned or conducted by or affiliated with a church or religious institution; or

(C) any exclusively social club, corporation, or association that is not organized for profit.

PASSED by the Goshen Common Council on _____, 2024.

Gina M. Leichty, Presiding Officer

ATTEST:

Richard R. Aguirre, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on _____, 2024, at the hour of _____.

Richard R. Aguirre, Clerk-Treasurer

APPROVED and ADOPTED on _____, 2024.

Gina M. Leichty, Mayor

ORDINANCE 5207

Amend Title 2, Civil Rights, Article 1, Community Relations of the Goshen City Code

WHEREAS, the Goshen Common Council created a Community Relations Commission in 2004 as part of Ordinance 4201, as amended by Ordinance 4339, Ordinance 4526, and Ordinance 5178.

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2.1.1.1 Equal Opportunity

Sec. 1 (a) It is the public policy of the City of Goshen to provide all of its citizens equal opportunity for education, employment, access to public conveniences and accommodations, ~~and acquisition through purchase or rental of real property, including but not limited to housing, and~~ to eliminate segregation or separation based solely on race, religion, color, sex, disability, national origin or ancestry, since such segregation is an impediment to equal opportunity. Equal education and employment opportunities and equal access to and use of public ~~accommodations~~ ~~accommodations and equal opportunity for acquisition of real property~~ are declared to be civil rights to be protected by the City of Goshen by the means of this Code article ~~and 2.2 of this Code~~.

(b) The practice of denying these rights to properly qualified persons by reason of the race, religion, color, sex, disability, national origin, or ancestry of such person is contrary to the principles of freedom and equality of opportunity and is a burden to the objectives of the public policy of the City and shall be considered as discriminatory practices. The promotion of equal opportunity without regard to race, religion, color, sex, disability, national origin, or ancestry through reasonable methods is the purpose of this Code article.

(c) It is also the public policy of the City to protect employers, labor organizations, and employment agencies, ~~property owners, real estate brokers, builders, and lending institutions~~ from unfounded charges of discrimination.

~~(d) It is declared to be contrary to the public policy of the City and an unlawful practice for any person, for profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, religion, color, sex, disability, national origin, or ancestry.~~

2.1.1.2 Commission created.

Sec. 2 There is created a local civil rights commission to be known as the Goshen Community Relations Commission to effectuate within the City limits of Goshen the public policy of the City as declared in 2.1.1.1 of this Code.

2.1.1.3 Membership of commission; appointment; term; vacancies; removal.

Sec. 3 (a) The Goshen Community Relations Commission shall consist of a minimum of seven (7) members, and a maximum of nine (9) members, all who must be residents of the City of Goshen.

(b) The Mayor shall appoint five (5) members of the Commission, and the Goshen Common Council shall appoint four (4) members of the Commission. In making the appointments to the Commission, the appointing authority shall take into consideration all interests in the community's diversity.

(c) All members shall be appointed for a term of three (3) years. All terms expire on the first Monday in January, but a member continues in office until his or her successor is appointed; however, if the appointing authority provides written notice to the member whose term expires, and to the Community Relations Commission, that a successor will not be appointed, the member's term expires.

(d) If a vacancy occurs on the Commission during the term of an appointed member, then the appointing authority shall appoint a successor to serve the remainder of the unexpired term.

(f) The appointing authority may remove a member from the Commission for cause which shall include repeated failure to attend meetings of the Commission; failure or refusal to discharge duties as a Commissioner; commission of a felony; willful or repeated failure or refusal to follow lawful procedures in the conduct of office; or gross misconduct bringing the member, the City or the Commission into discredit. Commission members will automatically be removed for missing in excess of four (4) scheduled meetings during a calendar year unless an exception is made for an excuse ruled acceptable by the appointing authority. In the event of such removal, the appointing authority shall certify in writing to the member and the Community Relations Director the cause for such removal.

2.1.1.4 Meetings; officers; quorum.

Sec. 4 (a) At the first meeting of every calendar year, the Commission shall elect from among its membership a Chairperson who shall serve until the first meeting of the following calendar year.

(b) The Commission shall hold one (1) regular meeting each month, and such called meetings as its Chairperson may deem to be necessary.

(c) A majority of the appointed members of the Commission (four (4) members if seven (7) members are appointed and five (5) members if either eight (8) or nine (9) members are appointed) must be present to constitute a quorum. It shall take the concurrence of a majority of the Commission membership present at a proper quorum to take official action.

2.1.1.5 Powers and duties.

Sec 5 (a) The Commission may study and recommend to the Common Council and Mayor programs and policies that enhance communications and understanding among all residents of the community.

(b) The Commission may develop and maintain programs that build positive relations among the community and enhance problem-solving skills among residents throughout the community.

(c) The Commission shall actively engage with and support neighborhood association groups within the City of Goshen to foster a sense of community and collaboration. This engagement shall include, but is not limited to, assisting in the formation and organization of new neighborhood associations, facilitating regular meetings and communications among existing associations, and serving as a resource for neighborhood groups seeking guidance

on best practices for community engagement, conflict resolution, and local improvement initiatives. The Commission shall work to coordinate efforts between neighborhood associations, City departments, and other community organizations to address neighborhood-specific concerns, promote beautification projects, and enhance overall neighborhood well-being.

(d) The Commission shall seek to foster overall community engagement within the City of Goshen. This includes identifying emerging community issues and proactively developing strategies to address them through collaboration with residents, local organizations, businesses, and City leadership. This may include organizing town hall meetings, public forums, and listening sessions, as well as creating task forces or working groups as needed to address specific community needs. The aim of these efforts is to build trust, strengthen connections between the City and its residents, and foster a culture of open communication and shared responsibility.

(e) The Commission may formulate policies to effectuate the purpose of this ordinance and make recommendations to the Common Council to effectuate such policies.

(f) The Commission shall receive complaints alleging practices that are contrary to the public policy stated in this ordinance. Upon receipt, the Commission, via the Mayor or the Mayor's designee, shall refer said complaints received hereunder to the Indiana Civil Rights Commission as set forth in Section 2.1.1.5(g).

(g) Notwithstanding the provisions of I.C. § 22-9.5-4-8, the City of Goshen, because of lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under this Article, herein elects to refer all formal complaints of violation of sections of this Article by complainants to the Indiana Civil Rights Commission for administrative enforcement actions pursuant to I.C. § 22-9.5-6, and the Community Relations Commission shall refer all said complaints to the Indiana Civil Rights Commission for purposes of investigation, resolution, and appropriate relief as provided for under I.C. § 22-9.5-6.

~~(e) The Commission shall establish and maintain an office in the City.~~

~~(d) The Mayor may appoint a Community Relations Director, subject to the approval of the Community Relations Commission. The Director shall serve at the pleasure of the Mayor and may be dismissed without cause. Attorneys, other employees and agents may be hired by the City as authorized by the Community Relations Commission. The Goshen Common Council must appropriate funds for the payment of the Director, attorneys, other employees~~

~~or agents before such individuals may commence work for the Commission. All such attorneys, employees and agents may be dismissed with or without cause.~~

~~(e) Except as it concerns judicial review, the Commission may, adopt, promulgate, amend and rescind such procedural rules and regulations, as are consistent with the provisions of this Code article and state laws, or its intent and purpose as the Commission may deem necessary. A majority of the entire membership of the Commission is required to adopt, amend or rescind any rules and regulations of the Commission.~~

~~(f) The Commission shall formulate policies to effectuate the purposes of this Code article and make recommendations to the Common Council to effectuate such policies.~~

~~(g) The Commission shall receive and investigate complaints alleging practices that are contrary to the public policy stated in this Code article or that are in violation of 2.2 of this Code. All investigations of complaints shall be conducted by the Community Relations Director or his or her designee. If the investigation demonstrates that the complaint warrants further action, the Community Relations Director shall encourage the parties to reach an amicable resolution of the issues which may include mediation if both parties agree. If the parties are unable to resolve the issues and the Director has found that the complaint has merit, the Commission shall conduct a hearing in accordance with the provisions of Indiana Code § 22-9-1 and Indiana Code § 22-9.5-6, et al. The Commission shall not hold hearings in the absence of a complaint.~~

~~(h) The Commission may issue such publications and such results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination because of race, religion, color, sex, disability, national origin, or ancestry.~~

~~(i) The Commission shall prevent any person from discharging, expelling, or otherwise discriminating against any other person because he or she filed a complaint, testified in any hearing before this Commission, or in any way assisted the Commission in any matter under its investigation.~~

~~(j) The Commission may hold hearings, subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person under oath, and require the production for examination of any books and papers relating to any matter under investigation or in question before the Commission. The Commission may make rules as to the issuance of subpoenas by individual commissioners. Contumacy or refusal to obey a subpoena issued under this Code section shall constitute a contempt. All hearings shall be held within the City of Goshen at a location determined by the Commission. A citation of contempt may be~~

~~issued upon application by the Commission to the circuit or superior court in the county in which the hearing is held or in which the witness resides or transacts business.~~

~~(k) The Commission shall state its findings of fact after a hearing and, if the Commission finds a person has engaged in an unlawful discriminatory practice, shall cause to be served on this person an order requiring the person to cease and desist from the unlawful discriminatory practice. If the Commission finds that a person has engaged in an unlawful discriminatory practice, the cease and desist order shall require the person to take further affirmative action as will effectuate the purposes of this Code article, including but not limited to the power:~~

~~(1) To restore complainant's losses incurred as a result of discriminatory treatment, as the Commission may deem necessary to assure justice, however, this specific provision when applied to orders pertaining to employment shall include only wages, salary, or commissions. Credit shall be given, in appropriate instances, from earnings received elsewhere than from the respondent and complainant must make a good faith effort to mitigate damages;~~

~~(2) To require the posting of notice setting forth the public policy of the state of Indiana and the City of Goshen concerning civil rights and respondent's compliance with the policy in places of public accommodations;~~

~~(3) To require proof of compliance to be filed by respondent at periodic intervals; and~~

~~(4) To require a person who has been found to be in violation of this Code article and who is licensed by a state agency authorized to grant a license to show cause to the licensing agency why this person's license should not be revoked or suspended.~~

~~(l) If, upon all the evidence, the Commission shall find that a person has not engaged in any unlawful practice or violation of this Code article, the Commission shall state its findings of facts and shall issue and cause to be served on the complainant an order dismissing the complaint as to the person.~~

~~(m) The Commission may furnish technical assistance requested by persons subject to this Code article to further compliance with this Code article or with an order issued thereunder.~~

~~(n) The Commission may conduct conciliation proceedings between the parties. Under certain circumstances and with the consent of the Community Relations Director and written permission from the complainant and agreement by the employer, the Commission may attempt to resolve an allegation of discrimination prior to the filing of the complaint.~~

~~Following a failed resolution proceeding, and after the filing of the complaint, the Commission shall have the power to conduct hearings to find facts, reach conclusions, and issue orders in proper cases that the respondent cease and desist any discriminatory practice found to exist within the scope of the complaint and the evidence.~~

~~(o) The Commission may reduce the terms of conciliation agreed to by the parties to writing (to be called a consent agreement) that the parties and a majority of the commissioners shall sign. When signed, the consent agreement shall have the same effect as a cease and desist order issued under 2.1.1.5(k) above. If the Commission determines that a party to the consent agreement is not complying with it, the Commission may obtain enforcement of the consent agreement in a circuit or superior court upon showing that the party is not complying with the consent agreement and the party is subject to the Commission's jurisdiction and resides or transacts business within the county in which the petition for enforcement is brought.~~

~~(p) In lieu of investigating a complaint and holding a hearing under this Code section, the Commission may issue an order based on findings and determinations by the federal Department of Housing and Urban Development or the federal Equal Employment Opportunity Commission concerning a complaint that has been filed with one of these federal agencies and with the Commission. The Commission shall adopt by rule standards under which the Commission may issue such an order.~~

~~(q) Upon notice that a complaint is the subject of an action in a state or federal court, the Commission shall immediately cease investigation of the complaint and may not conduct hearings or issue findings of fact or orders concerning that complaint.~~

~~(r) The Commission may sue to recover civil damages ordered by the Commission to be paid or enforce the terms of any valid order of the Commission.~~

~~(s) All procedures carried on by the Commission shall be in accordance and compliance with Indiana Code § 22-9-1, and when applicable, Indiana Code § 22-9-5 and Indiana Code § 22-9.5-6.~~

~~(t) The Commission shall submit to the Mayor and Common Council an annual report of the Commission's activities, including the number of complaints filed with respect to each type of alleged discrimination, the number of cases in each category disposed of, the number still pending, and such other information as may be requested by the Mayor or Common Council or as the Commission may see fit to include.~~

~~(u) If the Commission concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this Code article or 2.2 of this Code, the Commission may file a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint in a civil or superior court located in Elkhart County in accordance with Indiana Code § 22-9.5-6-6.~~

2.1.1.6 — Judicial review.

~~Sec. 6 — (a) Either the complainant or the respondent may seek judicial review of a final order of the Commission, if aggrieved by such order.~~

~~(b) All proceedings for judicial review of final orders shall be governed by the Administrative Adjudication Act, Section 4-21.5 et seq. of the Indiana Code, as may be amended. If no proceeding to obtain judicial review is instituted within thirty (30) days from the date of receipt of notice by a person that an order has been made by the Commission, the Commission, if it determines that the person upon whom a cease and desist order has been served is not complying or is making no effort to comply, may obtain a decree of a court for the enforcement of the order in circuit or superior court upon showing that the person is subject to the Commission's jurisdiction and resides or transacts business within the county in which the petition for enforcement is brought.~~

~~(c) For purpose of judicial review, the record of the public hearing shall consist of a transcript of the oral testimony, exhibits admitted into evidence, all notices, pleadings, exceptions, motions, requests and other papers filed with the Commission with the exception of briefs or arguments of law. The cost of producing such record for judicial review shall be borne by the party making the appeal. The Commission may require the deposit of reasonable security for the payment of such costs before producing such record.~~

2.1.1.72.1.1.6 Funding.

Sec. 7 No funding, whether budgeted or by special appropriation, will occur in 2008 or after without the Common Council conducting an assessment of the activities of the Community Relations Commission and taking action to approve the continuation of the Commission.

2.1.1.82.1.1.7 Definitions.

Sec. 8 With the exception of the definitions set forth below, the definitions set forth in Indiana Code § 22-9-1-3, Indiana Code § 22-9-1-12.1, Indiana Code § 22-9.5-2-1, Indiana

Code § 22-9.5-1-2 and Indiana Code § 22-9-5, et al. are adopted by reference and shall apply to the interpretation of this article.

(1) COMMISSION. The Goshen Community Relations Commission.

(2) EMPLOYER. The City of Goshen, or any other political subdivision or civil subdivision located in the City of Goshen, and any person employing six (6) or more persons within the City of Goshen, except that the term "employer" does not include:

(A) any nonprofit corporation or association organized exclusively for fraternal or religious purposes;

(B) any school, educational, or charitable religious institution owned or conducted by or affiliated with a church or religious institution; or

(C) any exclusively social club, corporation, or association that is not organized for profit.

PASSED by the Goshen Common Council on _____, 2024.

Gina M. Leichty, Presiding Officer

ATTEST:

Richard R. Aguirre, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on _____, 2024, at the hour of _____.

Richard R. Aguirre, Clerk-Treasurer

APPROVED and ADOPTED on _____, 2024.

Gina M. Leichty, Mayor

ORDINANCE 5208

Amend Title 2, Civil Rights, Article 2, Fair Housing of the Goshen City Code

WHEREAS, it is the policy of the City of Goshen to provide, within constitutional limitation, for fair housing throughout the city.

WHEREAS, Ordinance 3528, as amended by Ordinance 4340, provides for fair housing throughout the city.

WHEREAS, the Ordinance 3528, as amended by Ordinance 4340, are codified in Goshen City Code Title 2, Civil Rights, Article 2, Fair Housing.

WHEREAS, the Common Council seeks to amend and clarify the powers and duties of the Community Relations Commission.

WHEREAS, Ordinance 4201, as amended by Ordinance 4339, Ordinance 4526, and Ordinance 5178, are codified in Goshen City Code Title 2, Civil Rights, Article 1, Community Relations.

NOW, THEREFORE, BE IT ORDAINED by the Goshen Common Council that Goshen City Code Title 2, Article 2 shall be amended to be read as follows:

Chapter 1. Discrimination

2.2.1.1 Discrimination in the sale or rental of housing.

Sec. 1 The following prohibitions against discrimination in sale or rental of housing apply to all dwellings. Except as exempted by this Code article, it shall be unlawful:

- (1) To refuse to sell or to rent after making a bona fide offer, refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person because of race, color, religion, sex, familial status, handicap or national origin.
- (2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, familial status, handicap, or national origin.
- (3) To make, print, or publish, or cause to be made, printed, or published any notice, statement or advertisement with respect to the sale or rental of a dwelling that

indicates any intention, preference, limitation, or discrimination based on race, color, religion, sex, familial status, handicap, or national origin or an intention to make such a preference, limitation or discrimination.

- (4) To represent to any person because of race, color, religion, sex, familial status, handicap, or national origin that the dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.
- (5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into a neighborhood of a person of a particular race, color, religion, sex, familial status, handicap, or national origin.
- (6) For any person or other entity whose business includes engaging in residential real estate related transactions to discriminate against any person in making available such a transaction or in the terms or conditions of such a transaction because of race, color, religion, sex, familial status, handicap, or national origin. The definition of residential real estate related transactions shall be as the definition is set forth at Indiana Code § 22-9.5-5-6.

2.2.1.2 Exemptions.

Sec. 2 Sections 2.2.1.1(1) and (2) above do not apply to following:

- (1) The sale or rental of a single-family house sold or rented by an owner if:
 - (A) the owner does not:
 - i. own more than three (3) single family houses at any one (1) time; or
 - ii. own any interest in, nor is there owned or reserved on the owner's behalf, under any express or voluntary agreement, title to, or any right to any part of the proceeds from the sale or rental of more than three (3) single-family houses at any one (1) time; and
 - (B) the house was sold or rented without:
 - i. the use in any manner of the sales or rental facilities or services of any real estate broker, agent or salesman, or any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent or person; and
 - ii. the publication, posting, or mailing of a notice, a statement, or an advertisement that indicates any intention, preference, limitation, or discrimination based on race, color, religion, sex, familial status, handicap, or national origin.

- (2) The sale or rental of rooms or units in a dwelling containing living quarters accepted or intended to be occupied by no more than four (4) families living independently of each other if the owner maintains and occupies one (1) of the living quarters as the owner's residence.
- (3) For the purposes of 2.2.1.2(1)(A) above, a person shall be deemed to be in the business of selling or renting dwellings if he or she has, within the preceding twelve (12) months, participated as:
 - (A) principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein, or
 - (B) agent, other than in the sale of his own personal residence, in providing sales or rental facilities or services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein, or
 - (C) the owner of any dwelling unit designed or intended for occupancy by, or occupied by, five (5) or more families.
- (4) The exemption in 2.2.1.2(1) above applies to only one (1) sale or rental in a twenty-four (24) month period if the owner was not the most recent resident of the house at the time of the sale or rental.
- (5) 2.2.1.1(1) and (2) of this Code do not prohibit discrimination against a person because the person has been convicted under federal law or the law of any state for the illegal manufacture or distribution of a controlled substance.
- (6) Nothing in this Code article shall prohibit a religious organization, association, or society, or any nonprofit institution or organization, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, sex, familial status, handicap, or national origin.
- (7) Nor shall anything in this Code article prohibit a private club not open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

2.2.1.3 Other prohibited discrimination.

Sec. 3 (a) It shall be unlawful for any bank, building and loan association, or other corporation, association, firm or enterprise whose business consists in whole or in part in making commercial real estate loans to deny a loan or other financial assistance to a person

for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling because of race, color, religion, sex, familial status, handicap, or national origin. Such discrimination shall include the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance.

(b) It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate broker organizations, or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, familial status, handicap, or national origin.

2.2.1.4 Discrimination based on handicap.

Sec. 4 (a) A person may not discriminate in the sale or rental or otherwise make unavailable or deny a dwelling to any buyer or renter because of a handicap of:

- (1) The buyer or renter;
- (2) A person residing in or intending to reside in the dwelling after the dwelling is sold, rented, or made available; or
- (3) Any person associated with the buyer or renter.

(b) A person may not discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling because of a handicap of:

- (1) The person;
- (2) A person residing in or intending to reside in the dwelling after the dwelling is sold, rented, or made available; or
- (3) Any person associated with the person.

(c) For the purpose of this Code article only, discrimination includes the following:

- (1) A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the person full enjoyment of the premises.
- (2) A refusal to make reasonable accommodations in rules, policies, practices, or services, when accommodations may be necessary to afford the person equal opportunity to use and enjoy a dwelling.
- (3) In connection with the design and construction of covered multifamily dwellings for first occupancy after January, 1993, a failure to design and construct those dwellings and construct those dwellings in a manner that:

(A) the public use and common use parts of the dwellings are readily accessible to and usable by handicapped persons;

(B) all the doors are designed to allow passage into and within the dwellings and are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

(C) all premises within the dwellings contain the following features of adaptive design;

- i. an accessible route into and through the dwelling;
- ii. light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
- iii. reinforcements in bathroom walls to allow later installations of grab bars; and
- iv. usable kitchen and bathrooms so that an individual in a wheelchair can maneuver about the space.

(d) As used in 2.2.1.4(c) above, “covered multifamily dwellings” means:

(1) Buildings consisting of four (4) or more units if the buildings have one (1) or more elevators; and

(2) Ground floor units in other buildings consisting of four (4) or more units.

2.2.1.5 Administration.

Sec. 5 (a) The authority and responsibility for administering this article shall be the responsibility of the Mayor or the Mayor’s designee.

(b) All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this Code article and shall cooperate with the Mayor or the Mayor’s designee to further such purposes.

(c) The Mayor or the Mayor’s designee shall provide information on remedies available to any aggrieved person or complainant requesting such information.

2.2.1.6 Enforcement.

Sec. 6 Notwithstanding the provisions of I.C. § 22-9.5-4-8, the City of Goshen, Indiana, because of lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under this Ordinance, herein elects to refer all formal complaints of violation of this Article by complainants to the Indiana Civil Rights Commission for administrative enforcement actions pursuant to I.C. § 22-9.5-6, and the Mayor or Mayor’s designee shall refer all said complaints to the Indiana Civil Rights Commission for purposes of investigation, resolution, and appropriate relief as provided for under I.C. § 22-9.5-6.

2.2.1.7 Interference, coercion, or intimidation.

Sec. 7 It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of having exercised or enjoyed, or on account of his/her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this Code article. This Code section may be enforced by appropriate civil action.

2.2.1.8 Definitions.

Sec. 8 The following terms and phrases shall apply in the interpretation and enforcement of this Code article:

- (1) DWELLING. Any building, structure, or portion thereof which is occupied as or designed or intended for occupancy as, a residence by one (1) or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.
- (2) FAMILY. Includes a single individual, per I.C. § 22-9.5-2-9, with the status of such family being further defined by “FAMILIAL STATUS” in this Section.
- (3) FAMILIAL STATUS – One or more individuals who have not attained the age of eighteen (18) years being domiciled with a parent or another person having legal custody or such individual or the written permission of such parent or other person.
- (4) HANDICAP. With respect to a person, includes:
 - (A) a physical or mental impairment that substantially limits one (1) or more of the person’s major life activities;
 - (B) a record of having an impairment described in subdivision (A) above; or
 - (C) being regarded as having an impairment described in subdivision (A) above;
 - (D) an impairment described or defined pursuant to the federal Americans with Disabilities Act of 1990; or
 - (E) any other impairment defined in 910 IAC 2-3.
 - (F) The term does not include current illegal use of or addiction to a controlled substance (as defined in section 102 of the Controlled Substances Act 921 U.S.C. 802).
- (5) PERSON. Includes one or more individuals, corporations, partnerships, association, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

(6) TO RENT. Includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy the premises owned by the occupant.

(7) Any definitions contained in Indiana Code § 22-6.5 are incorporated into this Code article and shall be used in construing the Code article terms and provisions.

PASSED by the Goshen Common Council on _____, 2024.

Gina M. Leichty, Presiding Officer

ATTEST:

Richard R. Aguirre, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on _____, 2024, at the hour of _____.

Richard R. Aguirre, Clerk-Treasurer

APPROVED and ADOPTED on _____, 2024.

Gina M. Leichty, Mayor

ORDINANCE 5208

Amend Title 2, Civil Rights, Article 2, Fair Housing of the Goshen City Code

WHEREAS, it is the policy of the City of Goshen to provide, within constitutional limitation, for fair housing throughout the city.

WHEREAS, Ordinance 3528, as amended by Ordinance 4340, provides for fair housing throughout the city.

WHEREAS, the Ordinance 3528, as amended by Ordinance 4340, are codified in Goshen City Code Title 2, Civil Rights, Article 2, Fair Housing.

WHEREAS, the Common Council seeks to amend and clarify the powers and duties of the Community Relations Commission.

WHEREAS, Ordinance 4201, as amended by Ordinance 4339, Ordinance 4526, and Ordinance 5178, are codified in Goshen City Code Title 2, Civil Rights, Article 1, Community Relations.

NOW, THEREFORE, BE IT ORDAINED by the Goshen Common Council that Goshen City Code Title 2, Article 2 shall be amended to be read as follows:

Chapter 1. Discrimination

2.2.1.1 Discrimination in the sale or rental of housing.

Sec. 1 The following prohibitions against discrimination in sale or rental of housing apply to all dwellings. Except as exempted by this Code article, it shall be unlawful:

- (1) To refuse to sell or to rent after making a bona fide offer, refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person because of race, color, religion, sex, familial status, handicap or national origin.
- (2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, familial status, handicap, or national origin.
- (3) To make, print, or publish, or cause to be made, printed, or published any notice, statement or advertisement with respect to the sale or rental of a dwelling that

indicates any intention, preference, limitation, or discrimination based on race, color, religion, sex, familial status, handicap, or national origin or an intention to make such a preference, limitation or discrimination.

- (4) To represent to any person because of race, color, religion, sex, familial status, handicap, or national origin that the dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.
- (5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into a neighborhood of a person of a particular race, color, religion, sex, familial status, handicap, or national origin.
- (6) For any person or other entity whose business includes engaging in residential real estate related transactions to discriminate against any person in making available such a transaction or in the terms or conditions of such a transaction because of race, color, religion, sex, familial status, handicap, or national origin. The definition of residential real estate related transactions shall be as the definition is set forth at Indiana Code § 22-9.5-5-6.

2.2.1.2 Exemptions.

Sec. 2 Sections 2.2.1.1(1) and (2) above do not apply to following:

- (1) The sale or rental of a single-family house sold or rented by an owner if:
 - (A) the owner does not:
 - i. own more than three (3) single family houses at any one (1) time; or
 - ii. own any interest in, nor is there owned or reserved on the owner's behalf, under any express or voluntary agreement, title to, or any right to any part of the proceeds from the sale or rental of more than three (3) single-family houses at any one (1) time; and
 - (B) the house was sold or rented without:
 - i. the use in any manner of the sales or rental facilities or services of any real estate broker, agent or salesman, or any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent or person; and
 - ii. the publication, posting, or mailing of a notice, a statement, or an advertisement that indicates any intention, preference, limitation, or discrimination based on race, color, religion, sex, familial status, handicap, or national origin.

- (2) The sale or rental of rooms or units in a dwelling containing living quarters accepted or intended to be occupied by no more than four (4) families living independently of each other if the owner maintains and occupies one (1) of the living quarters as the owner's residence.
- (3) For the purposes of 2.2.1.2(1)(A) above, a person shall be deemed to be in the business of selling or renting dwellings if he or she has, within the preceding twelve (12) months, participated as:
 - (A) principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein, or
 - (B) agent, other than in the sale of his own personal residence, in providing sales or rental facilities or services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein, or
 - (C) the owner of any dwelling unit designed or intended for occupancy by, or occupied by, five (5) or more families.
- (4) The exemption in 2.2.1.2(1) above applies to only one (1) sale or rental in a twenty-four (24) month period if the owner was not the most recent resident of the house at the time of the sale or rental.
- (5) 2.2.1.1(1) and (2) of this Code do not prohibit discrimination against a person because the person has been convicted under federal law or the law of any state for the illegal manufacture or distribution of a controlled substance.
- (6) Nothing in this Code article shall prohibit a religious organization, association, or society, or any nonprofit institution or organization, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, sex, familial status, handicap, or national origin.
- (7) Nor shall anything in this Code article prohibit a private club not open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

2.2.1.3 Other prohibited discrimination.

Sec. 3 (a) It shall be unlawful for any bank, building and loan association, or other corporation, association, firm or enterprise whose business consists in whole or in part in making commercial real estate loans to deny a loan or other financial assistance to a person

for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling because of race, color, religion, sex, familial status, handicap, or national origin. Such discrimination shall include the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance.

(b) It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate broker organizations, or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, familial status, handicap, or national origin.

2.2.1.4 Discrimination based on handicap.

Sec. 4 (a) A person may not discriminate in the sale or rental or otherwise make unavailable or deny a dwelling to any buyer or renter because of a handicap of:

- (1) The buyer or renter;
- (2) A person residing in or intending to reside in the dwelling after the dwelling is sold, rented, or made available; or
- (3) Any person associated with the buyer or renter.

(b) A person may not discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling because of a handicap of:

- (1) The person;
- (2) A person residing in or intending to reside in the dwelling after the dwelling is sold, rented, or made available; or
- (3) Any person associated with the person.

(c) For the purpose of this Code article only, discrimination includes the following:

- (1) A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the person full enjoyment of the premises.
- (2) A refusal to make reasonable accommodations in rules, policies, practices, or services, when accommodations may be necessary to afford the person equal opportunity to use and enjoy a dwelling.
- (3) In connection with the design and construction of covered multifamily dwellings for first occupancy after January, 1993, a failure to design and construct those dwellings and construct those dwellings in a manner that:

(A) the public use and common use parts of the dwellings are readily accessible to and usable by handicapped persons;

(B) all the doors are designed to allow passage into and within the dwellings and are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

(C) all premises within the dwellings contain the following features of adaptive design;

- i. an accessible route into and through the dwelling;
- ii. light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
- iii. reinforcements in bathroom walls to allow later installations of grab bars; and
- iv. usable kitchen and bathrooms so that an individual in a wheelchair can maneuver about the space.

(d) As used in 2.2.1.4(c) above, “covered multifamily dwellings” means:

(1) Buildings consisting of four (4) or more units if the buildings have one (1) or more elevators; and

(2) Ground floor units in other buildings consisting of four (4) or more units.

2.2.1.5 Administration.

Sec. 5 (a) The authority and responsibility for administering this article shall be the responsibility of the Mayor or the Mayor’s designee ~~Goshen Community Relations Commission (Commission)~~.

~~(b) The Commission may delegate any of these functions, duties, and powers to employees of the City or to boards of the City, including such functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business, or matter under this article.~~

~~(be)~~ All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this Code article and shall cooperate with the Mayor or the Mayor’s designee ~~Commission~~ to further such purposes.

~~(c) The Mayor or the Mayor’s designee shall provide information on remedies available to any aggrieved person or complainant requesting such information.~~

2.2.1.6 Enforcement.

Sec. 6 Notwithstanding the provisions of I.C. § 22-9.5-4-8, the City of Goshen, Indiana, because of lack of financial and other resources necessary to fully administer enforcement

proceedings and possible civil actions under this Ordinance, herein elects to refer all formal complaints of violation of this Article by complainants to the Indiana Civil Rights Commission for administrative enforcement actions pursuant to I.C. § 22-9.5-6, and the Mayor or Mayor's designee shall refer all said complaints to the Indiana Civil Rights Commission for purposes of investigation, resolution, and appropriate relief as provided for under I.C. § 22-9.5-6.

~~(a) Complaints~~

- ~~(1) The Commission or any person who claims to have been injured by a discriminatory housing practice or who believes that he/she will be irrevocably injured by a discriminatory housing practice that is about to occur (person aggrieved) may file a complaint.~~
- ~~(2) All complaints shall be in writing and shall contain such information and be in such format as the Commission requires.~~
- ~~(3) All complaints shall be under oath.~~
- ~~(4) Any complaint must be filed no later than one (1) year after an alleged discriminatory housing practice has occurred or terminated, whichever is later.~~
- ~~(5) A complaint may be amended at any time.~~
- ~~(6) The Commission will confirm the receipt of the complaint and give the aggrieved person notice of time limits and choice of forums.~~

~~(b) Service of Complaint~~

- ~~(1) The Commission shall within twenty (20) days after the filing of the complaint or the identification of an additional respondent serve on each respondent:
 - ~~(A) a notice identifying the alleged discriminatory housing practice and advising the respondent of the procedural rights and obligations of a respondent under this Code article.~~
 - ~~(B) provide the respondent with a copy of the complaint.~~~~

~~(c) Answer~~

- ~~(1) A respondent shall file an answer to the complaint no later than ten (10) days after the receipt of the notice and a copy of the complaint.~~
- ~~(2) The answer must be in writing, under oath and on a form prescribed by the Commission.~~
- ~~(3) The answer may be amended at any time.~~

~~(d) The proceedings shall be consistent with the procedures and requirements established by Indiana Code §§ 22-9.5-6-1 through 22-9.5-6-18 inclusive.~~

~~(c) The process shall meet all time requirements established in Indiana Code §§ 22-9.5-6-1 through 22-9.5-6-18 inclusive.~~

2.2.1.7 Interference, coercion, or intimidation.

Sec. 7 It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of having exercised or enjoyed, or on account of his/her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this Code article. This Code section may be enforced by appropriate civil action.

2.2.1.8 Definitions.

Sec. 8 The following terms and phrases shall apply in the interpretation and enforcement of this Code article:

(1) DWELLING. Any building, structure, or portion thereof which is occupied as or designed or intended for occupancy as, a residence by one (1) or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

~~(2)~~ FAMILY. Includes a single individual, per I.C. § 22-9.5-2-9, with the status of such family being further defined by “FAMILIAL STATUS” in this Section.

~~(2)(3)~~ FAMILIAL STATUS – One or more individuals who have not attained the age of eighteen (18) years being domiciled with a parent or another person having legal custody or such individual or the written permission of such parent or other person.

~~(3)(4)~~ HANDICAP. With respect to a person, includes:

(A) a physical or mental impairment that substantially limits one (1) or more of the person’s major life activities;

(B) a record of having an impairment described in subdivision (A) above; or

~~(C)~~ being regarded as having an impairment described in subdivision (A) above;

~~(D)~~ an impairment described or defined pursuant to the federal Americans with Disabilities Act of 1990; or

~~(C)(E)~~ any other impairment defined in 910 IAC 2-3.

~~(D)(F)~~ The term does not include current illegal use of or addiction to a controlled substance (as defined in section 102 of the Controlled Substances Act 921 U.S.C. 802).

~~(4)(5)~~ PERSON. Includes one or more individuals, corporations, partnerships, association, labor organizations, legal representatives, mutual companies, joint-stock

companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

~~(5)~~(6) TO RENT. Includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy the premises owned by the occupant.

~~(6)~~(7) Any definitions contained in Indiana Code § 22-6.5 are incorporated into this Code article and shall be used in construing the Code article terms and provisions.

PASSED by the Goshen Common Council on _____, 2024.

Gina M. Leichty, Presiding Officer

ATTEST:

Richard R. Aguirre, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on _____, 2024, at the hour of _____.

Richard R. Aguirre, Clerk-Treasurer

APPROVED and ADOPTED on _____, 2024.

Gina M. Leichty, Mayor

ORDINANCE 5206

Amend Ordinance 4899, City of Goshen Building Department Fee Ordinance

WHEREAS Ordinance 4899, Building Department Fee Ordinance, as amended by Ordinance 4919 and Ordinance 5001, establishes the various fees for permits, inspections, certificates, registrations, licensing, and other services provided by the City of Goshen Building Department.

WHEREAS City administration finds it necessary to increase the fees for the licensing and registration of electrical and mechanical contractors.

NOW THEREFORE, BE IT ORDAINED by the Goshen Common Council that Ordinance 4899, SECTION 6, Licensing and Registering of Contractors Ordinance, shall be amended to read as follows:

6.01 Effective January 1, 2025, the following fees shall be charged for the licensing and registering of contractors under the Licensing and Registering of Contractors Ordinance of the City of Goshen, Indiana, as amended from time to time:

- (A) Annual Electrical/Mechanical Contractor Licensing and Registration..... \$119
- (B) Examination Administrative Fee \$41

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 _____, 20____.

Gina M. Leichty, Presiding Officer

ATTEST:

Richard R. Aguirre, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on _____, 20____, at the hour of _____:_____m.

Richard R. Aguirre, Clerk-Treasurer

APPROVED and ADOPTED on _____, 20____.

Gina M. Leichty, Mayor

ORDINANCE 5211

Revisions to Ordinance 5156 Accumulation of Materials To Increase the Maximum Fine that May be Imposed for a Violation

WHEREAS, the Common Council of the City of Goshen has the authority to establish regulations to promote and protect the public health, safety, and welfare, and this ordinance is declared to be an exercise of the city's police powers;

WHEREAS, this ordinance is intended to promote the public health, safety, and welfare and to protect the interests of city residents by regulating the accumulation, storage, collection, removal, and disposal of solid waste so that conditions that create fire, health, or safety hazards; harbor undesirable pests; or impair the aesthetic appearance of neighborhoods are prevented and eradicated;

WHEREAS, the City of Goshen desires to operate an orderly and clean public recycling collection site but has experienced dumping of non-recyclable materials at its recycling collection site;

WHEREAS, the City of Goshen wishes to discourage illegal dumping of non-recyclable materials at its recycling collection site by increasing the maximum fine that may be imposed for such illegal dumping; and

WHEREAS, Indiana Code § 36-1-3-8 allows the City to prescribe a penalty of a fine of not more than Two Thousand Five hundred Dollars (\$2,500.00) for a first violation of an ordinance, and not more than Seven Thousand Five hundred Dollars (\$7,500.00) for a second or subsequent violation of an ordinance.

NOW THEREFORE, BE IT ORDAINED by the Goshen Common Council that Ordinance 5156, also identified as Title 6, Article 10, Chapter 1 of the Goshen City Code, shall be amended to read as follows:

Chapter 1 Accumulation of Materials Creating a Fire, Health, or Safety Hazard

6.10.1.1 Administration and Enforcement. The provisions of this Code Chapter (this ordinance) shall be enforced through Legal Department, Building Department, Police Department, or an Ordinance Compliance Officer who may make inspections, determine violations, and take action to enforce the provisions of this Code Chapter (this ordinance).

6.10.1.2 Solid Waste Violations Enforced without Opportunity to Correct the Violation.

Any violation of this Code Section (this Ordinance Section) may be enforced without providing the violator any prior opportunity to correct the violation. It shall be a violation of this Code Section (this Ordinance Section) for any Person to violate any of the following:

(a) No Person shall leave, place, throw, or deposit Solid Waste of any kind in or upon any street, alley, sidewalk, public place, public property, or private property of another Person.

(b) No Person shall cause or permit any other Person to leave, place, throw, or deposit Solid Waste of any kind in or upon any street, alley, sidewalk, public place, public property, or private property of another Person.

- (c)** No Person shall leave, place, throw, or deposit Solid Waste of any kind for the purpose of collection and disposal by the City or the City's agent when the Solid Waste is generated at a location outside the City limits or from a location where the City does not collect Solid Waste. This sub-section shall not apply to the public recycling drop-off site(s) designated and operated by the City.
- (d)** No Person shall cause or permit any other Person to leave, place, throw, or deposit Solid Waste of any kind for the purpose of collection and disposal by the City or the City's agent when the Solid Waste is generated at a location outside the City limits or from a location where the City does not collect Solid Waste. This sub-section shall not apply to the public recycling drop-off site(s) designated and operated by the City.
- (e)** No Person shall set out for Solid Waste collection and disposal by the City or its authorized agent any tires, electronic equipment, or any material, Solid Waste, chemical or substance determined to be hazardous by state or federal statutes or regulations, or that may be potentially hazardous to any Person, to property, or to the environment.
- (f)** No Person shall set out leaves, brush, or similar materials for collection by the City except in the manner designated by the Goshen Street Department for the Street Department's periodic collection.
- (g)** No Person shall bury Solid Waste.
- (h)** No Person shall locate Solid Waste containers for storage in the yard adjacent to a City Street unless the Board of Public Works and Safety approves the street side storage area location. The Board of Public Works and Safety shall approve a street side storage area location only if the Board determines that there is no other feasible alternative location.
- (i)** The Occupant of any premises shall keep the storage area and the area surrounding any Solid Waste container in a clean, orderly and sanitary manner. The Occupant of any premises shall secure all Solid Waste containers that are kept outside of a building. If waste is scattered by animals, wind or other means, the Occupant shall promptly clean up such scattered waste.
- (j)** The Occupant of a residence shall place Solid Waste generated from the residence into an allowable container at the collection site designated by the City for collection no sooner than the day before the regularly scheduled collection and shall retrieve all Solid Waste containers from the designated collection site and return the containers to the storage area by 10:00 p.m. on the day of collection.
- (k)** No Person shall leave, place, throw or deposit any vegetative matter resulting from landscaping and garden maintenance, including, but not limited to, leaves, grass clippings, branches, brush, shrubbery, trees and flowers, at the Goshen Environmental Center except in accordance with rules and regulations as established by the entity managing the Goshen Environmental Center.
- (l)** No Person shall leave, place, throw, or deposit Solid Waste of any kind in, upon, or at any public recycling drop-off site designated and operated by the City, unless the Person reasonably believes that such Solid Waste is in fact a recyclable material and the Solid Waste is placed into containers provided by the City or the City's agent for collection of

recyclable materials. All Persons depositing recyclable materials at any public recycling drop-off site designated and operated by the City shall follow all rules for use of the public facility adopted from time to time by the Goshen Board of Public Works and Safety.

(m) No Person shall cause or permit any other Person to leave, place, throw, or deposit Solid Waste of any kind in, upon, or at any public recycling drop-off site designated and operated by the City, unless the Person reasonably believes that such Solid Waste is in fact a recyclable material and the Solid Waste is placed into containers provided by the City or the City's agent for collection of recyclable materials. All Persons depositing recyclable materials at any public recycling drop-off site designated and operated by the City shall follow all rules for use of the public facility adopted from time to time by the Goshen Board of Public Works and Safety.

6.10.1.3 Enforcement Process. A Person who violates any provision of Code Section (Ordinance Section) 6.10.1.2, may face enforcement in the City's Ordinance Violations Bureau and/or cited into any court of competent jurisdiction in Elkhart County, Indiana for such violation and shall be subject to the penalties set forth in this Chapter.

6.10.1.4 Violations Requiring Prior Notice of Violation.

(a) Upon discovery of a violation of this Code Section (this Ordinance Section), a Person found in violation shall be given written notice of the violation and shall be given three (3) days from the service of the notice to abate the violation.

(b) The following actions or inactions shall constitute a violation of this Code Section (this Ordinance Section):

- 1) Allow an accumulation of materials on real estate or on a residential porch or patio if the accumulation creates a fire, health, or safety hazard. Such materials include, but are not limited to brush, metals, rubber, concrete, plastics, wood products, cardboard boxes, garbage, litter, trash, refuse and rubbish.
- 2) Allow an accumulation of materials on real estate or on a residential porch or patio if the accumulation creates a harborage for rodents or insects. Such materials include, but are not limited to brush, metals, rubber, concrete, plastics, wood products, cardboard boxes, garbage, litter, trash, refuse and rubbish.
- 3) Failure of the Owner or Occupant of any real estate used for commercial or industrial purposes to provide timely collection and disposal of Solid Waste generated at the location, and failure provide a sufficient number of containers to contain all Solid Waste generated from the location between collections
- 4) Failure of the Owner of a building containing five (5) or more residential dwelling units to collect and dispose of all Solid Waste generated from the location on at least a weekly basis, and failure to provide a sufficient number of containers to contain all Solid Waste generated between collections.
- 5) Failure of the Owner or Occupant of any premises to maintain all Solid Waste containers in good repair and to maintain the container and area around the container in a clean and sanitary manner.

- 6) Failure to the Owner or Occupant of a commercial or industrial building to store Solid Waste in a watertight, insect and rodent-proof container.
- 7) The use of a residential Solid Waste container with a capacity in excess of forty-five (45) gallons or that weighs in excess of fifty (50) pounds when full, unless such container is provided by the City or its authorized agent.
- 8) Use of wooden containers, screen or wire containers, or fifty-five (55) gallon drums for the storage and/or collection of Solid Waste.

6.10.1.5 Notice

(a) The notice of violation given under Code Section (Ordinance Section) 6.10.1.4(a) shall contain the following information:

- 1) Date;
- 2) Name of the Person(s) to whom the notice is given, however, if the name of the Occupant cannot reasonably be determined, it will be deemed sufficient for the notice to be given to "Occupant";
- 3) Address and/or parcel number of the real property that is subject to the notice;
- 4) Nature of violation and the action required, including the period of time in which the action is required to be accomplished measured from the time the notice is given or by a date certain;
- 5) Statement indicating the opportunity for a hearing and the manner by which a hearing may be requested;
- 6) Statement indicating what action can be taken by the City if the notice is not complied with; and
- 7) Name, address and telephone number of the Goshen City Department enforcing the violation.

(b) Service of this notice is deemed sufficient if given by:

- 1) Delivering a copy Personally to the Person(s) to be notified; or
- 2) Sending a copy by first-class mail to the Person(s) to be notified; and by
- 3) Leaving a copy at the location of the violation.

(c) It shall be the responsibility of the Occupant to abate the existing violation after receipt of a notice. If the notice is not complied with, the City may take appropriate action to abate the violation and the cost of the abatement may be assessed pursuant to Code Section (Ordinance Section) 6.10.1.7.

(d) If the original notice was issued to the Occupant of the real estate and the Occupant fails to take corrective action, the City may elect to notify the Owner of the premises of the violation and order the Owner to abate the violation. The Owner shall be entitled to the same notice and period of time to abate the violation that was originally given to the Occupant. If the Owner does not then abate the violation, the City may take appropriate

action to abate the violation and assess the costs of the abatement to either the Occupant or the Owner or both.

(e) This Code Chapter (this ordinance) shall not prohibit a landlord from including a provision in a lease agreement to collect any enforcement costs imposed by the City against the landlord due to the actions or inactions of a tenant.

6.10.1.6 Hearing.

(a) In the event that a Person receiving a notice seeking abatement of a violation does not believe that he or she is in violation of this Code Chapter (this ordinance), the Person may request a hearing before the Board of Public Works and Safety.

(b) The request for a hearing before the Board of Public Works and Safety must be in writing and delivered to the Clerk-Treasurer's Office within three (3) days after the date the notice is given.

(c) A hearing will be scheduled to be held within ten (10) days of receipt of the written request.

(d) At the hearing, the Person will be given the opportunity to appear, with or without counsel, to present such evidence to the Board of Public Works and Safety that reasonably relates to whether the presence of the Solid Waste on the real property is in violation of this Code Chapter (this ordinance). Each Person appearing will also be given the opportunity to cross-examine any opposing witnesses and present evidence and arguments.

6.10.1.7 Abatement of Violation by City; Collection of Costs.

(a) If the Owner of the real estate has not abated the violation or requested a hearing within three (3) days of receiving the notice required above, the City may initiate legal action requesting that the Court impose a fine upon the Owner of the real estate as provided in this Chapter and/or the City may elect to give all Persons holding a substantial interest in the real estate notice of the violation. If the violation is not abated within ten (10) days of all Persons holding a substantial interest in the real estate receiving notice of the violation, the City may enter onto the real estate and take appropriate action to bring the real estate into compliance. The expenses incurred by the City to bring the real estate into compliance constitute a lien against the property if the lien is perfected in the manner required by Indiana Code 36-1-6-2.

Notwithstanding the above paragraph, the City may initiate legal action to have a fine imposed on the Occupants of the real estate at any time at least three (3) days after the Occupants received notice of the violation.

(b) The Owner and Occupant of the real property shall be jointly and severally responsible for the City's cost for the abatement of the violation under this Section. The costs for abatement shall be One Hundred Fifty Dollars (\$150) or the actual cost of the work performed by a City department or contractor, whichever is greater.

(c) The Clerk-Treasurer shall send a bill to the Person violating this Code Chapter (this ordinance) for the City's cost for the abatement of the violation. Payment shall be due fifteen (15) days after the billing date.

(d) If the bill is not paid within forty-five (45) days of the due date, the City may file a civil action in a court of competent jurisdiction in Elkhart County against the violator to collect the costs for the abatement of the violation, including reasonable attorneys' fees.

6.10.1.8 Penalty.

(a) Any Person who violates a provision of this Code Chapter (this ordinance) may be subject to a fine in an amount not more than Two Thousand Five hundred Dollars (\$2,500.00) for a first violation of this ordinance. Any Person who violates a provision of this Code Chapter (this ordinance) more than once may be subject to a fine in an amount not more than Seven Thousand Five hundred Dollars (\$7,500.00) for a second or subsequent violation of this ordinance.

(b) If the violation is of a continuing nature, each day of failure to comply with the provisions of this Code Chapter (this ordinance) shall constitute a separate offense.

(c) A complaint for violation seeking the imposition of a fine may be filed with any court of competent jurisdiction in Elkhart County.

(d) Enforcement of this Code Chapter (this ordinance) against any Owner of record shall not in any manner diminish the ability of the City to enforce this Code Chapter (this ordinance) against an Occupant of the real property, and the enforcement of this Code Chapter (this ordinance) against any Occupant shall not in any manner diminish the ability of the City to enforce the Code Chapter against an Owner of record of the real property.

6.10.1.9 Definitions. For the purposes of this Code Chapter (this ordinance), the following words, terms and phrases shall have the meanings set forth:

(a) OCCUPANT. The Person in actual possession of the property, premises, building or dwelling unit, whether or not the Owner. It does not include anyone under eighteen (18) years old.

(b) OWNER. The legal or equitable owner of record who has a right to participate in controlling the property, premises, building, or dwelling unit, whether or not the Occupant.

(c) PERSON. Any individual, firm, association, or legal entity, including partnership, corporation, limited liability company, or similar entity.

(d) SOLID WASTE. All discarded solid and semisolid materials, garbage, litter, trash, refuse, and rubbish including, but not limited to brush, paper, food products, metals, rubber, concrete, glass, plastics, wood products, cardboard boxes, and similar materials.

(e) RECYCLABLE MATERIALS. Acceptable materials that have been recovered or diverted from the Solid Waste stream for use or reuse; conversion into raw materials; or use in the production of new products. Recyclable Materials shall include, at a minimum, cardboard, paperboard, newspaper, magazines/catalogs, copy paper, mail, other paper products, plastic products (#1 through #7), glass products (clear & colored), and metal products (aluminum, steel, tin, and bi-metal).

6.10.1.10 Repeal of Prior Ordinances. All provisions of ordinances and the City Code not modified by this ordinance shall remain in full force and effect.

6.10.1.11 Severability Clause. If any provision of this ordinance shall be held invalid, such provision shall be deemed severable and the invalidity thereof shall not affect the remaining provisions of this ordinance.

6.10.1.12 Effective Date. 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 December ____, 2024.

ATTEST:

Presiding Officer

Richard R. Aguirre, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on December ____, 2024, at the hour of ____:____ __. m.

Richard R. Aguirre, Clerk-Treasurer

APPROVED and ADOPTED on December ____, 2024.

Gina M. Leichty, Mayor

ORDINANCE 5211

Revisions to Ordinance 5156 Accumulation of Materials To Increase the Maximum Fine that May be Imposed for a Violation

WHEREAS, the Common Council of the City of Goshen has the authority to establish regulations to promote and protect the public health, safety, and welfare, and this ordinance is declared to be an exercise of the city's police powers;

WHEREAS, this ordinance is intended to promote the public health, safety, and welfare and to protect the interests of city residents by regulating the accumulation, storage, collection, removal, and disposal of solid waste so that conditions that create fire, health, or safety hazards; harbor undesirable pests; or impair the aesthetic appearance of neighborhoods are prevented and eradicated;

WHEREAS, the City of Goshen desires to operate an orderly and clean public recycling collection site but has experienced dumping of non-recyclable materials at its recycling collection site;

WHEREAS, the City of Goshen wishes to discourage illegal dumping of non-recyclable materials at its recycling collection site by increasing the maximum fine that may be imposed for such illegal dumping; and

WHEREAS, Indiana Code § 36-1-3-8 allows the City to prescribe a penalty of a fine of not more than Two Thousand Five hundred Dollars (\$2,500.00) for a first violation of an ordinance, and not more than Seven Thousand Five hundred Dollars (\$7,500.00) for a second or subsequent violation of an ordinance.

NOW THEREFORE, BE IT ORDAINED by the Goshen Common Council that Ordinance 5156, also identified as Title 6, Article 10, Chapter 1 of the Goshen City Code, shall be amended to read as follows:

Chapter 1 Accumulation of Materials Creating a Fire, Health, or Safety Hazard

6.10.1.1 Administration and Enforcement. The provisions of this Code Chapter (this ordinance) shall be enforced through Legal Department, Building Department, Police Department, or an Ordinance Compliance Officer who may make inspections, determine violations, and take action to enforce the provisions of this Code Chapter (this ordinance).

6.10.1.2 Solid Waste Violations Enforced without Opportunity to Correct the Violation.

Any violation of this Code Section (this Ordinance Section) may be enforced without providing the violator any prior opportunity to correct the violation. It shall be a violation of this Code Section (this Ordinance Section) for any Person to violate any of the following:

(a) No Person shall leave, place, throw, or deposit Solid Waste of any kind in or upon any street, alley, sidewalk, public place, public property, or private property of another Person.

(b) No Person shall cause or permit any other Person to leave, place, throw, or deposit Solid Waste of any kind in or upon any street, alley, sidewalk, public place, public property, or private property of another Person.

- (c)** No Person shall leave, place, throw, or deposit Solid Waste of any kind for the purpose of collection and disposal by the City or the City's agent when the Solid Waste is generated at a location outside the City limits or from a location where the City does not collect Solid Waste. This sub-section shall not apply to the public recycling drop-off site(s) designated and operated by the City.
- (d)** No Person shall cause or permit any other Person to leave, place, throw, or deposit Solid Waste of any kind for the purpose of collection and disposal by the City or the City's agent when the Solid Waste is generated at a location outside the City limits or from a location where the City does not collect Solid Waste. This sub-section shall not apply to the public recycling drop-off site(s) designated and operated by the City.
- (e)** No Person shall set out for Solid Waste collection and disposal by the City or its authorized agent any tires, electronic equipment, or any material, Solid Waste, chemical or substance determined to be hazardous by state or federal statutes or regulations, or that may be potentially hazardous to any Person, to property, or to the environment.
- (f)** No Person shall set out leaves, brush, or similar materials for collection by the City except in the manner designated by the Goshen Street Department for the Street Department's periodic collection.
- (g)** No Person shall bury Solid Waste.
- (h)** No Person shall locate Solid Waste containers for storage in the yard adjacent to a City Street unless the Board of Public Works and Safety approves the street side storage area location. The Board of Public Works and Safety shall approve a street side storage area location only if the Board determines that there is no other feasible alternative location.
- (i)** The Occupant of any premises shall keep the storage area and the area surrounding any Solid Waste container in a clean, orderly and sanitary manner. The Occupant of any premises shall secure all Solid Waste containers that are kept outside of a building. If waste is scattered by animals, wind or other means, the Occupant shall promptly clean up such scattered waste.
- (j)** The Occupant of a residence shall place Solid Waste generated from the residence into an allowable container at the collection site designated by the City for collection no sooner than the day before the regularly scheduled collection and shall retrieve all Solid Waste containers from the designated collection site and return the containers to the storage area by 10:00 p.m. on the day of collection.
- (k)** No Person shall leave, place, throw or deposit any vegetative matter resulting from landscaping and garden maintenance, including, but not limited to, leaves, grass clippings, branches, brush, shrubbery, trees and flowers, at the Goshen Environmental Center except in accordance with rules and regulations as established by the entity managing the Goshen Environmental Center.
- (l)** No Person shall leave, place, throw, or deposit Solid Waste of any kind in, upon, or at any public recycling drop-off site designated and operated by the City, unless the Person reasonably believes that such Solid Waste is in fact a recyclable material and the Solid Waste is placed into containers provided by the City or the City's agent for collection of

recyclable materials. All Persons depositing recyclable materials at any public recycling drop-off site designated and operated by the City shall follow all rules for use of the public facility adopted from time to time by the Goshen Board of Public Works and Safety.

(m) No Person shall cause or permit any other Person to leave, place, throw, or deposit Solid Waste of any kind in, upon, or at any public recycling drop-off site designated and operated by the City, unless the Person reasonably believes that such Solid Waste is in fact a recyclable material and the Solid Waste is placed into containers provided by the City or the City's agent for collection of recyclable materials. All Persons depositing recyclable materials at any public recycling drop-off site designated and operated by the City shall follow all rules for use of the public facility adopted from time to time by the Goshen Board of Public Works and Safety.

6.10.1.3 Enforcement Process. A Person who violates any provision of Code Section (Ordinance Section) 6.10.1.2, may face enforcement in the City's Ordinance Violations Bureau and/or cited into any court of competent jurisdiction in Elkhart County, Indiana for such violation and shall be subject to the penalties set forth in this Chapter.

6.10.1.4 Violations Requiring Prior Notice of Violation.

(a) Upon discovery of a violation of this Code Section (this Ordinance Section), a Person found in violation shall be given written notice of the violation and shall be given three (3) days from the service of the notice to abate the violation.

(b) The following actions or inactions shall constitute a violation of this Code Section (this Ordinance Section):

- 1) Allow an accumulation of materials on real estate or on a residential porch or patio if the accumulation creates a fire, health, or safety hazard. Such materials include, but are not limited to brush, metals, rubber, concrete, plastics, wood products, cardboard boxes, garbage, litter, trash, refuse and rubbish.
- 2) Allow an accumulation of materials on real estate or on a residential porch or patio if the accumulation creates a harborage for rodents or insects. Such materials include, but are not limited to brush, metals, rubber, concrete, plastics, wood products, cardboard boxes, garbage, litter, trash, refuse and rubbish.
- 3) Failure of the Owner or Occupant of any real estate used for commercial or industrial purposes to provide timely collection and disposal of Solid Waste generated at the location, and failure provide a sufficient number of containers to contain all Solid Waste generated from the location between collections
- 4) Failure of the Owner of a building containing five (5) or more residential dwelling units to collect and dispose of all Solid Waste generated from the location on at least a weekly basis, and failure to provide a sufficient number of containers to contain all Solid Waste generated between collections.
- 5) Failure of the Owner or Occupant of any premises to maintain all Solid Waste containers in good repair and to maintain the container and area around the container in a clean and sanitary manner.

- 6) Failure to the Owner or Occupant of a commercial or industrial building to store Solid Waste in a watertight, insect and rodent-proof container.
- 7) The use of a residential Solid Waste container with a capacity in excess of forty-five (45) gallons or that weighs in excess of fifty (50) pounds when full, unless such container is provided by the City or its authorized agent.
- 8) Use of wooden containers, screen or wire containers, or fifty-five (55) gallon drums for the storage and/or collection of Solid Waste.

6.10.1.5 Notice

(a) The notice of violation given under Code Section (Ordinance Section) 6.10.1.4(a) shall contain the following information:

- 1) Date;
- 2) Name of the Person(s) to whom the notice is given, however, if the name of the Occupant cannot reasonably be determined, it will be deemed sufficient for the notice to be given to "Occupant";
- 3) Address and/or parcel number of the real property that is subject to the notice;
- 4) Nature of violation and the action required, including the period of time in which the action is required to be accomplished measured from the time the notice is given or by a date certain;
- 5) Statement indicating the opportunity for a hearing and the manner by which a hearing may be requested;
- 6) Statement indicating what action can be taken by the City if the notice is not complied with; and
- 7) Name, address and telephone number of the Goshen City Department enforcing the violation.

(b) Service of this notice is deemed sufficient if given by:

- 1) Delivering a copy Personally to the Person(s) to be notified; or
- 2) Sending a copy by first-class mail to the Person(s) to be notified; and by
- 3) Leaving a copy at the location of the violation.

(c) It shall be the responsibility of the Occupant to abate the existing violation after receipt of a notice. If the notice is not complied with, the City may take appropriate action to abate the violation and the cost of the abatement may be assessed pursuant to Code Section (Ordinance Section) 6.10.1.7.

(d) If the original notice was issued to the Occupant of the real estate and the Occupant fails to take corrective action, the City may elect to notify the Owner of the premises of the violation and order the Owner to abate the violation. The Owner shall be entitled to the same notice and period of time to abate the violation that was originally given to the Occupant. If the Owner does not then abate the violation, the City may take appropriate

action to abate the violation and assess the costs of the abatement to either the Occupant or the Owner or both.

(e) This Code Chapter (this ordinance) shall not prohibit a landlord from including a provision in a lease agreement to collect any enforcement costs imposed by the City against the landlord due to the actions or inactions of a tenant.

6.10.1.6 Hearing.

(a) In the event that a Person receiving a notice seeking abatement of a violation does not believe that he or she is in violation of this Code Chapter (this ordinance), the Person may request a hearing before the Board of Public Works and Safety.

(b) The request for a hearing before the Board of Public Works and Safety must be in writing and delivered to the Clerk-Treasurer's Office within three (3) days after the date the notice is given.

(c) A hearing will be scheduled to be held within ten (10) days of receipt of the written request.

(d) At the hearing, the Person will be given the opportunity to appear, with or without counsel, to present such evidence to the Board of Public Works and Safety that reasonably relates to whether the presence of the Solid Waste on the real property is in violation of this Code Chapter (this ordinance). Each Person appearing will also be given the opportunity to cross-examine any opposing witnesses and present evidence and arguments.

6.10.1.7 Abatement of Violation by City; Collection of Costs.

(a) If the Owner of the real estate has not abated the violation or requested a hearing within three (3) days of receiving the notice required above, the City may initiate legal action requesting that the Court impose a fine upon the Owner of the real estate as provided in this Chapter and/or the City may elect to give all Persons holding a substantial interest in the real estate notice of the violation. If the violation is not abated within ten (10) days of all Persons holding a substantial interest in the real estate receiving notice of the violation, the City may enter onto the real estate and take appropriate action to bring the real estate into compliance. The expenses incurred by the City to bring the real estate into compliance constitute a lien against the property if the lien is perfected in the manner required by Indiana Code 36-1-6-2.

Notwithstanding the above paragraph, the City may initiate legal action to have a fine imposed on the Occupants of the real estate at any time at least three (3) days after the Occupants received notice of the violation.

(b) The Owner and Occupant of the real property shall be jointly and severally responsible for the City's cost for the abatement of the violation under this Section. The costs for abatement shall be One Hundred Fifty Dollars (\$150) or the actual cost of the work performed by a City department or contractor, whichever is greater.

(c) The Clerk-Treasurer shall send a bill to the Person violating this Code Chapter (this ordinance) for the City's cost for the abatement of the violation. Payment shall be due fifteen (15) days after the billing date.

(d) If the bill is not paid within forty-five (45) days of the due date, the City may file a civil action in a court of competent jurisdiction in Elkhart County against the violator to collect the costs for the abatement of the violation, including reasonable attorneys' fees.

6.10.1.8 Penalty.

(a) Any Person who violates a provision of this Code Chapter (this ordinance) may be subject to a fine in an amount not more than Two Thousand Five hundred Dollars (\$2,500.00) for each offense a first violation of this ordinance. Any Person who violates a provision of this Code Chapter (this ordinance) more than once may be subject to a fine in an amount not more than Seven Thousand Five hundred Dollars (\$7,500.00) for a second or subsequent violation of this ordinance.

(b) If the violation is of a continuing nature, each day of failure to comply with the provisions of this Code Chapter (this ordinance) shall constitute a separate offense.

(c) A complaint for violation seeking the imposition of a fine may be filed with any court of competent jurisdiction in Elkhart County.

(d) Enforcement of this Code Chapter (this ordinance) against any Owner of record shall not in any manner diminish the ability of the City to enforce this Code Chapter (this ordinance) against an Occupant of the real property, and the enforcement of this Code Chapter (this ordinance) against any Occupant shall not in any manner diminish the ability of the City to enforce the Code Chapter against an Owner of record of the real property.

6.10.1.9 Definitions. For the purposes of this Code Chapter (this ordinance), the following words, terms and phrases shall have the meanings set forth:

(a) OCCUPANT. The Person in actual possession of the property, premises, building or dwelling unit, whether or not the Owner. It does not include anyone under eighteen (18) years old.

(b) OWNER. The legal or equitable owner of record who has a right to participate in controlling the property, premises, building, or dwelling unit, whether or not the Occupant.

(c) PERSON. Any individual, firm, association, or legal entity, including partnership, corporation, limited liability company, or similar entity.

(d) SOLID WASTE. All discarded solid and semisolid materials, garbage, litter, trash, refuse, and rubbish including, but not limited to brush, paper, food products, metals, rubber, concrete, glass, plastics, wood products, cardboard boxes, and similar materials.

(e) RECYCLABLE MATERIALS. Acceptable materials that have been recovered or diverted from the Solid Waste stream for use or reuse; conversion into raw materials; or use in the production of new products. Recyclable Materials shall include, at a minimum, cardboard, paperboard, newspaper, magazines/catalogs, copy paper, mail, other paper products, plastic products (#1 through #7), glass products (clear & colored), and metal products (aluminum, steel, tin, and bi-metal).

6.10.1.10 Repeal of Prior Ordinances. All provisions of ordinances and the City Code not modified by this ordinance shall remain in full force and effect.

6.10.1.11 Severability Clause. If any provision of this ordinance shall be held invalid, such provision shall be deemed severable and the invalidity thereof shall not affect the remaining provisions of this ordinance.

6.10.1.12 Effective Date. 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 December ____, 2024.

ATTEST:

Presiding Officer

Richard R. Aguirre, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on December ____, 2024, at the hour of ____:____ __. m.

Richard R. Aguirre, Clerk-Treasurer

APPROVED and ADOPTED on December ____, 2024.

Gina M. Leichty, Mayor



City Clerk-Treasurer

CITY OF GOSHEN

202 South Fifth Street, Suite 2 • Goshen, IN 46528-3714

Phone (574) 533-8625 • Fax (574) 533-9740

clerktreasurer@goshencity.com • www.goshenindiana.org

TO: Mayor Gina Leichty and the Goshen Common Council

FROM: Jeffery Weaver, Deputy Clerk-Treasurer

RE: Proposed Council Resolution 2024-22, A Resolution Declaring the Continued Need and Intent to Utilize American Rescue Plan Funding

DATE: December 16, 2024

The City of Goshen received \$6,692,508 in federal assistance through the American Rescue Plan (ARP) Act of 2021 to address the fiscal impacts of the COVID-19 public health emergency. In response, the Common Council established a separate ARP fund and adopted a detailed plan for using these funds, guided by federal and state requirements. Past resolutions have set provisions for managing revenue loss and outlined priorities, including funding key positions, supporting local arts organizations, and undertaking infrastructure improvements. To date, \$1,135,575.19 of the funds have been spent, and federal guidelines require that all remaining funds be committed to specific projects or contracts by December 31, 2024 and to be completely paid out by December 31, 2026.

To comply with federal audit requirements, which mandate contracts or resolutions to obligate funds for services and wages respectively, this resolution formalizes the allocation of ARP funds for ongoing commitments. The resolution dedicates \$460,000 to fund the salaries and benefits of the Behavioral Health Response Coordinator and Mobile Integrated Health Specialist through 2026, \$10,000 to continue support for Goshen Arts & Events, and \$5,086,932.81 for the contract with Niblock Excavating, Inc. for the Steury Avenue and Lincoln Avenue Reconstruction & Drainage Improvements project. These steps ensure compliance while enabling the City to fully utilize the ARP grant to address local needs effectively.

**GOSHEN COMMON COUNCIL
RESOLUTION 2024-22**

**A Resolution Declaring the Continued Need and Intent
to Utilize American Rescue Plan Funding**

WHEREAS, the City of Goshen received \$6,692,508 in federal assistance through the American Rescue Plan (ARP) Act of 2021 (the “ARP Act”) to mitigate the fiscal effects stemming from the public health emergency with respect to the Coronavirus Disease (COVID-19);

WHEREAS, the City of Goshen Common Council, in Ordinance 5085, established a separate ARP Coronavirus Local Fiscal Recovery Fund to account for all receipts and disbursements for each separately identified assistance provided through the ARP Act;

WHEREAS, Mayor Stutsman convened an advisory committee to assist City of Goshen Staff in developing an American Rescue Plan Act ARP Fund Plan, pursuant to guidance from the State Board of Accounts, which describes generally how the City will use funds received, and the Goshen Common Council approved this plan through the passage of Resolution 2021-31;

WHEREAS, the Goshen Common Council subsequently passed Resolution 2022-09 to elect the standard allowance under the revenue loss provision of the American Rescue Plan, and Resolution 2022-23 to elect the amount of revenue loss claimed;

WHEREAS, the City of Goshen has expended \$1,135,575.19 of the grant proceeds to date, and, in accordance with the American Rescue Plan guidance provided by the Federal Government, must commit to contracts, agreements, and a plan for the expenditure of the remaining funds by December 31, 2026;

WHEREAS, the City of Goshen currently employs a Behavioral Health Response Coordinator and a Mobile Integrated Health Specialist, whose wages and benefits are funded through the American Rescue Plan grant;

WHEREAS, the City of Goshen supported local arts organizations through the American Rescue Plan grant and has entered into a contract with Goshen Arts & Events to continue to support these organizations;

WHEREAS, the City of Goshen, pursuant to authorization by the Board of Public Works and Safety on April 18, 2024, has entered into a contract with Niblock Excavating, Inc. for the completion of the Steury Avenue and Lincoln Avenue Reconstruction & Drainage Improvements project;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF GOSHEN, INDIANA, THAT:

1. The Common Council hereby recognizes the ongoing need for funding the salaries and benefits of the Behavioral Health Response Coordinator and Mobile Integrated Health Specialist employed by the City of Goshen and formally commits \$460,000 of the American Rescue Plan funds to cover the wages and benefits of these officers for the years 2025 and 2026.
2. The Common Council acknowledges the ongoing contract with Goshen Arts & Events and formally commits \$10,000 of the American Rescue Plan funds to support the continuation of this agreement.
3. The Common Council acknowledges the ongoing contract with Niblock Excavating, Inc. and formally commits \$5,086,932.81 of the American Rescue Plan funds to support the funding of this agreement.

PASSED by the Goshen Common Council on _____, 2024.

Presiding Officer

ATTEST:

Richard R. Aguirre, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on _____, 2024, at

_____ a.m./p.m.

Richard R. Aguirre, Clerk-Treasurer

ORDINANCE 5205

Amend Ordinance 5199, 2025 Compensation for Fire Department Employees

WHEREAS, Ordinance 5199, 2025 Compensation for Fire Department Employees, was passed by the Goshen Common Council on October 28, 2024.

WHEREAS, Fire Department administration wishes to add two new position titles and remove two existing position titles.

NOW, THEREFORE, BE IT ORDAINED by the Goshen Common Council that Ordinance 5199, 2025 Compensation for Fire Department Employees, shall be amended as follows:

- (1) The position of Certified Chief Inspector shall be *removed* from, and the position of Division Chief shall be *added* to SECTION 1, Application of Ordinance, paragraph (B), item (3).
- (2) The position of Chief Inspector shall be *removed* from, and the position of EMS Supervisor shall be *added* to SECTION 1, Application of Ordinance, paragraph (B), item (4).
- (3) The positions of Certified Chief Inspector and Chief Inspector shall be *removed* from, and the positions of Division Chief and EMS Supervisor shall be *added* to SECTION 3, Wages, paragraph (C)
- (4) The positions of Certified Chief Inspector and Chief Inspector shall be *removed* from, and the positions of Division Chief and EMS Supervisor shall be *added* to SECTION 7, Vacation Leave, paragraph (A).
- (5) The positions of Certified Chief Inspector and Chief Inspector shall be *removed* from, and the positions of Division Chief and EMS Supervisor shall be *added* to SECTION 8, Sick Leave, paragraph (A).
- (6) The positions of Certified Chief Inspector and Chief Inspector shall be *removed* from, and the positions of Division Chief and EMS Supervisor shall be *added* to SECTION 9, Personal Leave, paragraph (A).
- (7) The position of Certified Chief Inspector with a base wage of \$39.65 per hour shall be *removed* from, and the position of Division Chief with a base wage of \$39.65 per hour shall be *added* to EXHIBIT A, 2025 Fire Department Base Wages.
- (8) The position of Chief Inspector with a base wage of \$36.76 per hour shall be *removed* from, and the position of EMS Supervisor with a base wage of \$36.76 per hour shall be *added* to EXHIBIT A, 2025 Fire Department Base Wages.
- (9) Ordinance 5199 in its entirety, as amended by paragraphs (1) through (8) above, is attached to this Ordinance.

PASSED by the Goshen Common Council on _____, 20____.

Gina M. Leichty, Presiding Officer

ATTEST:

Richard R. Aguirre, Clerk-Treasurer

PRESENTED to the Mayor on _____, 20____, at the hour of ____:____.m.

Richard R. Aguirre, Clerk-Treasurer

APPROVED and ADOPTED on _____, 20____.

Gina M. Leichty, Mayor

**ORDINANCE 5199,
AS AMENDED BY ORDINANCE 5205**

2025 Compensation for Fire Department Employees

BE IT ORDAINED, pursuant to Indiana Code § 36-8-3-3(d), the Goshen Common Council approves the 2025 maximum compensation, including wages and benefits, for Goshen Fire Department employees as follows:

SECTION 1 Application of Ordinance

- (A) All positions covered by this ordinance are considered full-time positions.
- (B) For the purposes of this ordinance, when reference is made to “Non-Bargaining Unit Employees” or a category of employees that are not covered by the collective bargaining agreement, this reference shall apply to employees in the following positions:
 - (1) Fire Chief,
 - (2) Assistant Fire Chief,
 - (3) Division Chief,
 - (4) EMS Supervisor,
 - (5) Inspector I,
 - (6) Inspector II, and
 - (7) Battalion Chief.
- (C) For the purposes of this ordinance, when reference is made to “Bargaining Unit Employees,” “Bargaining Unit Positions,” or a category of employees that are covered by the collective bargaining agreement, this reference shall apply to employees in the following positions:
 - (1) Captain,
 - (2) Ambulance Captain,
 - (3) Lieutenant,
 - (4) Ambulance Lieutenant,
 - (5) Sergeant,
 - (6) Private, and

(7) Probationary Private.

(D) This ordinance does not apply to compensation paid to any civilian employee positions not listed in paragraph (B), and the Civilian Fire Chief position. All said positions are covered by the ordinance fixing the compensation for the Civil City and Utilities Employees.

SECTION 2 Conflicting Provisions

Should the terms of the collective bargaining agreement between the City of Goshen and the Goshen Firefighters Association Local No. 1443, International Association of Firefighters, be more favorable than the provisions of this ordinance, then the Bargaining Unit Employees shall be compensated in accordance with the terms of the collective bargaining agreement.

SECTION 3 Wages

(A) Exhibit A, 2025 Fire Department Base Wages, sets forth the maximum base wages for all employees. The executive shall set the compensation for all employees within the maximum amounts established by this ordinance and, for those Bargaining Unit Employees, in accordance with the amounts established by the collective bargaining agreement.

(B) The Fire Chief and Assistant Fire Chief positions shall be compensated on a salary basis.

(C) The Division Chief, EMS Supervisor, Inspector I, and Inspector II positions shall be compensated for all hours worked in a seven-day work period in accordance with the Fair Labor Standards Act.

(D) The Battalion Chief position shall be compensated for all hours worked in a work period consistent with the terms of the collective bargaining agreement for Bargaining Unit Positions.

(E) This subsection applies to the Battalion Chief position and each employee in a Bargaining Unit Position.

(1) Except as provided by subsection (E)(2), for the purposes of calculating overtime compensation, the employee shall be compensated:

(i) One-half ($\frac{1}{2}$) the applicable hourly rate for hours worked in excess of two hundred four (204) hours to two hundred sixteen (216) hours in any work period. The applicable hourly rate shall be the annual base salary plus applicable fringes divided by two thousand seven hundred fifty-six (2,756) hours.

(ii) Two (2) times the base hourly rate for hours worked in excess of two hundred sixteen (216) hours in any work period. The base hourly rate shall be the annual base salary divided by two thousand nine hundred twelve (2,912) hours.

- (2) If an employee in a Bargaining Unit Position is attending mandated paramedic training to obtain the initial paramedic license, the employee shall be compensated one and one-half (1½) times the employee's hourly rate for hours worked in excess of two hundred sixteen (216) hours in any work period for the purpose of attending mandated paramedic training. The applicable hourly rate shall be the annual base salary plus applicable fringes divided by two thousand seven hundred fifty-six (2,756) hours.
- (3) An employee called in to work overtime shall be guaranteed a minimum of two (2) hours pay at the employee's overtime rate.
- (4) In lieu of cash payment for overtime compensation,
 - (i) City may elect to provide employees compensatory time at the rate of two (2) hours compensatory time off for each hour of overtime worked, up to a maximum of four hundred eighty (480) hours of compensatory time.
 - (ii) An employee may elect to receive member elected compensatory time ("MECT") at the rate of two (2) hours compensatory time off for each hour of overtime worked, up to a maximum of forty-eight (48) hours. Unused MECT shall be paid at the base hourly rate applicable in the year in which the MECT hours were worked.
- (F) Except for the payment of unused MECT under subsection (E)(4)(ii), upon leaving city employment, an employee will be compensated for all unused compensatory time based on the higher rate of:
 - (1) The average regular rate received by the employee during the last three (3) years of employment with the city; or
 - (2) The final regular rate received by the employee.

SECTION 4 Payment of Wages

- (A) The city shall issue paychecks, at minimum, on a bi-weekly basis.
- (B) Paychecks issued in 2025 will have gross wages calculated using the 2025 wage rates even if a portion of the pay period falls in 2024.

SECTION 5 Firefighters' Pension and Disability Fund

Each employee is eligible to participate in the 1977 Police Officers' and Firefighters' Pension and Disability Fund. The city shall pay the employer's percentage contribution to the pension plan as required by Indiana Code § 36-8-8-6.

SECTION 6 Health Insurance

A full-time employee that is expected to average thirty (30) or more hours of compensation per week is eligible for coverage under the city's group health insurance plan and is required to enroll in the plan. The city shall pay eighty percent (80%) (Four Hundred Twenty-five and 92/100 Dollars

(\$425.92)) and the employee shall pay twenty percent (20%) (One Hundred Six and 48/100 Dollars (\$106.48)) toward the cost of the weekly health insurance premium, except the employee's share of cost of the health insurance premium will not exceed the annual Affordable Care Act affordability percentage of the employee's annual household income.

SECTION 7 Vacation Leave

(A) This subsection applies to the Fire Chief, Assistant Fire Chief, Division Chief, EMS Supervisor, Inspector I, and Inspector II positions.

(1) Each employee shall receive vacation leave beginning on the employee's first anniversary date of employment with the Fire Department and each subsequent anniversary date as follows, unless a higher amount is established by an agreement at the time the employee is hired:

- (i) One (1) year through seven (7) full years of service, the employee shall receive one hundred twelve (112) hours vacation leave.
- (ii) Starting eight (8) years through fourteen (14) full years of service, the employee shall receive one hundred sixty-eight (168) hours vacation leave.
- (iii) Starting fifteen (15) years of service, the employee shall receive two hundred twenty-four (224) hours vacation leave.

(B) This subsection applies to the Battalion Chief position and each employee in a Bargaining Unit Position.

(1) Each employee shall accrue vacation leave based on the following schedule:

- (i) Up to eight (8) years of service, the employee shall accrue twelve (12) hours of vacation leave per month up to one hundred forty-four (144) hours vacation leave.
- (ii) Upon completion of eight (8) years of service, but less than fifteen (15) years of service, the employee shall accrue eighteen (18) hours of vacation leave per month up to two hundred sixteen (216) hours vacation leave.
- (iii) Upon completion of fifteen (15) years of service, the employee shall accrue twenty-four (24) hours of vacation leave per month up to two hundred eighty-eight (288) hours vacation leave.

(2) An employee with fifteen (15) or more years of service may request to receive payment for up to seventy-two (72) hours of vacation leave in lieu of the employee taking all of the employee's vacation leave. The employee's vacation leave will be adjusted accordingly based on the number of vacation leave hours converted to pay.

(C) An employee shall receive payment for all earned and unused vacation leave upon termination of employment.

(D) Vacation leave shall be paid at the employee's current wage rate.

SECTION 8 Sick Leave

- (A) This subsection applies to the Fire Chief, Assistant Fire Chief, Division Chief, EMS Supervisor, Inspector I, and Inspector II positions.
- (1) Each employee hired before January 1, 2013 shall accrue six (6) hours sick leave for each month of active employment up to a maximum of seven hundred twenty (720) hours sick leave.
 - (2) Each employee hired on or after January 1, 2013 shall accrue four (4) hours sick leave for each month of active employment up to a maximum of seven hundred twenty (720) hours sick leave.
 - (3) Any employee who has accrued sick leave in excess of seven hundred twenty (720) hours will not lose accrued sick leave in excess of seven hundred twenty (720) hours, but will not be allowed to add to the total sick leave hours accrued as of December 31, 2014.
 - (4) Each employee who has two hundred forty (240) hours sick leave accrued as of January 1st of any calendar year may sell the first forty-eight (48) hours of sick leave accrued that calendar year if not used during the calendar year at the rate of One Hundred Fifty Dollars (\$150) for each eight (8) hours of sick leave sold.
 - (5) Upon retirement, city will pay a retiring employee for each eight (8) hours of accrued sick leave over four hundred (400) hours, up to a maximum of eighty (80) hours, at the rate of One Hundred Dollars (\$100).
- (B) This subsection applies to the Battalion Chief position and each employee in a Bargaining Unit Position.
- (1) Each employee who began employment with the Fire Department on or after January 1, 2019 shall be assigned sick leave on January 1, 2024 in the amount of seven hundred twenty (720) hours, less any sick leave the employee has used during the employee's employment with the Fire Department. Each employee who begins employment with the Fire Department on or after January 1, 2024 shall be assigned sick leave in the amount of seven hundred twenty (720) hours. After an employee has completed five (5) years of active employment, each employee shall accrue twelve (12) hours sick leave for each month of continued active employment.
 - (2) If at the end of any calendar year an employee has seven hundred twenty (720) hours sick leave accrued (not counting sick leave to be sold back), the employee may elect to sell back to the city up to one hundred forty-four (144) hours of sick leave; however, the hours of sick leave sold back under this subsection cannot exceed the hours of sick leave earned the previous year less the sick leave used during that year.
 - (3) If an employee has more than two thousand eight hundred eighty (2,880) hours sick leave accrued at the end of any calendar year (not counting sick leave to be sold back), the employee may sell up to seventy-two (72) hours of sick leave back to city in any calendar year. The total number of hours of sick leave (adding hours

under subsections (B)(2) and (B)(3)) sold back by an employee may not exceed one hundred forty-four (144) hours in any calendar year.

- (4) Upon retirement, City will pay a retiring employee for sick leave hours accrued between one thousand six hundred eighty (1,680) hours and two thousand four hundred (2,400) hours.
 - (5) Any sick leave hours sold back to city will be sold to city at the rate of Eight and 50/100 Dollars (\$8.50) per hour.
- (C) Except as provided by subsections (A)(4) and (A)(5) and subsections (B)(2), (B)(3) and (B)(5), sick leave shall be paid at the employee's current wage rate.

SECTION 9 Personal Leave

- (A) This subsection applies to the Fire Chief, Assistant Fire Chief, Division Chief, EMS Supervisor, Inspector I, and Inspector II positions.
- (1) Each employee shall receive forty (40) hours of paid personal leave each calendar year.
 - (2) An employee may carry over not more than fifty-six (56) hours of unused personal leave from a previous calendar year.
 - (3) Upon termination, the employee shall be paid for not more than eighty (80) hours of unused personal leave.
 - (4) In the event an employee commences employment after January 31 of the current calendar year, the employee's personal leave due shall be prorated based upon the length of employment from the employee's date of hire through December 31.
- (B) This subsection applies to the Battalion Chief position and each employee in a Bargaining Unit Position.
- (1) Each employee who has accrued forty-eight (48) hours of sick leave shall be entitled to take seventy-two (72) hours of personal leave per calendar year. An employee shall not be required to reduce their accrued sick leave in order to receive paid personal leave.
 - (2) An employee may not accrue personal leave from year to year. However, if an employee has unused personal leave at the end of the year, the employee shall be paid for such unused personal leave.
- (C) Personal leave shall be paid at the employee's current wage rate.

SECTION 10 Holiday Compensation

(A) Non-Bargaining Unit Employees

- (1) Each Non-Bargaining Unit Employee shall receive two and two-tenths percent (2.2%) of the employee's annual base salary as holiday compensation for the following holidays:
 - (i) New Year's Day
 - (ii) Martin Luther King, Jr. Day
 - (iii) Memorial Day
 - (iv) Independence Day
 - (v) Labor Day
 - (vi) Veteran's Day
 - (vii) Thanksgiving Day
 - (viii) Day following Thanksgiving Day
 - (ix) Christmas Eve
 - (x) Christmas Day
- (2) Holiday compensation to Non-Bargaining Unit Employees shall be paid the last pay day in November.
- (3) In the event a Non-Bargaining Unit Employee commences employment after January 1 of the current calendar year, the employee shall receive prorated holiday compensation based on the number of holidays occurring after the employee's date of hire.
- (4) In the event a Non-Bargaining Unit Employee terminates employment before December 31 of the current calendar year, the employee's holiday compensation due shall be prorated based on the number of holidays occurring before the employee's date of termination.

- (B) Bargaining Unit Employees will not receive separate holiday compensation. Members may or may not work during a holiday observed by the City of Goshen based on normal scheduling and vacation selection. Therefore, each member's base salary takes these considerations into account.

SECTION 11 Annual Longevity Increase in Pay

- (A) Each employee shall receive an annual longevity increase in pay bonus based on Two Hundred Dollars (\$200) per year of service, up to a maximum of Three Thousand Four Hundred Dollars (\$3,400) per year.

- (B) The annual longevity increase in pay due shall reflect the number of years and partial years completed by the employee at the end of the previous calendar year, and shall be included in the employee's regular bi-weekly paycheck.
- (C) Each employee in a Bargaining Unit Position shall receive a one-time bonus payment for more than twenty (20) years of continuous service to the department. The one-time payment shall be equal to fifteen percent (15%) of the current year's pay to a Private and shall be paid within thirty (30) days after the employee's 20th anniversary date.

SECTION 12 Twenty Year Bonus

- (A) An employee who has attained at least twenty (20) years of full-time employment with the Fire Department shall receive an annual twenty (20) year bonus of Two Thousand Dollars (\$2,000).
- (B) An employee who attains their twentieth year of full-time employment after January 1 shall receive a prorated portion of the annual twenty (20) year bonus based on the portion of the year remaining after the employee attains their twentieth year of full-time employment.
- (C) An employee who has attained at least twenty (20) years of full-time employment shall receive a prorated portion of the annual twenty (20) year bonus upon termination based on the portion of the year employed after January 1 of the current calendar year if:
 - (1) The employee is in good standing with the city at the time of termination.
 - (2) The employee gives the city a minimum two (2) week written notice of the employee's intent to terminate employment with the city unless the employee is terminated by the city.
 - (3) The termination is due to a health condition of the employee making it impracticable for the employee to perform the duties and responsibilities of the employee's position or the termination is due to the death of the employee.
- (D) The twenty (20) year bonus shall be paid the last pay day of December or at the time of termination of employment.

SECTION 13 Uniform Allowance

- (A) Each employee shall receive an annual uniform allowance of Two Hundred Dollars (\$200) to purchase and maintain uniforms.
- (B) The uniform allowance shall be paid the first pay day of December.

SECTION 14 Master Firefighter/Fire Officer I Certification Pay

- (A) An employee who holds a Master Firefighter/Fire Officer I certification shall receive annual certification pay in the amount One Hundred Sixty Dollars (\$160), or a prorated portion thereof.
- (B) The certification pay shall be paid the first pay day in December.

SECTION 15 Classification Pay

- (A) An employee shall receive the following annual classification pay for each classification to which the employee is appointed.
 - (1) Fire Training Instructor, Seven Hundred Fifty Dollars (\$750).
 - (2) Public Relations and Education, Five Hundred Dollars (\$500).
 - (3) Arson Investigator, Six Hundred Dollars (\$600).
 - (4) EMS Training Instructor, Seven Hundred Fifty Dollars (\$750).
 - (5) Command System Coordinator, Seven Hundred Fifty Dollars (\$750).
- (B) The classification pay will be included in the employee's regular bi-weekly paycheck.

SECTION 16 Paramedic Pay

- (A) An employee serving as an active paramedic shall receive a paramedic pay equal to nine percent (9%) of the base salary for a private.
- (B) An employee that is placed on restricted paramedic assignment shall receive thirty percent (30%) of the paramedic pay set forth in paragraph (A) for the year.
- (C) The paramedic pay will be paid the first pay day in December. In the event the employee drops or loses the paramedic license, the paramedic pay will be prorated accordingly.

SECTION 17 Working Out of Classification; Dual Classification

- (A) An employee in a Bargaining Unit Position carrying out the duties of a position or rank above which the employee normally holds shall be paid in accordance with the terms of the collective bargaining agreement.
- (B) An employee in a Bargaining Unit Position holding both Fire and EMS rank shall receive pay for both rank differentials held for as long as both ranks are held.

SECTION 18 Funeral Leave

An employee is entitled to five (5) consecutive calendar days off without the loss of pay in accordance with the terms of the collective bargaining agreement due to the death of an employee's immediate family member. An employee is entitled to one (1) day off without loss of pay in accordance with the terms of the collective bargaining agreement due to the death of an employee's family member other than an immediate family member. This section shall also apply to Non-Bargaining Unit Employees.

SECTION 19 Duty-Related Illness or Injury

An employee who suffers an injury or contracts an illness while performing the employee's duties shall receive pay and benefits and/or payment for the employee's care to treat the illness or injury

in accordance with the terms of the collective bargaining agreement. This section shall also apply to Non-Bargaining Unit Employees.

SECTION 20 Severance Pay

- (A) An employee is entitled to severance pay in accordance with the terms of the collective bargaining agreement due to an illness or injury arising out of or in the course of the employee's duties and the illness or injury is of the nature, degree and/or duration necessary to qualify the employee for benefits under the applicable pension and disability fund. This section shall also apply to Non-Bargaining Unit Employees.
- (B) The severance pay will be fifty percent (50%) of the remainder of the following:
 - (1) The employee's pay and benefits for fifty-two (52) weeks, less
 - (2) The pay and benefits paid to the employee pursuant to Section 19, Duty-Related Illness or Injury.

SECTION 21 Death Benefits

The city shall pay the beneficiary of any employee who dies during the calendar year all benefits that the employee has not yet received.

SECTION 22 Paramedic Hiring Bonus

Upon approval of the Board of Public Works and Safety, a first-time employee of the Goshen Fire Department who is a licensed/certified paramedic shall be paid a one-time bonus of Seven Thousand Five Hundred Dollars (\$7,500) in accordance with the terms and conditions of an agreement to be executed between the City of Goshen and the new employee.

SECTION 23 Cell Phone Stipend

- (A) For those employees who, for substantial business purposes, are regularly required to use a cell phone to perform the employees' job duties and responsibilities, the city will pay the employee a cell phone stipend as reimbursement if the employee elects to use the employee's personal cell phone for city business in lieu of the city providing the employee with a city-owned cell phone.
- (B) The cell phone stipend will be provided in accordance with city Cell Phone Policy. The amount of the stipend will not exceed the sum of Twenty-five Dollars (\$25) per month if the employee is required to have voice services only, or the stipend will not exceed the sum of Fifty Dollars (\$50) per month if the employee is required to have voice and data communication services.

SECTION 24 Tuition Reimbursement

A firefighter covered by the collective bargaining agreement is entitled to tuition reimbursement in accordance with the terms of the collective bargaining agreement for the successful completion of a college undergraduate or graduate course. Reimbursement is limited to six (6) credit hours

per calendar year, and shall be limited to the cost of a credit hour at Indiana University-Bloomington, or the actual cost, whichever is less.

SECTION 25 Local Pension Board Secretary

An employee serving as the secretary to the Local Pension Board shall receive additional compensation of Three Thousand Seven Hundred Seventy Dollars (\$3,770) per year. The additional compensation shall be included in the employee's regular bi-weekly paycheck while serving as secretary to the Local Pension Board.

[Continued Next Page]

EXHIBIT A

2025 Fire Department Base Wages

(as Amended by Ordinance 5205)

Fire Chief	\$3,956.27 Bi-weekly
Assistant Fire Chief	\$3,702.59 Bi-weekly
Division Chief	\$39.65 per Hour
EMS Supervisor	\$36.76 per Hour
Inspector I	\$33.85 per Hour
Inspector II	\$31.95 per Hour

	<u>Annual Base Salary</u>	<u>Base Wage per Hour</u>
Battalion Chief	\$87,351.93	\$31.70 per Hour
Captain	\$74,346.12	\$26.98 per Hour
Ambulance Captain	\$74,346.12	\$26.98 per Hour
Lieutenant	\$70,592.18	\$25.61 per Hour
Ambulance Lieutenant	\$70,592.18	\$25.61 per Hour
Sergeant	\$66,650.90	\$24.18 per Hour
Private	\$64,977.30	\$23.58 per Hour
Probationary Private	\$64,977.30	\$23.58 per Hour

ORDINANCE NO. 5210

An ordinance of the City of Goshen authorizing the issuance of waterworks revenue bonds for the purpose of providing funds to pay the cost of certain additions, extensions and improvements to the municipal waterworks of said City, the issuance of revenue bonds to provide for the cost thereof, the collection, segregation and distribution of the revenues of said works, providing for the safeguarding of the interests of the owners of said bonds, other matters connected therewith, including the issuance of notes in anticipation of bonds, and repealing ordinances inconsistent herewith

WHEREAS, the City of Goshen, Indiana ("City") has heretofore established, constructed and financed a municipal waterworks and now owns and operates the waterworks pursuant to IC 8-1.5, as in effect on the date of delivery of the bonds herein authorized ("Act"); and

WHEREAS, the Common Council of the City ("Common Council") now finds that certain improvements and extensions to said works are necessary; and that plans, specifications and estimates have been prepared and filed by the engineers employed by the City for the construction of said improvements and extensions, as more fully set forth in Exhibit A attached hereto ("Project"), which plans and specifications have been or will be approved by the Common Council and by all governmental authorities that may have jurisdiction over the Project, particularly the Indiana Department of Environmental Management ("Department"); and

WHEREAS, the City has obtained engineer's estimates of the costs for the construction of the Project and will advertise for and receive bids for the construction of the Project, which bids will be subject to the City's determination to construct the Project and subject to the City obtaining funds to pay for the Project; that on the basis of said estimates, the maximum estimated cost of the Project, including estimated incidental expenses, is in an amount not to exceed Eleven Million Dollars (\$11,000,000); and

WHEREAS, the Common Council finds that the City has funds on hand in the amount of \$2,500,000 to apply to the cost of the Project, and that the remaining amount to be financed by the

issuance of waterworks revenue bonds ("Bonds"), in one or more series, is in an aggregate principal amount not to exceed Eight Million Five Hundred Thousand Dollars (\$8,500,000) and, if necessary, bond anticipation notes ("BANs") in an aggregate principal amount not to exceed Eight Million Five Hundred Thousand Dollars (\$8,500,000); and

WHEREAS, the City desires to authorize the issuance of BANs hereunder, if necessary, in one or more series, payable from the proceeds of Bonds issued hereunder and to authorize the refunding of the BANs, if issued; and

WHEREAS, the City may enter into a Financial Assistance Agreement, Funding Agreement, Grant Agreement, and/or Financial Aid Agreement (substantially in the form attached as Exhibit B hereto and made a part hereof), together with any subsequent amendments thereto (collectively, "Financial Assistance Agreement") with the Indiana Finance Authority ("Authority"), together with any subsequent amendments thereto, as part of its drinking water loan program, supplemental drinking water and wastewater assistance program, water infrastructure assistance program and/or water infrastructure grant program (collectively, "IFA Program") established and existing pursuant to IC 5-1.2-1 through IC 5-1.2-4, IC 5-1.2-10, IC 5-1.2-11, IC 5-1.2-14 and/or IC 5-1.2-14.5, pertaining to the Project and the financing of the Project if the Bonds or BANs are sold to the Authority through its IFA Program; and

WHEREAS, the Common Council understands that for the Project to be permitted to be financed under the IFA Program, the City must (a) agree to own, operate and maintain the waterworks and the Project for the duration of their useful life and (b) represent and warrant to the Authority that the City has no intent to sell, transfer or lease the waterworks or the Project for the duration of their useful life; and

WHEREAS, the City may accept other forms of financial assistance, as and if available from the IFA Program; and

WHEREAS, the Common Council finds that the City has heretofore issued certain "Waterworks Revenue Bonds of 2016," dated June 30, 2016 ("Outstanding Bonds"), originally issued in the amount of \$6,599,000, now outstanding in the amount of \$4,198,000, and maturing semiannually over a period ending January 1, 2036, which Outstanding Bonds constitute a first charge upon the Net Revenues (as hereinafter defined) of the waterworks; and

WHEREAS, other than the Outstanding Bonds, there are no other bonds, pledges or obligations payable from the Net Revenues of the waterworks; and

WHEREAS, the ordinance authorizing the issuance of the Outstanding Bonds permits the issuance of additional bonds ranking on a parity with the Outstanding Bonds provided that certain conditions can be met, and the City finds that the finances of the waterworks will enable the City to meet the conditions for the issuance of additional parity bonds and that, accordingly, the revenue bonds authorized herein shall constitute a first charge on the Net Revenues of the waterworks, on a parity with the Outstanding Bonds; and

WHEREAS, the Bonds to be issued pursuant to this ordinance will constitute a first charge against the Net Revenues of the waterworks, on a parity with the Outstanding Bonds, and are to be issued subject to the provisions of the laws of the Act, and the terms and restrictions of this ordinance; and

WHEREAS, the Common Council has been advised that it may be cost efficient to purchase municipal bond insurance and a debt service reserve surety for the bonds authorized herein; and

WHEREAS, the City's waterworks is not subject to the jurisdiction of the Indiana Utility Regulatory Commission; and

WHEREAS, the Common Council now finds that all conditions precedent to the adoption of an ordinance authorizing the issuance of Bonds and BANs have been complied with in accordance with the Act;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF GOSHEN, INDIANA, THAT:

Section 1. Authorization of Project. The City shall proceed with the construction of the Project in accordance with the preliminary plans, specifications and cost estimates heretofore prepared and filed by consulting engineers employed by the City, which preliminary plans, specifications and cost estimates are now on file or will be placed on file in the office of the Clerk-Treasurer of the City ("Clerk-Treasurer"), open for public inspection pursuant to IC 36-1-5-4 and are hereby adopted and approved and by reference made a part of this ordinance as fully as if the same were attached hereto and incorporated herein. The estimated cost of construction of the Project is expected not to exceed the sum of Eleven Million Dollars (\$11,000,000), plus investment earnings on the BAN and bond proceeds, without further authorization from this Common Council. The terms "waterworks," "waterworks system," "works," "system" and other like terms where used in this ordinance shall be construed to mean and include the Drinking Water System, as defined in the Financial Assistance Agreement, and includes the existing waterworks system and all real estate and equipment used in connection therewith and appurtenances thereto, and all extensions, additions and improvements thereto and replacements thereof now or at any time hereafter constructed or acquired, and all other items as defined in IC 8-1-2-1, as amended. The Project shall be constructed in accordance with the plans and specifications heretofore mentioned, which

Project is hereby approved. The Project shall be constructed, and the BANs and Bonds herein authorized shall be issued pursuant to and in accordance with the Act.

In the event the Bonds and BANs herein authorized are purchased by the Authority as part of the IFA Program, on behalf of the City, the Common Council hereby (a) agrees to own, operate and maintain the waterworks and the Project for the duration of their useful life and (b) represents and warrants to the Authority that the City has no intent to sell, transfer or lease the waterworks or the Project for the duration of their useful life.

Section 2. Issuance of BANs and Bonds. (a) The City shall issue, if necessary, its BANs for the purpose of procuring interim financing to apply on the cost of the Project and to pay costs of issuance. The City shall issue its BANs, in one or more series, in an aggregate amount not to exceed Eight Million Five Hundred Thousand Dollars (\$8,500,000) to be designated "[Taxable] Waterworks Bond Anticipation Notes of _____" (to be completed with the year in which issued and appropriate series designation, if any). The BANs shall be sold at not less than 98% of their par value, or at a price not less than 100% of their par value if sold to the Authority as part of the IFA Program, shall be in multiples of One Dollar (\$1) if sold to the Authority as part of its IFA Program or in denominations of Five Thousand Dollars (\$5,000) or integral multiples thereof if sold to another purchaser, as set forth in hereinafter defined Purchase Agreement for the BANs, shall be dated as of the date of delivery thereof, and shall bear interest at a rate not to exceed seven percent (7.0%) per annum (the exact rate or rates to be determined through bidding or negotiation with the purchaser of the BANs) payable at maturity or redemption. Each series of BANs will mature no later than five (5) years after their date of delivery. The BANs are subject to renewal or extension at an interest rate or rates not to exceed seven percent (7.0%) per annum (the exact rate or rates to be negotiated with the purchaser of the BANs). The term of the BANs

and all renewal BANs may not exceed five years from the date of delivery of the initial BANs. The BANs shall be registered in the name of the purchasers thereof.

Notwithstanding anything in this ordinance to the contrary, any series of BANs issued hereunder may bear interest that is taxable and included in the gross income of the owners thereof. If any such BANs are issued on a taxable basis, the designated name shall include the term "Taxable" as the first word in the designated name.

The BANs shall be issued pursuant to IC 5-1.2-1 through IC 5-1.2-4, IC 5-1.2-10, IC 5-1.2-11, IC 5-1.2-14 and/or IC 5-1.2-14.5 if sold to the Authority, IC 5-1.5-8-6.1 if sold to the Indiana Bond Bank or pursuant to IC 5-1-14-5 if sold to a financial institution or any other purchaser. Payment on the BANs may be made in installments. The City shall pledge to the payment of the principal of and interest on the BANs the proceeds from the issuance of revenue bonds pursuant to and in the manner prescribed by the Act unless otherwise determined by the Clerk-Treasurer, with the advice of the City's municipal advisor. The Bonds will be payable solely out of and constitute a first charge against the Net Revenues (herein defined as gross revenues, inclusive of System Development Charges (as hereinafter defined), after deduction only for the payment of the reasonable expenses of operation, repair and maintenance, excluding transfers for payment in lieu of property taxes ("PILOTs")) of the waterworks of the City, whether now or hereafter constructed or acquired, on a parity with the Outstanding Bonds. For purposes of this ordinance, "System Development Charges" shall mean the proceeds and balances from any non-recurring charges such as tap fees, subsequent connector fees, capacity or contribution fees, and other similar one-time charges that are available for deposit under this ordinance.

(b) The City shall issue its Bonds in one or more series designated "[Taxable] Waterworks Revenue Bonds of ____" (to be completed with the year of issuance and series

designation, if any), in an aggregate principal amount not to exceed Eight Million Five Hundred Thousand Dollars (\$8,500,000) for the purpose of procuring funds to be applied on the costs of the Project, refunding the BANs, if issued, and issuance costs, including premiums for municipal bond insurance and/or a debt service reserve surety, if necessary. The Bonds shall be payable solely out of and constitute a first charge against the Net Revenues (inclusive of System Development Charges), on a parity with the Outstanding Bonds.

Each series of Bonds shall be sold at a price of not less than par value if sold to the Authority as part of its IFA Program, or not less than 98% of their par value if sold to any other purchaser, and shall be issued in either the denomination of One Dollar (\$1) or any multiple thereof, if sold to the Authority through its IFA Program, or in denominations of Five Thousand Dollars (\$5,000) each or integral multiples thereof if sold to any other purchaser, numbered consecutively from 1 upward, dated as of their date of delivery, and shall bear interest at a rate or rates not exceeding seven percent (7%) per annum (the exact rate or rates to be determined by bidding or through negotiation with the Authority as part of its IFA Program). If the Bonds are sold to one or more sophisticated investors, the Bonds may be issued in minimum denominations of \$100,000 and in integral multiples of \$5,000 thereafter. Interest on the Bonds is payable semiannually on January 1 and July 1 in each year, commencing on the first January 1 or the first July 1 after the date of issuance of the Bonds, as designated by the Clerk-Treasurer, with the advice of its municipal advisor. The Bonds shall mature semiannually on January 1 and July 1, or shall be subject to mandatory sinking fund redemption if term bonds are issued, on January 1 and July 1 of each year and ending not later than thirty-five (35) years from their date of issuance and in such amounts which will either: (i) produce as level annual debt service as practicable taking into account the annual debt service on the Outstanding Bonds and all series of Bonds issued hereunder;

or (ii) if the Bonds are sold to the Authority as part of its IFA Program, allow the City to meet the coverage and/or amortization requirements of the IFA Program. If the Bonds are sold to the Authority as part of its IFA Program, such debt service schedule shall be finalized and set forth in the Financial Assistance Agreement. The Bonds shall be payable in lawful money of the United States of America, at the principal office of the Paying Agent (as hereinafter defined).

All or a portion of each series of Bonds may be issued as one or more term bonds, upon election of the successful bidder or purchaser. Such term bonds shall have a stated maturity or maturities consistent with the maturity schedule determined in accordance with the preceding paragraph, on the dates as determined by the successful bidder, but in no event later than the last serial maturity date of the Bonds as determined in accordance with the above paragraph. The term bonds shall be subject to mandatory sinking fund redemption and final payment(s) at maturity at 100% of the principal amount thereof, plus accrued interest to the redemption date, on principal payment dates which are hereinafter determined in accordance with the above paragraph.

Each series of Bonds issued hereunder shall rank on a parity for all purposes under this ordinance, including the pledge of Net Revenues.

Interest on the Bonds and BANs shall be calculated according to a 360-day calendar year containing twelve 30-day months.

Notwithstanding anything in this ordinance to the contrary, any series of Bonds or BANs issued hereunder may bear interest that is taxable and included in the gross income of the owners thereof. If any such Bonds or BANs are issued on a taxable basis, the designated name shall include the term "Taxable" as the first word in the designated name.

Notwithstanding anything contained herein, the City may accept any other forms of financial assistance, as and if available, from the IFA Program (including without limitation any

forgivable loans, grants or other assistance) whether available as an alternative to any Bond or BAN related provision otherwise provided for herein or as a supplement or addition thereto. If required by the IFA Program to be eligible for such financial assistance, one or more of the series of the Bonds issued hereunder may be issued on a basis such that the payment of the principal of or interest on (or both) such series of Bonds is junior and subordinate to the payment of the principal of and interest on other series of Bonds issued hereunder (and/or any other revenue bonds secured by a pledge of Net Revenues, whether now outstanding or hereafter issued), all as provided by the terms of such series of Bonds as modified pursuant to this authorization. Such financial assistance, if any, shall be provided in the Financial Assistance Agreement and the Bonds of each series of Bonds issued hereunder (including any modification made pursuant to the authorization in this paragraph to the form of Bonds otherwise contained herein).

Section 3. Registrar and Paying Agent; Book-Entry Provisions. (a) The Clerk-Treasurer is hereby authorized to contract with a qualified financial institution to serve as Registrar and Paying Agent for the Bonds and the BANs ("Registrar" or "Paying Agent"). The Registrar is hereby charged with the responsibility of authenticating the Bonds and, if required, the BANs. The Clerk-Treasurer is hereby authorized to enter into such agreements or understandings with the Registrar as will enable the institution to perform the services required of a registrar and paying agent. The Clerk-Treasurer is further authorized to pay such fees as the Registrar may charge for the services it provides as Registrar and Paying Agent and such fees may be paid from the Sinking Fund (as hereinafter defined) established to pay the principal of and interest on the Bonds as fiscal agency charges.

As to the BANs and as to the Bonds, if sold to the Authority as part of its IFA Program or any other purchaser that does not object to such designation, the Clerk-Treasurer may serve as

Registrar and Paying Agent and in that case is hereby charged with the duties of a Registrar and Paying Agent.

If the Bonds or BANs are sold to the Authority as part of its IFA Program, the principal of and interest thereon shall be paid by wire transfer to such financial institution if and as directed by the Authority on the due date of such payment or, if such due date is a day when financial institutions are not open for business, on the business day immediately after such due date. So long as the Authority as part of its IFA Program is the owner of the Bonds or BANs, such Bonds and BANs shall be presented for payment as directed by the Authority.

If such Bonds and BANs are not sold to the Authority as part of its IFA Program or if wire transfer payment is not required, the principal and interest on the BANs and the principal of the Bonds and BANs shall be payable at the principal office of the Paying Agent and all payments of interest on the Bonds shall be paid by check mailed one business day prior to the interest payment date to the registered owners thereof, as of the fifteenth day of the month preceding each payment ("Record Date"), at the addresses as they appear on the registration books kept by the Registrar or at such other address as is provided to the Paying Agent in writing by such registered owner on or before such Record Date. Notwithstanding anything to the contrary herein, the Bonds shall not be required to be presented or surrendered to receive payment in connection with any mandatory sinking fund redemption until the final maturity date of the Bonds or earlier payment in full of the Bonds. If payment of principal or interest is made to a depository, payment shall be made by wire transfer on the payment date in same-day funds. If the payment date occurs on a date when financial institutions are not open for business, the wire transfer shall be made on the next succeeding business day. The Paying Agent shall be instructed to wire transfer payments by 1:00

p.m. (New York City time) so such payments are received at the depository by 2:30 p.m. (New York City time).

All payments on the Bonds and BANs shall be made in any coin or currency of the United States of America, which on the date of such payment, shall be legal tender for the payment of public and private debts.

(b) Each Bond shall be transferable or exchangeable only upon the books of the City kept for that purpose at a principal corporate trust office of the Registrar by the registered owner in person, or by its attorney duly authorized in writing, upon surrender of such Bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the registered owner, or its attorney duly authorized in writing, and thereupon a new fully registered Bond or Bonds in an authorized aggregate principal amount and of the same maturity, shall be executed and delivered in the name of the transferee or transferees or the registered owner, as the case may be, in exchange therefor. The costs of such transfer or exchange shall be borne by the City except for any tax or governmental charge required to be paid with respect to the transfer or exchange, which taxes or governmental charges are payable by the person requesting such transfer or exchange. The City and the Registrar and Paying Agent for the Bonds may treat and consider the person in whose name such Bonds are registered as the absolute owner thereof for all purposes including for the purpose of receiving payment of, or on account of, the principal thereof and interest due thereon.

(c) The Registrar and Paying Agent may at any time resign as Registrar and Paying Agent upon giving 30 days' notice in writing to the City and by first class mail to each registered owner of the Bonds then outstanding, and such resignation will take effect at the end of such 30-day period or upon the earlier appointment of a successor registrar and paying agent by the City.

Any such notice to the City may be served personally or sent by registered mail. The Registrar and Paying Agent may be removed at any time as Registrar and Paying Agent by the City, in which event the City may appoint a successor registrar and paying agent. The City shall notify each registered owner of the Bonds then outstanding by first class mail of the removal of the Registrar and Paying Agent. Notices to the registered owners of the Bonds shall be deemed to be given when mailed by first class mail to the addresses of such registered owners as they appear on the registration books kept by the Registrar.

Upon the appointment of any successor registrar and paying agent by the City, the Clerk-Treasurer is authorized and directed to enter into such agreements and understandings with such successor registrar and paying agent as will enable the institution to perform the services required of a registrar and paying agent for the Bonds. The Clerk-Treasurer is further authorized to pay such fees as the successor registrar and paying agent may charge for the services it provides as registrar and paying agent and such fees may be paid from the Sinking Fund continued in Section 14 hereof. Any predecessor registrar and paying agent shall deliver all of the Bonds and any cash or investments in its possession with respect thereto, together with the registration books, to the successor registrar and paying agent.

(d) Interest on the Bonds sold to the Authority as part of its IFA Program shall be payable from the date or dates of payment made by the Authority as part of its purchase of the Bonds pursuant to the Financial Assistance Agreement. Interest on all other Bonds shall be payable from the interest payment date to which interest has been paid next preceding the authentication date of the Bonds unless the Bonds are authenticated after the fifteenth day of the month preceding an interest payment date and on or before such interest payment date in which case they shall bear interest from such interest payment date, or unless the Bonds are authenticated

on or before the fifteenth day of the month immediately preceding the first interest payment date, in which case they shall bear interest from the original date until the principal shall be fully paid.

(e) The City has determined that it may be beneficial to the City to have the Bonds held by a central depository system pursuant to an agreement between the City and The Depository Trust Company, New York, New York ("Depository Trust Company") and have transfers of the Bonds effected by book-entry on the books of the central depository system ("Book Entry System"). Such book-entry Bonds shall be initially issued in the form of a separate single authenticated fully registered Bond for the aggregate principal amount of each separate maturity of the Bonds. In such case, upon initial issuance, the ownership of such Bonds shall be registered in the register kept by the Registrar in the name of CEDE & CO., as nominee of the Depository Trust Company.

With respect to the Bonds registered in the register kept by the Registrar in the name of CEDE & CO., as nominee of the Depository Trust Company, the City and the Paying Agent shall have no responsibility or obligation to any other holders or owners (including any beneficial owner ("Beneficial Owner")) of the Bonds with respect to (i) the accuracy of the records of the Depository Trust Company, CEDE & CO., or any Beneficial Owner with respect to ownership questions, (ii) the delivery to any bondholder (including any Beneficial Owner) or any other person, other than the Depository Trust Company, of any notice with respect to the Bonds including any notice of redemption, or (iii) the payment to any bondholder (including any Beneficial Owner) or any other person, other than the Depository Trust Company, of any amount with respect to the principal of, or premium, if any, or interest on the Bonds except as otherwise provided herein.

No person other than the Depository Trust Company shall receive an authenticated Bond evidencing an obligation of the City to make payments of the principal of and premium, if any,

and interest on the Bonds pursuant to this ordinance. The City and the Registrar and Paying Agent may treat as and deem the Depository Trust Company or CEDE & CO. to be the absolute bondholder of each of the Bonds for the purpose of (i) payment of the principal of and premium, if any, and interest on such Bonds; (ii) giving notices of redemption and other notices permitted to be given to bondholders with respect to such Bonds; (iii) registering transfers with respect to such Bonds; (iv) obtaining any consent or other action required or permitted to be taken of or by bondholders; (v) voting; and (vi) for all other purposes whatsoever. The Paying Agent shall pay all principal of and premium, if any, and interest on the Bonds only to or upon the order of the Depository Trust Company, and all such payments shall be valid and effective fully to satisfy and discharge the City's and the Paying Agent's obligations with respect to principal of and premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. Upon delivery by the Depository Trust Company to the City of written notice to the effect that the Depository Trust Company has determined to substitute a new nominee in place of CEDE & CO., and subject to the provisions herein with respect to consents, the words "CEDE & CO." in this ordinance shall refer to such new nominee of the Depository Trust Company. Notwithstanding any other provision hereof to the contrary, so long as any Bond is registered in the name of CEDE & CO., as nominee of the Depository Trust Company, all payments with respect to the principal of and premium, if any, and interest on such Bonds and all notices with respect to such Bonds shall be made and given, respectively, to the Depository Trust Company as provided in a representation letter from the City to the Depository Trust Company.

Upon receipt by the City of written notice from the Depository Trust Company to the effect that the Depository Trust Company is unable or unwilling to discharge its responsibilities and no substitute depository willing to undertake the functions of the Depository Trust Company

hereunder can be found which is willing and able to undertake such functions upon reasonable and customary terms, then the Bonds shall no longer be restricted to being registered in the register of the City kept by the Registrar in the name of CEDE & CO., as nominee of the Depository Trust Company, but may be registered in whatever name or names the bondholders transferring or exchanging the Bonds shall designate, in accordance with the provisions of this ordinance.

If the City determines that it is in the best interest of the bondholders that they be able to obtain certificates for the fully registered Bonds, the City may notify the Depository Trust Company and the Registrar, whereupon the Depository Trust Company will notify the Beneficial Owners of the availability through the Depository Trust Company of certificates for the Bonds. In such event, the Registrar shall prepare, authenticate, transfer and exchange certificates for the Bonds as requested by the Depository Trust Company and any Beneficial Owners in appropriate amounts, and whenever the Depository Trust Company requests the City and the Registrar to do so, the Registrar and the City will cooperate with the Depository Trust Company by taking appropriate action after reasonable notice (i) to make available one or more separate certificates evidencing the fully registered Bonds of any Beneficial Owner's Depository Trust Company account or (ii) to arrange for another securities depository to maintain custody of certificates for and evidencing the Bonds.

If the Bonds shall no longer be restricted to being registered in the name of the Depository Trust Company, the Registrar shall cause the Bonds to be printed in blank in such number as the Registrar shall determine to be necessary or customary; provided, however, that the Registrar shall not be required to have such Bonds printed until it shall have received from the City indemnification for all costs and expenses associated with such printing.

In connection with any notice or other communication to be provided to bondholders by the City or the Registrar with respect to any consent or other action to be taken by bondholders, the City or the Registrar, as the case may be, shall establish a record date for such consent or other action and give the Depository Trust Company notice of such record date not less than fifteen (15) calendar days in advance of such record date to the extent possible.

So long as the Bonds are registered in the name of the Depository Trust Company or CEDE & CO. or any substitute nominee, the City and the Registrar and Paying Agent shall be entitled to request and to rely upon a certificate or other written representation from the Beneficial Owners of the Bonds or from the Depository Trust Company on behalf of such Beneficial Owners stating the amount of their respective beneficial ownership interests in the Bonds and setting forth the consent, advice, direction, demand or vote of the Beneficial Owners as of a record date selected by the Registrar and the Depository Trust Company, to the same extent as if such consent, advice, direction, demand or vote were made by the bondholders for purposes of this ordinance and the City and the Registrar and Paying Agent shall for such purposes treat the Beneficial Owners as the bondholders. Along with any such certificate or representation, the Registrar may request the Depository Trust Company to deliver, or cause to be delivered, to the Registrar a list of all Beneficial Owners of the Bonds, together with the dollar amount of each Beneficial Owner's interest in the Bonds and the current addresses of such Beneficial Owners.

The BANs may be issued in book-entry form and in that case all of the provisions set forth in this Section 3 shall apply.

Section 4. Redemption of BANs and Bonds. (a) After 180 days, the BANs are prepayable by the City, in whole or in part, on any date, upon thirty (30) days' notice to the owner of the BANs, without premium.

(b) For any Bonds sold to the Authority as part of its IFA Program, such Bonds are redeemable at the option of the City, but no sooner than ten (10) years after their date of delivery, or any date thereafter, on sixty (60) days' notice, in whole or in part, in inverse order of maturity, and by lot within a maturity, at face value together with a premium no greater than 2%, plus accrued interest to the date fixed for redemption; provided, however, if the Bonds are sold to the IFA Program and registered in the name of the Authority, the Bonds shall not be redeemable at the option of the City unless and until consented to by the Authority. The exact redemption dates and premiums shall be established by the Clerk-Treasurer, with the advice of the City's municipal advisor, prior to the sale of the Bonds.

For any Bonds not sold to the Authority as part of its IFA Program, such Bonds are redeemable at the option of the City, but no later than ten (10) years after their date of delivery and on any date thereafter, in whole or in part, in the order of maturity as determined by the City, and by lot within a maturity, on thirty (30) days' notice, at face value together with a premium no greater than 2%, plus accrued interest to the date fixed for redemption. The exact redemption features shall be established by the Clerk-Treasurer, with the advice of the City's municipal advisor, prior to the sale of the Bonds.

(c) If any Bond is issued as a term bond, the Paying Agent shall credit against the mandatory sinking fund requirement for the Bonds maturing as term bonds, and corresponding mandatory redemption obligation, in the order determined by the City, any Bonds maturing as term bonds which have previously been redeemed (otherwise than as a result of a previous mandatory redemption requirement) or delivered to the Registrar for cancellation or purchased for cancellation by the Paying Agent and not theretofore applied as a credit against any redemption obligation. Each Bond maturing as a term bond so delivered or cancelled shall be credited by the

Paying Agent at 100% of the principal amount thereof against the mandatory sinking fund obligation on such mandatory sinking fund date, and any excess of such amount shall be credited on future redemption obligations, and the principal amount of the Bonds to be redeemed by operation of the mandatory sinking fund requirement shall be accordingly reduced; provided, however, the Paying Agent shall credit only such Bonds maturing as term bonds to the extent received on or before forty-five (45) days preceding the applicable mandatory redemption date.

Each authorized denomination shall be considered a separate bond for purposes of optional and mandatory redemption. If less than an entire maturity is called for redemption, the Bonds to be called shall be selected by lot by the Registrar. If some Bonds are to be redeemed by optional redemption and mandatory sinking fund redemption on the same date, the Registrar shall select by lot the Bonds for optional redemption before the Bonds by lot for the mandatory sinking fund redemption.

(d) Notice of redemption shall be given not less than sixty (60) days for Bonds sold to the Authority as part of its IFA Program and not less than thirty (30) days for Bonds sold to any other purchaser prior to the date fixed for redemption unless such redemption notice is waived by the owner of the Bond or Bonds redeemed. Such notice shall be mailed to the address of the registered owner as shown on the registration record of the City as of the date which is sixty-five (65) days for Bonds sold to the Authority as part of its IFA Program and forty-five (45) days for Bonds sold to any other purchaser prior to such redemption date. The notice shall specify the date and place of redemption and sufficient identification of the Bonds called for redemption. The place of redemption may be determined by the City. Interest on the Bonds so called for redemption shall cease on the redemption date fixed in such notice if sufficient funds are available at the place of redemption to pay the redemption price on the date so named.

Section 5. Execution of Bonds and BANs; Pledge of Net Revenues to Bonds. Each series of Bonds and BANs shall be executed in the name of the City by the manual, electronic or facsimile signature of the Mayor of the City ("Mayor"), attested by the manual, electronic or facsimile signature of its Clerk-Treasurer and the seal of the City shall be affixed, imprinted or impressed to or on each of the Bonds or BANs manually, by facsimile or any other means; and these officials, by the execution of a Signature and No Litigation Certificate, shall adopt as and for their own proper signatures the facsimile signatures appearing on the Bonds or BANs. In case any officer whose signature or electronic or facsimile signature appears on the Bonds or BANs shall cease to be such officer before the delivery of the Bonds or BANs, the signature of such officer shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery. The officers have full authority to execute any and all documents necessary to issue the Bonds or BANs and the use of electronic signatures by the officers is hereby authorized and affirmed with full valid legal effect and enforceability.

The Bonds and any Future Parity Bonds (as hereinafter defined), as to both principal and interest, shall be payable from and secured by an irrevocable pledge of and shall constitute a first charge upon the Net Revenues (including any System Development Charges) of the waterworks of the City, on a parity with the Outstanding Bonds. The City shall not be obligated to pay the Bonds or the interest thereon except from the Net Revenues of said works, and the Bonds shall not constitute an indebtedness of the City within the meaning of the provisions and limitations of the constitution of the State of Indiana.

The Bonds and BANs shall have all of the qualities and incidents of negotiable instruments under the laws of the State of Indiana, subject to the provisions for registration herein.

The Bonds shall also be authenticated by the manual signature of the Registrar and no Bond shall be valid or become obligatory for any purpose until the certificate of authentication thereon has been so executed.

Section 6. Form of Bonds. The form and tenor of the Bonds shall be substantially as follows, all blanks to be filled in properly prior to delivery:

[Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City of Goshen, Indiana, or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.]

NO. _____

UNITED STATES OF AMERICA

STATE OF INDIANA COUNTY OF ELKHART

CITY OF GOSHEN

[TAXABLE] WATERWORKS REVENUE BOND OF _____[, SERIES ____]

[INTEREST <u>RATE</u>]	[MATURITY <u>DATE</u>]	ORIGINAL <u>DATE</u>	AUTHENTICATION <u>DATE</u>	[CUSIP]
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REGISTERED OWNER:

PRINCIPAL SUM:

The City of Goshen, in Elkhart County, State of Indiana ("City"), for value received, hereby promises to pay to the Registered Owner named above or registered assigns, solely out of the special revenue fund hereinafter referred to, the Principal Sum set forth above, [or so much thereof as may be advanced from time to time and be outstanding as evidenced by the records of the registered owner making payment for this Bond, or its assigns,] on [the Maturity Date set forth above] **OR** [January 1 and July 1 on the dates and in the amounts as set forth on Exhibit A attached hereto] (unless this Bond be subject to and be called for redemption prior to maturity as hereinafter provided), and to pay interest hereon at the interest rate[s] per annum [stated above] **OR** [set forth on Exhibit A attached hereto] from [the dates of payment made on this Bond] **OR** [the interest payment date to which interest has been paid next preceding the Authentication Date of this Bond unless this bond is authenticated after the fifteenth day of the month preceding an interest payment

date and on or before such interest payment date in which case it shall bear interest from such interest payment date or unless this Bond is authenticated on or before _____ 15, 202____, in which case it shall bear interest from the Original Date, until the principal is paid,] which interest is payable semiannually on the first day of January and the first day of July in each year, beginning on _____ 1, 202____. Interest shall be calculated according to a 360-day calendar year containing twelve 30-day months.

[The principal of this Bond is payable at the [designated trust] office of _____ ("Registrar" or "Paying Agent"), in the _____ of _____, _____]. All payments of [principal of and] interest on this Bond shall be paid by [check mailed one business day prior to the interest payment date] **OR** [paid by wire transfer for deposit to a financial institution as directed by the Indiana Finance Authority ("Authority") on the due date or, if such due date is a day when financial institutions are not open for business, on the business day immediately after such due date] to the registered owner hereof as of the fifteenth day of the month preceding an interest payment date at the address as it appears on the registration books kept by [_____ ("Registrar" or "Paying Agent") in the _____ of _____, Indiana] **OR** [the Registrar] or at such other address as is provided to the Paying Agent in writing by the registered owner. [Notwithstanding anything to the contrary herein, this Bond shall not be required to be presented or surrendered to receive payment in connection with any mandatory sinking fund redemption until the final maturity date of this Bond or earlier payment in full of this Bond.] [If payment of principal or interest is made to a depository, payment shall be made by wire transfer on the payment date in same-day funds. If the payment date occurs on a date when financial institutions are not open for business, the wire transfer shall be made on the next succeeding business day. The Paying Agent shall wire transfer payments by 1:00 p.m. (New York City time) so such payments are received at the depository by 2:30 p.m. (New York City time).] All payments on this Bond shall be made in any coin or currency of the United States of America, which on the dates of such payment, shall be legal tender for the payment of public and private debts.

THE CITY SHALL NOT BE OBLIGATED TO PAY THIS BOND OR THE INTEREST HEREON EXCEPT FROM THE HEREINAFTER DESCRIBED SPECIAL FUND, AND NEITHER THIS BOND NOR THE ISSUE OF WHICH IT IS A PART SHALL IN ANY RESPECT CONSTITUTE A CORPORATE INDEBTEDNESS OF THE CITY WITHIN THE PROVISIONS AND LIMITATIONS OF THE CONSTITUTION OF THE STATE OF INDIANA.

This Bond is [the only] one of an authorized issue of bonds of the City[[to be] [issued in series]], of like date, tenor and effect, except as to numbering, interest rate[, series designation,] and date of maturity]; in the amount of _____ Dollars (\$_____) ("Bonds"); numbered consecutively from 1 up; issued for the purpose of providing funds to be applied on the cost of additions and improvements to the City's waterworks[, to refund interim notes issued in anticipation of the Bonds] and to pay issuance expenses[, including premiums for municipal bond insurance and/or a debt service reserve surety], as authorized by an ordinance adopted by the Common Council of the City on the _____ day of _____, 2024, entitled "An ordinance of the City of Goshen authorizing the issuance of waterworks revenue bonds for the purpose of providing funds to pay the cost of certain additions, extensions and improvements to the municipal waterworks of said City, the issuance of revenue bonds to provide for the cost

thereof, the collection, segregation and distribution of the revenues of said works, providing for the safeguarding of the interests of the owners of said bonds, other matters connected therewith, including the issuance of notes in anticipation of bonds, and repealing ordinances inconsistent herewith" ("Ordinance"), and in accordance with the provisions of Indiana Code 8-1.5, as in effect on the date of delivery of the Bonds ("Act"), the proceeds of which Bonds are to be applied solely to the costs of the Project[, the payment of notes issued in anticipation of the Bonds] and incidental expenses incurred in connection therewith[, including premiums for municipal bond insurance and/or a debt service reserve surety].

[Reference is hereby made to the Financial Assistance Agreement ("Financial Assistance Agreement") between the City and the Authority concerning certain terms and covenants pertaining to the waterworks project and the purchase of this bond as part of the drinking water loan program established and existing pursuant to IC 5-1.2-1 through IC 5-1.2-4 and IC 5-1.2-10.]

Pursuant to the provisions of the Act and the Ordinance, the principal of and interest on this Bond and all other bonds of said issue, [including the Waterworks Revenue Bonds of _____, Series ____ ("Series ____ Bonds"),] the Outstanding Bonds (as defined in the Ordinance) and any bonds hereafter issued on a parity therewith are payable solely from the Waterworks Sinking Fund continued by the Ordinance ("Sinking Fund") to be provided from the Net Revenues (defined as the gross revenues, inclusive of System Development Charges (as defined in the Ordinance), after deduction only for the payment of reasonable expenses of operation, repair and maintenance, excluding transfers for payment in lieu of property taxes) of the waterworks of the City. This Bond and the issue of which it is a part ranks on a parity with the Outstanding Bonds (as defined in the Ordinance) [and the Series ____ Bonds], in accordance with the terms thereof.

The City reserves the right to issue additional bonds on a parity with this Bond and the issue of which it is part, as provided in the Ordinance. The City irrevocably pledges the entire Net Revenues of the waterworks to the prompt payment of the principal of and interest on the Bonds authorized by the Ordinance, of which this is one, and any bonds ranking on a parity therewith, including the Outstanding Bonds [and the Series ____ Bonds], to the extent necessary for that purpose, and covenants that it will cause to be fixed, maintained and collected such rates and charges for services rendered by the waterworks as are sufficient in each year for the payment of the proper and reasonable expenses of [operation, repair and maintenance] **OR** [Operation and Maintenance (as defined in the Financial Assistance Agreement)] of the waterworks and for the payment of the sums required to be paid into the Sinking Fund under the provisions of the Act and the Ordinance. If the City or the proper officers thereof shall fail or refuse to so fix, maintain and collect such rates or charges, or if there be a default in the payment of the interest on or principal of this Bond, the owner of this Bond shall have all of the rights and remedies set forth under Indiana law.

[The Bonds shall be initially issued in a Book Entry System (as defined in the Ordinance). The provisions of this Bond and of the Ordinance are subject in all respects to the provisions of the Letter of Representations between the City and DTC, or any substitute agreement, effecting such Book Entry System.]

The City further covenants that it will set aside and pay into its Sinking Fund monthly, as available, or more often if necessary, a sufficient amount of the Net Revenues of the waterworks

for payment of: (a) the interest on all bonds which by their terms are payable from the revenues of the waterworks, as such interest shall fall due; (b) the necessary fiscal agency charges for paying bonds and interest; (c) the principal of all bonds which by their terms are payable from the revenues of the waterworks, as such principal shall fall due; and (d) an additional amount as a margin of safety to [create and] maintain the debt service reserve required by the Ordinance. Such required payments shall constitute a first charge upon all the Net Revenues of the waterworks, on a parity with the Outstanding Bonds [and the Series ___ Bonds].

The Bonds of this issue maturing on _____ 1, 20__, and thereafter, are redeemable at the option of the City on _____ 1, 20__, or any date thereafter, on [sixty (60)] **OR** [thirty (30)] days' notice, in whole or in part, in [inverse] [the] order of maturity [as determined by the City] and by lot within a maturity, at face value together with [no premium] [the following premiums:

___% if redeemed on _____ 1, 20__ or thereafter
on or before _____ 30, 20__;
___% if redeemed on _____ 1, 20__ or thereafter
on or before _____ 30, 20__;
0% if redeemed on _____ 1, 20__ or thereafter
prior to maturity;]

plus in each case accrued interest to the date fixed for redemption]; provided, however, if the Bonds are sold to the IFA Program and registered in the name of the Authority, the Bond shall not be redeemable at the option of the City unless and until consented to by the Authority].

[The Bonds maturing on _____ 1, 20__ are subject to mandatory sinking fund redemption prior to maturity, at a redemption price equal to the principal amount thereof plus accrued interest, on January 1 and July 1 on the dates and in the amounts set forth below:

<u>20__ Term Bond</u>	
<u>Date</u>	<u>Amount</u>
*	

*Final Maturity]

Each [One Dollar (\$1)] **OR** [Five Thousand Dollar (\$5,000)] principal amount shall be considered a separate bond for purposes of optional [and mandatory] redemption. If less than an entire maturity is called for redemption, the Bonds to be redeemed shall be selected by lot by the Registrar. [If some Bonds are to be redeemed by optional redemption and mandatory sinking fund redemption on the same date, the Registrar shall select by lot the Bonds for optional redemption before selecting the Bonds by lot for the mandatory sinking fund redemption.]

Notice of redemption shall be mailed to the address of the registered owner as shown on the registration record of the City, as of the date which is [sixty-five (65)] **OR** [forty-five (45)] days prior to such redemption date, not less than [sixty (60)] **OR** [thirty (30)] days prior to the date fixed for redemption. The notice shall specify the date and place of redemption and sufficient

identification of the Bonds called for redemption. The place of redemption may be determined by the City. Interest on the Bonds so called for redemption shall cease on the redemption date fixed in such notice, if sufficient funds are available at the place of redemption to pay the redemption price on the date so named.

If this Bond shall not be presented for payment or redemption on the date fixed therefor, the City may deposit in trust with its depository bank, an amount sufficient to pay such Bond or the redemption price, as the case may be, and thereafter the registered owner shall look only to the funds so deposited in trust with said bank for payment and the City shall have no further obligation or liability in respect thereto.

This Bond is transferable or exchangeable only upon the books of the City kept for that purpose at the [designated trust] office of the Registrar by the registered owner hereof in person, or by his attorney duly authorized in writing, upon surrender of this Bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the registered owner, or his attorney duly authorized in writing, and thereupon a new fully registered Bond or bonds in an authorized aggregate principal amount and of the same maturity, shall be executed and delivered in the name of the transferee or transferees or to the registered owner, as the case may be, in exchange therefor. The City, the Registrar, the Paying Agent and any other registrar or paying agent for this Bond may treat and consider the person in whose name this Bond is registered as the absolute owner hereof for all purposes including for the purpose of receiving payment of, or on account of, the principal hereof and interest due hereon.

This Bond is subject to defeasance prior to redemption or payment as provided in the Ordinance referred to herein. THE OWNER OF THIS BOND, BY THE ACCEPTANCE HEREOF, HEREBY AGREES TO ALL THE TERMS AND PROVISIONS CONTAINED IN THE ORDINANCE. The Ordinance may be amended without the consent of the owners of the bonds as provided in the Ordinance if the Common Council determines, in its sole discretion, that the amendment shall not adversely affect the rights of any of the owners of the Bonds.

The Bonds maturing in any one year are issuable only in fully registered form in the denomination of [\$1] **OR** [\$5,000] or any integral multiple thereof.

It is hereby certified and recited that all acts, conditions and things required to be done precedent to and in the execution, issuance and delivery of this Bond have been done and performed in regular and due form as provided by law. This Bond shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been executed by an authorized representative of the Registrar.

IN WITNESS WHEREOF, the City of Goshen, in Elkhart County, Indiana, has caused this Bond to be executed in its corporate name by the manual, electronic or facsimile signature of its Mayor, its corporate seal to be hereunto affixed, imprinted or impressed by any means and attested manually, electronically or by facsimile by its Clerk-Treasurer.

CITY OF GOSHEN, INDIANA

By: _____
Mayor

[SEAL]

Attest:

Clerk-Treasurer

REGISTRAR'S CERTIFICATE OF AUTHENTICATION

This bond is one of the bonds described in the within-mentioned Ordinance.

_____,
as Registrar

By: _____
Authorized Representative

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____ this bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____, attorney, to transfer the within bond in the books kept for the registration thereof with full power of substitution in the premises.

Dated: _____

NOTICE: Signature(s) must be guaranteed by an eligible guarantor institution participating in a Securities Transfer Association recognized signature guarantee program.

NOTICE: The signature to this assignment must correspond with the name as it appears on the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

[EXHIBIT A]

[End of bond form]

Section 7. Authorization for Preparation and Sale of the BANs and the Bonds. The Clerk-Treasurer is hereby authorized and directed to have the BANs and Bonds prepared, and the Mayor and Clerk-Treasurer are hereby authorized and directed to execute the BANs and Bonds in the form and manner herein provided. The Clerk-Treasurer is hereby authorized and directed to deliver the BANs and Bonds to the respective purchasers thereof after sale made in accordance with the provisions of this ordinance, provided that at the time of the delivery the Clerk-Treasurer shall collect the full amount which the respective purchasers have agreed to pay therefor, which amount shall not be less than 100% of the par value of the BANs, not less than the par value of the Bonds if sold to the Authority as part of its IFA Program and not less than 98% of the par value of the Bonds if sold to any other purchaser. The City may receive payment for the Bonds and the BANs in installments. The Bonds, as and to the extent paid for and delivered to the purchaser, shall be the binding special revenue obligations of the City, payable out of the Net Revenues of the City's waterworks to be set aside into the Sinking Fund as herein provided, on a parity with the Outstanding Bonds. The proceeds derived from the sale of the Bonds and BANs shall be and are hereby set aside for application on the cost of the Project hereinbefore referred to, the refunding of the BANs, if issued, and the expenses necessarily incurred in connection with the BANs and Bonds. The proper officers of the City are hereby directed to draw all proper and necessary warrants, and to do whatever acts and things which may be necessary to carry out the provisions of this ordinance.

Section 8. Sale of the Bonds, Award of Bonds, Official Statement, Continuing Disclosure and Bond Insurance. If any series of Bonds will be sold at a competitive sale, the Clerk-Treasurer may cause to be published: (i) a notice of such sale two (2) times at least one (1) week apart in the newspaper or newspapers in accordance with IC 5-1-11-2(a) and IC 5 1-11-1(a)(1)

which meets the requirements of IC 5-3-1, with the first publication occurring at least fifteen (15) days prior to the sale date and the second publication occurring at least three (3) days prior to the sale date; (ii) a notice of intent to sell bonds in the *Indianapolis Business Journal* and the newspaper or newspapers which meet the requirements of IC 5-3-1, as described in (i) above, all in accordance with IC 5-1-11-2(b) and IC 5 1-11-1(a)(1) and IC 5-3-1; (iii) a notice or notices as determined by the Clerk-Treasurer, upon the advice of the City's municipal advisor, to assist the City with the sale of the Bonds pursuant to IC 5-1-11-1(a)(2); or (iv) the City may negotiate a sale with a potential bidder, upon the advice of the City's municipal advisor. A notice or summary notice of sale may also be published one time in the *Indianapolis Business Journal*, and a notice or summary notice may also be published in *The Bond Buyer* in New York, New York. The notice shall state the character and amount of the Bonds, the maximum rate of interest thereon, the terms and conditions upon which bids will be received and the sale made, and such other information as the Clerk-Treasurer and the attorneys employed by the City shall deem advisable and any summary notice may contain any information deemed so advisable. The notice will also state that the winning bidder will agree to assist the City in establishing the issue price of the Bonds under Treas. Reg. Section 1.148-1(f) ("Issue Price Regulation"). The criteria for establishing the issue price under the Issue Price Regulation shall be set forth in the preliminary official statement and/or the bid form. The notice may provide, among other things, that electronic bidding will be permitted and that the successful bidder shall be required to submit a certified or cashier's check or wire transfer in an amount equal to 1% of the principal amount of the Bonds described in the notice within twenty-four hours of the sale and that in the event the successful bidder shall fail or refuse to accept delivery of the Bonds and pay for the same as soon as the Bonds are ready for delivery, or at the time fixed in the notice of sale, then said check and the proceeds thereof shall be the

property of the City and shall be considered as its liquidated damages on account of such default; that bidders for the Bonds will be required to name the rate or rates of interest which the Bonds are to bear, not exceeding the maximum rate hereinbefore fixed, and that such interest rate or rates shall be in multiples of one-eighth (1/8) or one-hundredth (1/100) of one percent (1%). No conditional bid or bid for less than 98% of the face amount of the Bonds will be considered. The opinion of Ice Miller LLP, bond counsel of Indianapolis, Indiana, approving the legality of the Bonds, will be furnished to the purchaser at the expense of the City.

The Bonds shall be awarded by the Clerk-Treasurer to the best bidder who has submitted his bid in accordance with the terms of this ordinance, IC 5-1-11 and the notice. The best bidder will be the one who offers the lowest net interest cost to the City, to be determined by computing the total interest on all of the Bonds to their maturities, adding thereto the discount bid, if any, and deducting the premium bid, if any. The right to reject any and all bids shall be reserved. If an acceptable bid is not received on the date of sale, the sale may be continued from day to day thereafter without further advertisement for a period of thirty (30) days, during which time no bid which provides a higher net interest cost to the City than the best bid received at the time of the advertised sale will be considered.

As an alternative to public sale, the Clerk-Treasurer may negotiate the sale of the Bonds to the Authority as part of its IFA Program. The Mayor and the Clerk-Treasurer are hereby authorized to (i) submit an application to the Authority as part of its IFA Program, (ii) execute a Financial Assistance Agreement (including any amendment thereof) with the Authority with terms conforming to this ordinance and (iii) sell such Bonds upon such terms as are acceptable to the Mayor and the Clerk-Treasurer consistent with the terms of this ordinance. In the event the Bonds are sold to the Authority through the IFA Program, the Financial Assistance Agreement for the

Bonds and the Project shall be executed by the City. The substantially final form of Financial Assistance Agreement attached hereto as Exhibit B and incorporated herein by reference is hereby approved by the Common Council, and the Mayor and the Clerk-Treasurer are hereby authorized to execute and deliver the same, and to approve any changes in form or substance to the Financial Assistance Agreement, such approval to be conclusively evidenced by its execution.

Distribution of an Official Statement (preliminary and final) for the Bonds prepared by the City's municipal advisor, on behalf of the City, is hereby authorized and approved and the Mayor and the Clerk-Treasurer are hereby authorized and directed to execute the Official Statement on behalf of the City in a form consistent with this ordinance. The Mayor and the Clerk-Treasurer are hereby authorized to designate the Official Statement as nearly final for purposes of Rule 15c2-12 promulgated by the Securities and Exchange Commission.

If necessary to sell the Bonds, the Clerk-Treasurer is hereby authorized and directed to complete, execute and attest on behalf of the City a Continuing Disclosure Undertaking ("Disclosure Undertaking") that complies with the requirements of SEC Rule 15c2 12. Notwithstanding any other provisions of this ordinance, failure of the City to comply with the Disclosure Undertaking shall not be considered an event of default under the Bonds or this ordinance.

In the event the municipal advisor to the City certifies to the City that it would be economically advantageous for the City to obtain a municipal bond insurance policy the City hereby authorizes the purchase of such an insurance policy. The acquisition of a municipal bond insurance policy is hereby deemed economically advantageous in the event the difference between the present value cost of (a) the total debt service on the Bonds if issued without municipal bond insurance and (b) the total debt service on the Bonds if issued with municipal bond insurance, is

greater than the cost of the premium on the municipal bond insurance policy. If such an insurance policy is purchased, the Mayor and the Clerk-Treasurer are hereby authorized to execute and deliver all agreements with the provider of the policy to the extent necessary to comply with the terms of such insurance policy and the commitment to issue such policy. Such agreement shall be deemed a part of this ordinance for all purposes and is hereby incorporated herein by reference.

Prior to the delivery of the Bonds, the Clerk-Treasurer shall obtain a legal opinion as to the validity of the Bonds from Ice Miller LLP, bond counsel, of Indianapolis, Indiana, and shall furnish this opinion to the purchaser of the Bonds. The cost of this opinion shall be considered as part of the costs incidental to these proceedings and may be paid out of proceeds of the Bonds.

Section 9. Use of Proceeds; Costs of Issuance. The proceeds of the Bonds, to the extent not used to refund BANs, and BAN proceeds shall be deposited in a bank or banks which are legally designated depositories for the funds of the City, in a special account or accounts to be designated as "City of Goshen, Waterworks Construction Account" ("Construction Account"). All funds deposited to the credit of the Sinking Fund or Construction Account for the Bonds shall be deposited, held, secured or invested in accordance with the laws of the State of Indiana relating to the depositing, holding, securing or investing of public funds, including particularly IC 5-13, as amended and supplemented, and as applicable, pursuant to IC 5-1.2-1 through IC 5-1.2-4, IC 5-1.2-10, IC 5-1.2-11, IC 5-1.2-14 and/or IC 5-1.2-14.5. The funds in the Construction Account shall be expended only for the purpose of paying the cost of the Project, refunding the BANs, if issued, or as otherwise required by the Act or for the remaining expenses of issuance of the Bonds and BANs. The cost of obtaining the services of Ice Miller LLP, Bodie Stegelmann, City Attorney, and Baker Tilly Municipal Advisors, LLC shall be considered as a part of the cost of the Project on account of which the Bonds and BANs are issued.

Any balance or balances remaining unexpended in such special account or accounts after completion of the Project, which are not required to meet unpaid obligations incurred in connection with such Project, shall either (1) be paid into the Sinking Fund (as hereinafter defined) and used solely for the purposes of the Sinking Fund or (2) be used for the same purpose or type of project for which the Bonds were originally issued, all in accordance with IC 5-1-13, as amended and supplemented.

If the Bonds are sold to the Authority as part of its IFA Program, to the extent (a) that the total principal amount of the Bonds is not paid by the purchaser or drawn down by the City or (b) proceeds remain in the Construction Account and are not applied to the Project (or any modifications or additions thereto approved by the Department and the Authority), the City shall reduce the principal amount of the Bond maturities to effect such reduction in a manner that will still achieve the annual debt service as described in Section 2 subject to and upon the terms forth in the Financial Assistance Agreement.

Section 10. Financial Records and Accounts. (a) The City shall keep proper records and books of account, separate from all of its other records and accounts, in which complete and correct entries shall be made showing all revenues received on account of the operation of the waterworks and all disbursements made therefrom and all transactions relating to said waterworks. There shall also be furnished, upon request, to the purchaser and to any owner of the Bonds, within thirty (30) days of their receipt by the City, the most recent audited financial statements of the waterworks prepared by the State Board of Accounts. Copies of all such statements and reports, including audits prepared by the State Board of Accounts, shall be kept on file in the office of the Clerk-Treasurer. Any owner of the Bonds shall have the right at all reasonable times to inspect the waterworks and the records, accounts and data of the City.

(b) If the BANs or Bonds are sold to the Authority as part of its IFA Program, the City shall establish and maintain the books and other financial records of the Project (including the establishment of a separate account or subaccount for the Project) and the waterworks in accordance with (i) generally accepted governmental accounting standards for utilities, on an accrual basis, as promulgated by the Government Accounting Standards Board and (ii) the rules, regulations and guidance of the State Board of Accounts; provided, however, to the extent the City does not maintain separate accounts or subaccounts for the revenues and expenses of the waterworks, it covenants and agrees that it has adopted sufficient accounting and/or bookkeeping practices to accurately track all revenues and expenses of the waterworks.

Section 11. Pledge of Net Revenues. The interest on and the principal of the Bonds issued pursuant to the provisions of this ordinance, and any Future Parity Bonds, shall constitute a first charge on all the Net Revenues, on a parity with the Outstanding Bonds, and such Net Revenues are hereby irrevocably pledged to the payment of the interest on and principal of such Bonds, to the extent necessary for that purpose. The City agrees to take such action as is necessary from time to time to perfect or to otherwise preserve the priority of the pledge of the Net Revenues under applicable law.

Section 12. Revenue Fund. All revenues derived from the operation of the waterworks and from the collection of water rates and charges (including any System Development Charges) shall be deposited upon receipt in the Revenue Fund ("Revenue Fund"), hereby continued, shall be segregated and deposited as set forth in this ordinance. Out of the Revenue Fund the proper and reasonable expenses of operation, repair and maintenance of the works shall be paid, the principal and interest of all bonds and fiscal agency charges of registrars or paying agents shall be paid, the reserve shall be funded, and the costs of replacements, extensions, additions and

improvements to the works shall be paid and any PILOTs shall be paid. Except as permitted hereunder, no moneys derived from the revenues of the system shall be transferred to the General Fund of the City or be used for any purpose not connected with the system so long as any obligations payable from the Net Revenues of the system are outstanding.

Section 13. Operation and Maintenance Fund. The Operation and Maintenance Fund ("O&M Fund") is hereby continued. On or before the last day of each calendar month, a sufficient amount of the revenues of the waterworks shall thereafter be transferred from the Revenue Fund to the O&M Fund so that the balance maintained in the O&M Fund shall be sufficient to pay the reasonable expenses of operation, repair and maintenance of the works for the next succeeding two (2) calendar months. The moneys credited to the O&M Fund shall be used for the payment of the reasonable and proper operation, repair and maintenance expenses of the waterworks on a day-to-day basis, but none of the moneys in the O&M Fund shall be used for PILOTs, depreciation, replacements, improvements, extensions or additions. Any balance in said Fund in excess of the expected expenses of operation, repair and maintenance for the next succeeding month may be transferred to the Sinking Fund if necessary to prevent a default in the payment of principal of or interest on the outstanding bonds of the waterworks.

Section 14. Waterworks Sinking Fund. (a) There is hereby continued a sinking fund for the payment of the principal of and interest on revenue bonds which by their terms are payable from the Net Revenues (including any System Development Charges) of the waterworks and the payment of any fiscal agency charges in connection with the payment of bonds, which fund shall be designated the "Waterworks Sinking Fund" ("Sinking Fund"). There shall be set aside and deposited in the Sinking Fund, as available, and as hereinafter provided, a sufficient amount of the Net Revenues (including any System Development Charges) of the waterworks to meet the

requirements of the Bond and Interest Account and the Reserve Account hereby continued in the Sinking Fund. Such payments shall continue until the balances in the Bond and Interest Account and the Reserve Account hereinafter described, equal the principal of and interest on all of the then outstanding bonds of the waterworks to the final maturity and provide for payment of all fiscal agency charges.

(b) Bond and Interest Account. There is hereby continued, within the Sinking Fund, the Bond and Interest Account ("Bond and Interest Account"). After making the credit to the O&M Fund, there shall be credited on or before the last day of each calendar month from the Revenue Fund to the Bond and Interest Account, an amount of the Net Revenues equal to (i) at least one-sixth (1/6) of the interest on all then outstanding bonds payable on the then next succeeding interest payment date, and (ii) at least one-sixth (1/6) of the principal payable on all then outstanding bonds payable on the then next succeeding principal payment date, until the amount of interest and principal payable on the then next succeeding interest and principal payment date shall have been so credited. There shall similarly be credited to the account any amount necessary to pay the bank fiscal agency charges for paying principal and interest on outstanding bonds as the same become payable. The City shall, from the sums deposited in the Sinking Fund and credited to the Bond and Interest Account, remit promptly to the registered owner or to the bank fiscal agency sufficient moneys to pay the interest and principal on the due dates thereof together with the amount of bank fiscal agency charges.

(c) Reserve Account. There is hereby continued, within the Sinking Fund, the Reserve Account ("Reserve Account") to serve as a reserve for the Bonds, the Outstanding Bonds and any hereinafter defined Future Parity Bonds. On the date of delivery of the Bonds, funds on hand of the waterworks, Bond proceeds or a combination thereof may be deposited into the Reserve

Account. The initial deposit or the balance maintained in the Reserve Account shall equal but not exceed the least of: (i) maximum annual debt service on the Bonds, the Outstanding Bonds and any bonds issued in the future by the City which are payable from Net Revenues of the waterworks and which rank on a parity with the Bonds ("Future Parity Bonds"); (ii) 125% of average annual debt service on the Bonds, the Outstanding Bonds and any Future Parity Bonds; or (iii) 10% of the stated principal amount or issue price, as applicable, of the Bonds, the Outstanding Bonds and any Future Parity Bonds ("Reserve Requirement"); provided, however, that if the Authority purchases any of the Bonds as part of its IFA Program, so long as the Bonds are outstanding and owned by the Authority, the Reserve Requirement shall not be less than the maximum annual debt service on the Bonds, the Outstanding Bonds and any Future Parity Bonds. If the initial deposit into the Reserve Account does not equal the Reserve Requirement or if no deposit is made, an amount of Net Revenues shall be deposited to the Reserve Account on the last day of each calendar month until the balance therein equals the Reserve Requirement. The monthly deposits shall be equal in amount and sufficient to accumulate the Reserve Requirement within five years of the date of delivery of the Bonds.

The Reserve Account may be satisfied with cash, a debt service reserve surety bond or a combination thereof. The surety bond must be issued by an insurance company rated in the highest rating category by Standard & Poor's Corporation and Moody's Investors Service and must be approved by the Authority. If such surety bond is purchased, the Mayor and the Clerk-Treasurer are hereby authorized to execute and deliver all agreements with the provider of the surety bond to the extent necessary to comply with the terms of such surety bond and the commitment to issue such surety. Such agreement shall be deemed a part of this ordinance for all purposes and is hereby incorporated herein by reference.

The Reserve Account shall constitute the margin for safety and protection against default in the payment of principal of and interest on the Bonds, the Outstanding Bonds and any Future Parity Bonds, and the moneys in the Reserve Account shall be used to pay current principal and interest on the Bonds, the Outstanding Bonds and any Future Parity Bonds to the extent that moneys in the Bond and Interest Account are insufficient for that purpose. Any deficiency in the balance maintained in the Reserve Account shall be made up from the next available Net Revenues remaining after credits into the Bond and Interest Account. In the event moneys in the Reserve Account are transferred to the Bond and Interest Account to pay principal or interest on the Bonds, the Outstanding Bonds or any Future Parity Bonds, then such depletion shall be made up from the next available Net Revenues remaining after credits into the Bond and Interest Account. No moneys shall be held in the Reserve Account in excess of the Reserve Requirement. Any interest earnings that accumulate in excess of the Reserve Requirement shall be considered as revenues of the waterworks. The Common Council has determined, based upon the advice of its municipal advisor, that the Reserve Account is reasonably required and that the Reserve Requirement is no larger than necessary to market the Bonds. The Common Council further finds that the Reserve Account is directly related to the Project since the Bonds could not be issued to fund the Project without the Reserve Account.

(d) Accounts to be held in Trust. The Sinking Fund, containing the Bond and Interest Account and the Reserve Account, or any portion thereof, and the Construction Account, may be held by one or more financial institutions acceptable to the Authority as part of its IFA Program, pursuant to terms acceptable to the Authority. If the Sinking Fund and the accounts therein are held in trust, the City shall transfer the monthly required amounts of Net Revenues to the Bond and Interest Account and the Reserve Account in accordance with this Section 14, and the financial

institution holding such funds in trust shall be instructed to pay the required payments in accordance with the payment schedules for the City's outstanding bonds. The financial institution selected to serve in this role may also serve as the Registrar and the Paying Agent for any series of the Bonds and for all or any of the Outstanding Bonds. If the Construction Account is so held in trust, the City shall deposit the proceeds of the Bonds therein until such proceeds are applied consistent with this ordinance and the Financial Assistance Agreement. The Mayor and the Clerk-Treasurer are hereby authorized to execute and deliver an agreement with a financial institution to reflect this trust arrangement for all or a part of the Sinking Fund and the Construction Account in the form of trust agreement as approved by the Mayor and the Clerk-Treasurer, consistent with the terms and provisions of this ordinance.

Section 15. Waterworks Improvement Fund. After meeting the requirements of the O&M Fund and the Sinking Fund, any excess revenues may be transferred from the Revenue Fund or credited to a fund designated the Waterworks Improvement Fund ("Waterworks Improvement Fund" or "Improvement Fund"), hereby continued, and said Fund shall be used for improvements, replacements, additions and extensions of the waterworks or any other lawful purpose and to make payments representing PILOTs. The City reserves the right to transfer PILOTs from the Improvement Fund, no more frequently than semiannually, in accordance with the Act, and only if all required transfers have been made to the O&M Fund and the Sinking Fund and the Accounts of the Sinking Fund contain the required balances as of the date the PILOTs are paid. Moneys in the Improvement Fund shall be transferred to the Sinking Fund if necessary to prevent a default in the payment of principal of or interest on the bonds payable from the Sinking Fund or to eliminate any deficiencies in credits to or minimum balance in the Reserve Account. Moneys in the Improvement Fund also may be transferred to the O&M Fund to meet unforeseen contingencies

in the operation, repair and maintenance of the waterworks. If any BANs or Bonds are sold to the Authority as part of its IFA Program, so long as any of the BANs or Bonds are outstanding, no moneys derived from the revenues of the waterworks shall be transferred to the General Fund of the City or be used for any purpose not connected with the waterworks; provided, however, the City reserves the right to transfer PILOTs from the Improvement Fund, no more frequently than semiannually, in accordance with the Act, and only if all required transfers have been made to the Sinking Fund and the Accounts of the Sinking Fund contain the required balances as of the date the PILOTs are paid.

Section 16. Maintenance of Accounts; Investments. The Sinking Fund shall be deposited in and maintained as a separate banking account or accounts from all other accounts of the City including, without limitation, any funds or accounts relative to any other utility of the City beyond the waterworks. The O&M Fund and the Improvement Fund may be maintained in a single banking account, or accounts, but such account, or accounts, shall likewise be maintained separate and apart from all other banking accounts of the City (including, without limitation, any funds or accounts relative to any other utility of the City beyond the waterworks) and apart from the Sinking Fund account or accounts. All moneys deposited in the accounts shall be deposited, held and secured as public funds in accordance with the public depository laws of the State of Indiana; provided that moneys therein may be invested in obligations in accordance with the applicable laws, including particularly IC 5-13, as amended or supplemented and as applicable, pursuant to IC 5-1.2-1 through IC 5-1.2-4, IC 5-1.2-10, IC 5-1.2-11, IC 5-1.2-14 and/or IC 5-1.2-14.5, and in the event of such investment the income therefrom shall become a part of the funds invested and shall be used only as provided in this ordinance. Nothing in this section or elsewhere in this ordinance shall be construed to require that separate bank accounts be established and maintained

for the Funds and Accounts continued by this ordinance except that (a) the Sinking Fund and the Construction Account shall be maintained as a separate bank account from the other Funds and Accounts of the waterworks, and (b) the other Funds and Accounts of the waterworks shall be maintained as a separate bank account from the other funds and accounts of the City, including, without limitation, any other funds and accounts for any other utility of the City beyond the waterworks; provided, however, to the extent the City does not maintain separate accounts or subaccounts for the other funds and accounts of the waterworks, it covenants and agrees that it has adopted sufficient accounting and/or bookkeeping practices to accurately track all revenues and expenses of the waterworks.

Section 17. Defeasance of the Bonds. If, when the Bonds or a portion thereof shall have become due and payable in accordance with their terms or shall have been duly called for redemption or irrevocable instructions to call the Bonds or a portion thereof for redemption shall have been given, and the whole amount of the principal and the interest and the premium, if any, so due and payable upon all of the Bonds or a portion thereof then outstanding shall be paid; or (i) sufficient moneys or (ii) direct obligations of (including obligations issued or held in book entry form on the books of) the Department of the Treasury, the principal of and the interest on which when due will provide sufficient moneys for such purpose, shall be held in trust for such purpose, and provision shall also be made for paying all fees and expenses for the redemption, then and in that case the Bonds or any designated portion thereof issued hereunder shall no longer be deemed outstanding or entitled to the pledge of the Net Revenues of the City's waterworks.

Section 18. Rate Covenant. The City shall establish, maintain and collect reasonable and just rates and charges for facilities and services afforded and rendered by said waterworks, which shall to the extent permitted by law produce sufficient revenues at all times, provided that

System Development Charges shall be excluded, to the extent permitted by law, when determining if such rates and charges are sufficient so long as the Bonds are outstanding and owned by the Authority as part of its IFA Program, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses the system, or that in any way uses or is served by the system, at a level adequate to produce and maintain sufficient revenue (including user and other charge, fees, income or revenues available to the City) to provide for the proper operation, repair and maintenance or Operation and Maintenance (as defined in the Financial Assistance Agreement) if the Bonds are sold to the Authority through its IFA Program, to comply with and satisfy all covenants contained in this ordinance and the Financial Assistance Agreement, to pay all the legal and other necessary expense incident to the operation of such waterworks, to include maintenance costs, operating charges, upkeep, repairs, interest charges on bonds or other obligations, to provide for the proper Operation and Maintenance (as defined in the Financial Assistance Agreement) of the waterworks, to comply with and satisfy all covenants contained in this ordinance and the Financial Assistance Agreement and to provide the sinking fund and debt service reserve for the liquidation of bonds or other evidences of indebtedness, to provide adequate funds to be used as working capital, as well as funds for making extensions, additions, and replacements, and also, for the payment of any taxes that may be assessed against such utility, it being the intent and purpose hereof that such charges shall produce an income sufficient to maintain such utility property in a sound physical and financial condition to render adequate and efficient service. So long as any of the Bonds herein authorized are outstanding, none of the facilities or services afforded or rendered by said system shall be furnished without a reasonable and just charge being made therefor. The City shall pay like charges for any and all services rendered by said utility to the City, and all such payments shall be deemed to be revenues of the

utility. Such rates or charges shall, if necessary, be changed and readjusted from time to time so that the revenues therefrom shall always be sufficient to meet the expenses of operation, repair and maintenance and the requirements of the Sinking Fund. The rates and charges so established shall apply to any and all use of such waterworks by and service rendered to the City and all departments thereof and shall be paid by the City or the various departments thereof as the charges accrue.

Section 19. Additional Bond Provisions. The City reserves the right to authorize and issue additional BANs at any time ranking on a parity with the BANs. The City reserves the right to authorize and issue Future Parity Bonds payable out of the Net Revenues of its waterworks ranking on a parity with the Bonds for the purpose of financing the cost of future additions, extensions and improvements to its waterworks, or to refund obligations, subject to the following conditions:

(a) All required payments into the Sinking Fund shall have been made in accordance with the provisions of this ordinance, and the interest on and principal of all bonds payable from the Net Revenues of the waterworks shall have been paid in accordance with their terms. The Reserve Requirement shall be satisfied for the Future Parity Bonds either at the time of delivery of the Future Parity Bonds or over a five-year or shorter period, in a manner which is commensurate with the requirements established in Section 14(c) hereof.

(b) The Net Revenues of the waterworks in the fiscal year immediately preceding the issuance of any such Future Parity Bonds shall be not less than one hundred twenty-five percent (125%) of the maximum annual interest and principal requirements of all outstanding bonds payable from Net Revenues and the Future Parity Bonds proposed to be issued; or, prior to the issuance of such Future Parity Bonds, the water rates and charges shall be increased sufficiently so that said increased rates and charges applied to the previous fiscal year's operations would have

produced Net Revenues for said period equal to not less than one hundred twenty-five percent (125%) of the maximum annual interest and principal requirements of the then outstanding bonds payable from Net Revenues and the Future Parity Bonds proposed to be issued.

For purposes of this subsection, the records of the waterworks shall be analyzed and all showings shall be prepared by a certified public accountant retained by the City for that purpose. In addition, for purposes of this subsection with respect to any Future Parity Bonds hereafter issued, while the Bonds remain outstanding and owned by the Authority as part of its IFA Program, Net Revenues may not include any revenues from the System Development Charges unless the Authority provides its consent to include all or some portion of the System Development Charges as part of the Net Revenues or otherwise consents to the issuance of such Future Parity Bonds without satisfying this subsection (b).

(c) The interest on the Future Parity Bonds shall be payable semiannually on January 1 and July 1, and the principal of, or the mandatory sinking fund redemption dates for, the bonds shall be payable semiannually on January 1 and July 1 in the years in which such principal and interest are payable.

(d) If the Bonds or BANs are sold to the Authority: (i) the City obtains the consent of the Authority; (ii) the City has faithfully performed and is in compliance with each of its obligations, agreements and covenants contained in the Financial Assistance Agreement and this ordinance; and (iii) the City is in compliance with its operational permits, except for noncompliance, the elimination of which is a purpose for which the Future Parity Bonds, including any refunding bonds, are issued, so long as such issuance constitutes part of an overall plan to eliminate such noncompliance.

Section 20. Further Covenants of the City; Maintenance, Insurance, Pledge Not to Encumber, Subordinate Indebtedness, and Contract with Bondholders. For the purpose of further safeguarding the interests of the owners of the Bonds and BANs, it is hereby specifically provided as follows:

(a) All contracts let by the City in connection with the construction of the Project shall be let after due advertisement as required by the laws of the State, and all contractors shall be required to furnish surety bonds in an amount equal to 100% of the amount of such contracts to insure the completion of such contracts in accordance with their terms, and such contractors shall also be required to carry such employer's liability and public liability insurance as are required under the laws of the State of Indiana in the case of public contracts and shall be governed in all respects by the laws of the State of Indiana relating to public contracts.

(b) The Project shall be constructed under plans and specifications approved by a competent engineer designated by the City. All estimates for work done or material furnished shall first be checked by the engineer and approved by the City.

(c) So long as any of the Bonds and BANS are outstanding, the City shall at all times maintain its waterworks in good condition and operate the same in an efficient manner and at a reasonable cost.

(d) So long as any of the Bonds, the Outstanding Bonds or BANs herein authorized are outstanding, the City shall maintain insurance on the insurable parts of the waterworks, of a kind and in an amount such as would normally be carried by private companies engaged in a similar type of business. All insurance shall be placed with responsible insurance companies qualified to do business under the laws of the State of Indiana. So long as any Bonds, the Outstanding Bonds or BANs are outstanding or owned by the Authority as part of its IFA Program, such insurance

shall be acceptable to the Authority. If such BANs or Bonds are not sold to the Authority as part of its IFA Program, then as an alternative to maintaining such insurance, the City may maintain a self-insurance program with catastrophic or similar coverage so long as such program meets the requirements of any applicable laws or regulations and is maintained in a manner consistent with programs maintained by similarly situated municipalities. Insurance proceeds and condemnation awards shall be used to replace or repair the waterworks or shall be treated and applied as Net Revenues of the works deposited in the Sinking Fund; provided, if the Bonds or BANs are held by the Authority through its IFA Program, the Authority shall consent to any such treatment and application of such proceeds or awards as Net Revenues of the waterworks or any other different use of such proceeds or awards.

(e) So long as any of the Outstanding Bonds, the BANs or the Bonds are outstanding, the City shall not, either directly or indirectly, mortgage, pledge or otherwise encumber such system, or any part thereof, or any interest therein and it shall not sell, lease or otherwise dispose of any portion thereof except for such machinery, equipment or other property as may be replaced or shall no longer be necessary for use in connection with the system; provided that the City shall obtain the prior written consent of the Authority if the Bonds or BANs are sold to the Authority as part of its IFA Program.

(f) If the Authority purchases the Bonds or BANs as part of its IFA Program and so long as the Bonds or BANs are outstanding and owned by the Authority, the City shall not without the prior written consent of the Authority (i) enter into any lease, contract or agreement or incur any other liabilities in connection with the waterworks other than for normal operating expenditures or (ii) borrow any money (including without limitation any loan from other utilities operated by the City) in connection with the waterworks.

(g) Except as hereinbefore provided in Section 19 of this ordinance, so long as any of the Outstanding Bonds and the Bonds herein authorized are outstanding, no Future Parity Bonds or other obligations pledging any portion of the revenues of the system shall be authorized, executed or issued by the City, except such as shall be made junior and subordinate in all respects to the Bonds, unless all of the Bonds are redeemed, retired or defeased pursuant to Section 17 hereof coincidentally with the delivery of such additional bonds or other obligations.

(h) If the BANs or the Bonds are sold to the Authority and, except as otherwise specifically provided in Section 19 hereof, the City shall not borrow any money, enter into any contract or agreement or incur any other liabilities in connection with the system, other than for normal operating expenditures, without the prior written consent of the Authority, if such undertaking would involve, commit or use the revenues of the system.

(i) The provisions of this ordinance shall constitute a contract by and between the City and the owners of the Bonds and BANs herein authorized, all the terms of which shall be enforceable by any holder of the BANs or the Bonds by any and all appropriate proceedings in law or in equity. After the issuance of the Bonds or BANs, this ordinance shall not be repealed, amended or modified in any respect which will materially and adversely affect the rights of the owners of the Bonds or BANs, nor shall the Common Council or any other body of the City adopt any law, ordinance or resolution which in any way adversely affect the rights of such owners so long as any of the Bonds, the BANs, or the interest thereon, remain unpaid. Except in the case of changes described in Section 20 (a)-(g) hereof, this ordinance may be amended, however, without the consent of the owners of the Bonds or BANs, if the Common Council determines, in its sole discretion, that such amendment would not adversely affect the owners of the Bonds or BANs;

provided, however, that if the Bonds or BANs are sold to the Authority as part of its IFA Program, the City shall obtain the prior written consent of the Authority.

(j) The provisions of this ordinance shall be construed to create a trust in the proceeds of the sale of the Bonds and BANs herein authorized for the uses and purposes herein set forth, and the owners of the Bonds and BANs shall retain a lien on such proceeds until the same are applied in accordance with the provisions of this ordinance and of the governing Act. The provisions of this ordinance shall also be construed to create a trust in the portion of the Net Revenues herein directed to be set apart and paid into the Sinking Fund or the Improvement Fund for the uses and purposes of said Fund as in this ordinance set forth. The owners of the BANs and the Bonds shall have all of the rights, remedies and privileges set forth in the provisions of the Act, including the right to have a receiver appointed to administer the system, in the event of default in the payment of the principal of or interest on any of the Bonds. Upon the appointment of such receiver, the receiver may: (i) charge and collect rates sufficient to provide for the payment of the expenses of the operation, repair and maintenance of the system and debt service as provided in the next following clause (ii); (ii) pay the interest on the BANs or the principal of, premium, if any, and interest on any bonds payable from Net Revenues; and (iii) apply the revenues of the system in conformity with the Act and this ordinance. In addition, any owner of the BANs and the Bonds may, by civil action, protect and enforce rights granted by the Act or under this ordinance in connection with any action or duty to be performed by the City, the Common Council or any officer of the City, including the making and collecting of reasonable and sufficient charges and rates for services provided by the system.

(k) In addition, any owner of the BANs and the Bonds may, by civil action, protect and enforce rights granted by the Act or under this ordinance in connection with any action or duty to

be performed by the City, the Common Council or any officer of the City, including the making and collecting of reasonable and sufficient charges and rates for services provided by the system as described in this ordinance.

(l) None of the provisions of this ordinance shall be construed as requiring the expenditure of any funds of the City derived from any source other than the proceeds of the BANs, the Bonds or the operations of the system.

(m) For purpose this Section 20, the term "lease" shall include any lease, contract, or other instrument conferring a right upon the City to use property in exchange for a periodic payments made from the revenues of the waterworks, whether the City desires to cause such to be, or by its terms (or its intended effects) is to be, (i) payable as rent, (ii) booked as an expense or an expenditure, or (iii) classified for accounting or other purposes as a capital lease, financing lease, operating lease, non-appropriation leases, installment purchase agreement or lease, or otherwise (including any combination thereof).

Section 21. Amendments with Consent of Bondholders. Subject to the terms and provisions contained in this Section and Section 20(h), and not otherwise, the owners of not less than sixty-six and two-thirds percent (66 2/3%) in aggregate principal amount of the Bonds issued pursuant to this ordinance and then outstanding shall have the right from time to time, to consent to and approve the adoption by the Common Council of the City of such ordinance or ordinances supplemental hereto or amendatory hereof, as shall be deemed necessary or desirable by the City for the purpose of modifying, altering, amending, adding to or rescinding any of the terms or provisions contained in this ordinance, or in any supplemental ordinance; provided, however, that if the Bonds or BANs are sold to the Authority as part of its IFA Program, the City shall obtain

the prior written consent of the Authority; and provided further, that nothing herein contained shall permit or be construed as permitting:

- (a) An extension of the maturity of the principal of or interest on, or any mandatory sinking fund redemption date for, any Bond issued pursuant to this ordinance; or
- (b) A reduction in the principal amount of any Bond or the redemption premium or the rate of interest thereon; or
- (c) The creation of a lien upon or a pledge of the revenues or Net Revenues of the waterworks ranking prior to the pledge thereof created by this ordinance; or
- (d) A preference or priority of any Bond or Bonds issued pursuant to this ordinance over any other Bond or Bonds issued pursuant to the provisions of this ordinance; or
- (e) A reduction in the aggregate principal amount of the Bonds required for consent to such supplemental ordinance; or
- (f) A reduction in the Reserve Requirement.

If the owners of not less than sixty-six and two-thirds percent (66 2/3%) in aggregate principal amount of the Bonds outstanding at the time of adoption of such supplemental ordinance shall have consented to and approved the adoption thereof by written instrument to be maintained on file in the office of the Clerk-Treasurer of the City, no owner of any Bond issued pursuant to this ordinance shall have any right to object to the adoption of such supplemental ordinance or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the adoption thereof, or to enjoin or restrain the Common Council of the City from adopting the same, or from taking any action pursuant to the provisions thereof; provided, however, that if any BANs or Bonds are sold to the Authority, the City shall obtain the prior written consent of the Authority. Upon the adoption of any supplemental

ordinance pursuant to the provisions of this section, this ordinance shall be, and shall be deemed, modified and amended in accordance therewith, and the respective rights, duties and obligations under this ordinance of the City and all owners of Bonds then outstanding, shall thereafter be determined, exercised and enforced in accordance with this ordinance, subject in all respects to such modifications and amendments. Notwithstanding anything contained in the foregoing provisions of this ordinance, the rights and obligations of the City and of the owners of the Bonds authorized by this ordinance, and the terms and provisions of the Bonds and this ordinance, or any supplemental or amendatory ordinance, may be modified or altered in any respect with the consent of the City and the consent of the owners of all the Bonds then outstanding.

Section 22. Investment of Funds. (a) The Clerk-Treasurer is hereby authorized to invest moneys pursuant to the provisions of this ordinance and IC 5-1-14-3 (subject to applicable requirements of federal law to ensure such yield is then current market rate) to the extent necessary or advisable to preserve the exclusion from gross income of interest on the Bonds and BANs under federal law.

(b) The Clerk-Treasurer shall keep full and accurate records of investment earnings and income from moneys held in the funds and accounts referenced herein. In order to comply with the provisions of the ordinance, the Clerk-Treasurer is hereby authorized and directed to employ consultants or attorneys from time to time to advise the City as to requirements of federal law to preserve the tax exclusion. The Clerk-Treasurer may pay any fees as operation expenses of the waterworks.

Section 23. Tax Covenants. In order to preserve the exclusion of interest on the Bonds and BANs from gross income for federal tax purposes under Section 103 of the Internal Revenue Code of 1986 as existing on the date of issuance of the Bonds or BANs, as the case may be

("Code"), and as an inducement to purchasers of the Bonds and BANs, the City represents, covenants and agrees that:

(a) The waterworks will be available for use by members of the general public. Use by a member of the general public means use by natural persons not engaged in a trade or business. No person or entity other than the City or another state or local governmental unit will use more than 10% of the proceeds of the Bonds or BANs or property financed by the Bond or BAN proceeds other than as a member of the general public. No person or entity other than the City or another state or local governmental unit will own property financed by Bond or BAN proceeds or will have any actual or beneficial use of such property pursuant to a lease, a management or incentive payment contract, arrangements such as take-or-pay or output contracts or any other type of arrangement that conveys other special legal entitlements and differentiates that person's or entity's use of such property from use by the general public, unless such uses in the aggregate relate to no more than 10% of the proceeds of the BANs or the Bonds, as the case may be. If the City enters into a management contract for the waterworks, the terms of the contract will comply with IRS Revenue Procedure 2017-13, as it may be amended, supplemented or superseded for time to time, so that the contract will not give rise to private business use under the Code and the Regulations, unless such use in aggregate relates to no more than 10% of the proceeds of the Bonds or BANs, as the case may be.

(b) No more than 10% of the principal of or interest on the Bonds or BANs is (under the terms of the Bonds, BANs, this ordinance or any underlying arrangement), directly or indirectly, secured by an interest in property used or to be used for any private business use or payments in respect of any private business use or payments in respect of such property or to be

derived from payments (whether or not to the City) in respect of such property or borrowed money used or to be used for a private business use.

(c) No more than 5% of the Bond or BAN proceeds will be loaned to any person or entity other than another state or local governmental unit. No more than 5% of the Bond or BAN proceeds will be transferred, directly or indirectly, or deemed transferred to a nongovernmental person in any manner that would in substance constitute a loan of the Bond or BAN proceeds.

(d) The City reasonably expects, as of the date hereof, that the Bonds and BANs will not meet either the private business use test described in paragraph (a) and (b) above or the private loan test described in paragraph (c) above during the entire term of the Bonds or BANs, as the case may be.

(e) No more than 5% of the proceeds of the Bonds or BANs will be attributable to private business use as described in (a) and private security or payments described in (b) attributable to unrelated or disproportionate private business use. For this purpose, the private business use test is applied by taking into account only use that is not related to any government use of proceeds of the issue (Unrelated Use) and use that is related but disproportionate to any governmental use of those proceeds (Disproportionate Use).

(f) The City will not take any action nor fail to take any action with respect to the Bonds or BANs that would result in the loss of the exclusion from gross income for federal tax purposes on the Bonds or BANs pursuant to Section 103 of the Code, nor will the City act in any other manner which would adversely affect such exclusion. The City covenants and agrees not to enter into any contracts or arrangements which would cause the Bonds or BANs to be treated as private activity bonds under Section 141 of the Code.

(g) It shall not be an event of default under this ordinance if the interest on any Bond and BAN is not excludable from gross income for federal tax purposes or otherwise pursuant to any provision of the Code which is not currently in effect and in existence on the date of issuance of the Bonds or BANs, as the case may be.

(h) The City covenants that it will rebate any arbitrage profits to the United States to the extent required by the Code and the regulations promulgated thereunder.

(i) The City represents that:

(i) The Bonds and the BANs are not private activity bonds as defined in Section 141 of the Code;

(ii) The City hereby designates the Bonds and the BANs as qualified tax-exempt obligations for purposes of Section 265(b) of the Code;

(iii) The reasonably anticipated amount of qualified tax-exempt obligations (including qualified 501(c)(3) obligations and tax-exempt leases but excluding other private activity bonds) which will be issued by the City, and all entities subordinate to the City during 2025 does not exceed \$10,000,000; and

(iv) The City will not designate more than \$10,000,000 of qualified tax-exempt obligations during 2025.

Therefore, the Bonds and the BANs qualify for the exception in the Code from the disallowance of 100% of the deduction by financial institutions of interest expense allocable to newly acquired tax-exempt obligations.

(j) These covenants are based solely on current law in effect and in existence on the date of delivery of such Bonds or BANs, as the case may be.

(k) These covenants are based solely on current law in effect and in existence on the date of delivery of such Bonds and BANs, as the case may be.

Section 24. Issuance of BANs. (a) The City, having satisfied all the statutory requirements for the issuance of its Bonds, may elect to issue its BAN or BANs pursuant to a Bond Anticipation Note Purchase Agreement ("Purchase Agreement") to be entered into between the City and the purchaser of the BAN or BANs. If the BANs are sold to the Authority as part of its IFA Program, the Financial Assistance Agreement shall serve as the Purchase Agreement. The Common Council hereby authorizes the issuance and execution of the BAN or BANs in lieu of initially issuing the Bonds to provide interim financing for the Project until permanent financing becomes available. It shall not be necessary for the City to repeat the procedures for the issuance of its Bonds, as the procedures followed before the issuance of the BAN or BANs are for all purposes sufficient to authorize the issuance of the Bonds and the use of the proceeds to repay the BAN or BANs.

(b) The Mayor and the Clerk-Treasurer are hereby authorized and directed to execute a Purchase Agreement or Financial Assistance Agreement (and any amendments made from time to time) in such form or substance as they shall approve acting upon the advice of counsel. The Mayor and the Clerk-Treasurer may also take such other actions or deliver such other certificates as are necessary or desirable in connection with the issuance of the BANs or the Bonds and the other documents needed for the financing as they deem necessary or desirable in connection therewith.

Section 25. Noncompliance with Tax Covenants. Notwithstanding any other provisions of this ordinance, the covenants and authorizations contained in this ordinance ("Tax Sections") which are designed to preserve the exclusion of interest on the Bonds and BANs from gross income

under federal law ("Tax Exemption") need not be complied with if the City receives an opinion of nationally recognized bond counsel that any Tax Section is unnecessary to preserve the Tax Exemption.

Section 26. Conflicting Ordinances. All ordinances and parts of ordinances in conflict herewith are hereby repealed; provided, however, that this ordinance shall not be construed as modifying, amending or repealing the ordinance authorizing the Outstanding Bonds or as adversely affecting the rights of the holders of the Outstanding Bonds.

Section 27. Headings. The headings or titles of the several sections shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this ordinance.

Section 28. Effective Date. This ordinance shall be in full force and effect from and after its passage and execution by the Mayor.

Passed and adopted by the Common Council of the City of Goshen this ____ day of January, 2025.

COMMON COUNCIL OF THE CITY OF
GOSHEN, INDIANA

Presiding Officer

Attest:

Clerk-Treasurer

Presented by me to the Mayor of the City of Goshen this ____ day of _____,
2025 at __: __.m.

Clerk-Treasurer

Signed and approved by me, the Mayor of the City of Goshen, this _____ day of _____, 2025 at __:__.m.

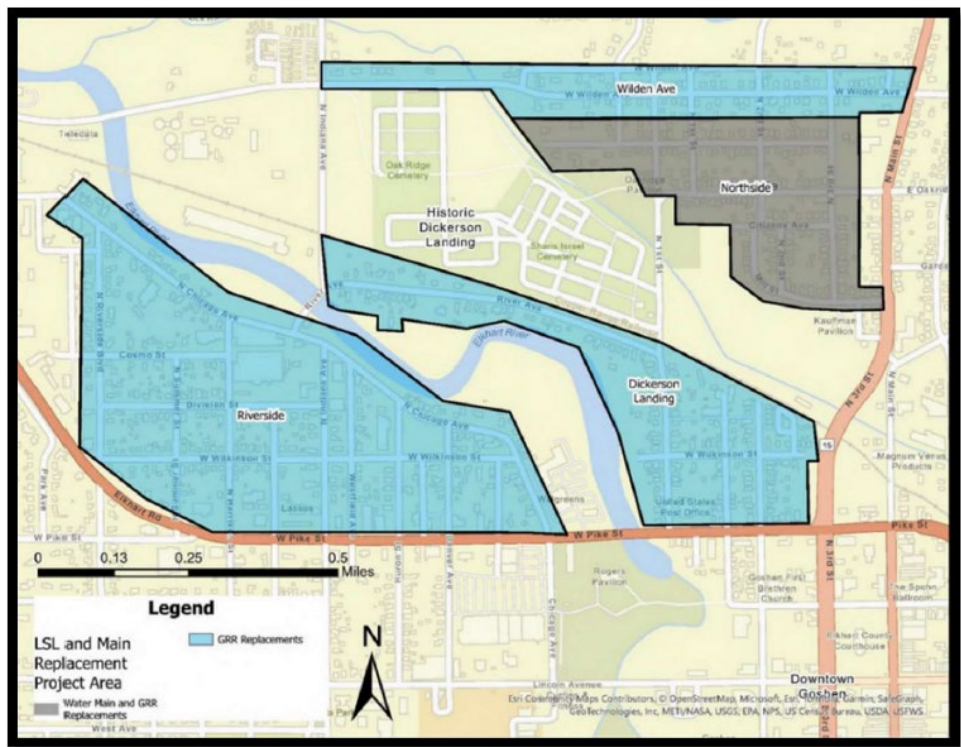
Mayor

EXHIBIT A Description of Project

This project consists of Service Line and Water Main Replacements, as well as associated Sanitary Sewer, Stormwater, and Roadway Improvements in the Northside neighborhood. Service line replacements will also be performed in the Widen, Dickerson Landing, and Riverside neighborhoods as detailed in the Preliminary Engineering Report (Arcadis, March 2024). In addition, service line replacements will be performed in the Clinton-Berkey Neighborhoods to the South (not shown in Figure 1 below) as required to ensure the City of Goshen meets their committed number of replacements.

As part of the City's efforts to comply with the Lead and Copper Rule Revision (LCRR) and Lead and Copper Rule Improvements (LCRI), the City has contracted with Arcadis who is currently developing the Construction Bid Package for the project. Arcadis is also providing community outreach support to actively engage critical stakeholders and residents. Their community outreach will also include neighborhood canvassing to obtain signed Customer Agreement Forms for right-of- entry.

The proposed project will result in replacement of service lines in disadvantaged neighborhoods at no cost to those customers. Some of these lines are connected to mains installed in 1933 or earlier and the City is concerned that issues and additional costs may arise with the mains when disturbing these connections. Thus, mains in the



Northside project area will be replaced concurrent to service line replacement. This will leverage SRF funding to support the City's asset management program by replacing mains that are beyond their life expectancy. The City will commit its own funds to complete sanitary sewer, stormwater, and roadway improvements in conjunction with this project. Thus, SRF funding will motivate investment and revitalization in these underserved neighborhoods.

Figure 1: Project Area

Figure 1 summarizes the project area, which focuses on four neighborhoods. Over 450 full or partial replacements will be performed. In addition, approximately 2,890 linear feet (LF) of water mains, 2,530 LF of sanitary sewer, 3,640 LF of storm sewer, and 6,100 LF of roadway improvements will be performed in the Northside area as part of this project.

The Project is more fully described in, and shall be in accordance with, the Preliminary Engineering Report and the Plans and Specifications approved by the Indiana Finance Authority (or if designated by the Indiana Finance Authority, the Department).

EXHIBIT B

Form of Financial Assistance Agreement

(Attached)

**STATE OF INDIANA
DRINKING WATER REVOLVING LOAN PROGRAM**

FINANCIAL ASSISTANCE AGREEMENT dated as of this [____] day of _____ 20__] by and between the Indiana Finance Authority (the “Finance Authority”), a body politic and corporate, not a state agency but an independent instrumentality of the State of Indiana (the “State”) and the City of Goshen, Indiana (the “Participant”), a political subdivision as defined in I.C. 5-1.2-2-57, operating its water utility under I.C. 8-1.5, witnesseth:

WHEREAS, the State’s Drinking Water Revolving Loan Program (the “Drinking Water SRF Program”) has been established in accordance with the federal Safe Drinking Water Act and any regulations promulgated thereunder, and pursuant to I.C. 5-1.2-10 (the “Drinking Water SRF Act”), which Drinking Water SRF Act also establishes the drinking water revolving loan fund (the “Drinking Water SRF Fund”); and

WHEREAS, the Participant is a duly existing political subdivision of the State, lawfully empowered to undertake all transactions and execute all documents mentioned or contemplated herein; and

WHEREAS, the Participant has previously entered into (i) a Financial Assistance Agreement with the Finance Authority, dated as of June 30, 2016 to borrow money from the Drinking Water SRF Program, (ii) a Financial Assistance Agreement with the Finance Authority, dated as of March 1, 2010 to borrow money from the Wastewater SRF Program, and (iii) a Financial Assistance Agreement with the Finance Authority, dated as of March 26, 2020, to borrow money from the Wastewater SRF Program, to construct and acquire separate projects as described and defined therein (collectively, the “Prior Agreements”); and

WHEREAS, the Participant has determined to undertake a drinking water system project (as more fully described herein, the “Project”) and to borrow money from the Drinking Water SRF Program to construct and acquire the Project; and

WHEREAS, the Finance Authority and the Participant desire to set forth the terms of such financial assistance as hereinafter provided; and

NOW THEREFORE, in consideration of the mutual covenants herein set forth, the Finance Authority and the Participant agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. The following terms shall, for all purposes of this Agreement, have the following meaning:

“**Agency**” shall mean the United States Environmental Protection Agency or its successor.

“Asset Management Program” means programs, plans and documentation (including a Fiscal Sustainability Plan) that demonstrates that the Participant has the financial, managerial, technical, and legal capability to operate and maintain its Drinking Water System and which is consistent with SRF Policy Guidelines including applicable requirements of the Drinking Water SRF Act.

“Authorizing Instrument(s)” shall mean the separate trust indenture(s) of the Participant entered into with a corporate trustee or the detailed resolution(s) or ordinance(s) of the governing body of the Participant pursuant to which the Bonds are issued in accordance with State law.

“Authorized Representative” shall mean the Clerk-Treasurer of the Participant or such other officer, official, or representative of the Participant duly authorized to act for and on behalf of the Participant as provided for herein.

“Bond” or **“Bonds”** shall mean the instrument(s) which evidence(s) the Loan, as authorized by the Authorizing Instrument and containing the terms set forth in Section 2.02 of this Agreement.

“Bond Fund” shall mean the separate and segregated fund or account established and created by the Participant pursuant to the Authorizing Instrument from which payment of the principal of and interest on the Bonds is required to be made by the Participant.

“Business Day” shall mean any day other than a Saturday, Sunday or State legal holiday or any other day on which financial institutions in the State are authorized by law to close and to remain closed.

“Code” shall mean the Internal Revenue Code of 1986, as amended and supplemented from time to time, together with the regulations related thereto.

“Commission” shall mean the Indiana Utility Regulatory Commission created under I.C. 8-1-1-2 or its successor.

“Construction Fund” shall mean the separate and segregated fund or account established and created by the Participant pursuant to the Authorizing Instrument to receive proceeds of the Bonds and from which Eligible Costs of the Project may be paid by the Participant.

“Credit Instrument” means a letter of credit, surety bond, liquidity facility, insurance policy or comparable instrument furnished by a Credit Provider that is used by the Participant to meet all or a portion of any debt service reserve requirement securing the Bonds or any other bonds payable from the revenues of the Drinking Water System, which bonds are on a parity with the Bonds.

“Credit Provider” means a bank, insurance company, financial institution or other entity providing a Credit Instrument.

“Department” shall mean the Indiana Department of Environmental Management created

under I.C. 13-13-1-1 or its successor.

“Deposit Agreement” shall mean an agreement between the Participant and the Deposit Agreement Counterparty in such form as from time to time determined by the Finance Authority pursuant to which (a) the Participant’s Bond Fund (including any reserve account established and created by the Participant pursuant to the Authorizing Instrument related thereto) shall be held by such Deposit Agreement Counterparty and available for payment of the Bonds and any other similar obligations of the Participant that are payable from the Bond Fund regardless whether they are on a parity basis, (b) such Deposit Agreement Counterparty serves as the paying agent for the Bonds and any other such similar obligations of the Participant that are payable from the Bond Fund, and (c) the Participant’s Construction Fund may be held by such Deposit Agreement Counterparty upon any Loan disbursement by the Finance Authority to it from time to time.

“Deposit Agreement Counterparty” shall mean the financial institution that enters into a Deposit Agreement with the Participant, which financial institution shall be approved by the Finance Authority and may be replaced by the Finance Authority from time to time.

“Director of Environmental Programs” shall mean the person designated by the Finance Authority as authorized to act as the Director of Environmental Programs (which designation includes such Director’s assumption of the duties previously assigned to the Drinking Water SRF Program Representative and the Drinking Water SRF Program Director) and where not limited, such person’s designee.

“Disbursement Agent” shall mean the party disbursing the Loan to or for the benefit of the Participant, which shall be the Trustee unless amounts are held in the Construction Fund, in which case the Disbursement Agent shall thereafter be the Deposit Agreement Counterparty as the party disbursing amounts that are held in the Construction Fund unless otherwise agreed by the Finance Authority.

“Disbursement Request” shall mean a request for a disbursement of the Loan made by an Authorized Representative in such form as the Finance Authority may from time to time prescribe.

“Drinking Water SRF Fund” shall mean the drinking water revolving loan fund as established by I.C. 5-1.2-10-2.

“Drinking Water SRF Indenture” shall mean the Fourth Amended and Restated Drinking Water SRF Trust Indenture, dated as of September 1, 2019 between the Finance Authority (as successor by operation of law to the State in all matters related to the Drinking Water SRF Program) and the Trustee, as amended and supplemented from time to time.

“Drinking Water System” shall mean all, or any part of, the system for the provision to the public of water for human consumption through pipes and other constructed conveyances that:

- (1) has at least fifteen (15) service connections; or
- (2) regularly serves at least twenty-five (25) individuals;

and as further defined and described in I.C. 13-11-2-177.3 and SRF Policy Guidelines, as amended and supplemented from time to time.

“Eligible Cost” shall mean and include, whether incurred before or after the date of this Agreement, all costs which have been incurred and qualify for Financial Assistance, including engineering, financing and legal costs related thereto.

“Finance Authority” shall mean the Indiana Finance Authority, a body politic and corporate, not a state agency but an independent instrumentality of the State.

“Finance Authority Bonds” shall mean any Finance Authority State Revolving Fund Program Bonds or other similar obligations of the Finance Authority issued as a part of the Drinking Water SRF Program within the meaning of the Drinking Water SRF Indenture.

“Financial Assistance” shall mean the financial assistance authorized by the Safe Drinking Water Act, including the Loan.

“Fiscal Sustainability Plan” means in connection with a project that provides for the repair, replacement, or expansion of an existing Drinking Water System, a plan that is consistent with SRF Policy Guidelines including applicable requirements of the Drinking Water SRF Act and includes (a) an inventory of critical assets that are a part of the Drinking Water System, (b) an evaluation of the condition and performance of inventoried assets or asset groupings; (c) a certification that the Participant has evaluated and will be implementing water and energy conservation efforts as part of the plan; and (d) a plan for maintaining, repairing, and, as necessary, replacing the Drinking Water System and a plan for funding such activities.

“Loan” shall mean the purchase of the Bonds by the Finance Authority to finance the planning, designing, constructing, renovating, improving and expanding of the Participant’s Drinking Water System or refinance an existing debt obligation where such debt was incurred and the building of such systems, but does not mean the provision of other Financial Assistance.

“Loan Reduction Payment” shall mean in any circumstances where there is a balance (inclusive of Loan proceeds and any earnings) in the Construction Fund, any action causing such balance to be applied to a reduction in the maximum aggregate amount of the Loan outstanding other than pursuant to regularly scheduled principal payments or optional redemptions applicable to the Bonds. A Loan Reduction Payment shall not be applicable unless Loan amounts are held in the Construction Fund.

“Non-Use Close-out Date” shall mean that date which is the earlier of (a) the first date as of which the full amount of the Loan has been disbursed on a cumulative basis (which shall also be deemed to have occurred when and if such amounts have been deposited in the Participant’s Construction Fund) or (b) the date as of which the Participant binds itself that no further Loan disbursements will be made under this Agreement.

“Non-Use Fee” shall mean a fee in an amount determined by the Finance Authority

charged to compensate it for costs and expenses within the Drinking Water SRF Program. Such amount shall be the greater of (A) the product of the undrawn balance of the Loan on each applicable Non-Use Assessment Date multiplied by one percent (1%) or (B) One Thousand Dollars (\$1,000). Such fee shall apply and be payable under Section 5.09 herein with respect to each Non-Use Assessment Date until the Non-Use Close-out Date shall occur. A Non-Use Fee shall not be applicable if the full amount of the Loan has been disbursed and deposited in the Participant's Construction Fund by the Non-Use Assessment Date.

“Non-Use Assessment Date” shall mean [_____ 1, 20__] and the first day of each sixth (6th) calendar month thereafter unless and until the Non-Use Close-out Date occurs in advance of any such Non-Use Assessment Date.

“Operation and Maintenance” shall mean the activities required to assure the continuing dependable and economic function of the Drinking Water System, including maintaining compliance with primary and secondary drinking water standards, as follows:

(1) Operation shall mean the control and management of the united processes and equipment which make up the Drinking Water System, including financial and personnel management, records, reporting, laboratory control, process control, safety and emergency operation planning and operating activities.

(2) Maintenance shall mean the preservation of the functional integrity and efficiency of equipment and structures by implementing and maintaining systems of preventive and corrective maintenance, including replacements.

“Plans and Specifications” shall mean the detailed written descriptions of the work to be done in undertaking and completing the Project, including the written descriptions of the work to be performed and the drawings, cross-sections, profiles and the like which show the location, dimensions and details of the work to be performed.

“Preliminary Engineering Report” shall mean the information submitted by the Participant that is necessary for the Finance Authority to determine the technical, economic and environmental adequacy of the proposed Project.

“Project” shall mean the activities or tasks identified and described in Exhibit A to this Agreement, and incorporated herein, as amended or supplemented by the Participant and consented to by the Finance Authority, for which the Participant may expend the Loan.

“Purchase Account” shall mean the account by that name created by the Drinking Water SRF Indenture and held as part of the Drinking Water SRF Fund.

“Safe Drinking Water Act” shall mean the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq. and other laws, regulations and guidance supplemental thereto, as amended and supplemented from time to time.

“SRF Policy Guidelines” shall mean guidance of general applicability (as from time to

time published, amended and supplemented by the Finance Authority) pertaining to participants utilizing financial assistance in connection with their projects funded in whole or in part through the Drinking Water SRF Program.

“State” shall mean the State of Indiana.

“Substantial Completion of Construction” shall mean the day on which the Finance Authority (or if designated by the Finance Authority, the Department) determines that all but minor components of the Project have been built, all equipment is operational and the Project is capable of functioning as designed.

“System Development Charges” shall mean the proceeds and balances from any non-recurring charges such as tap fees, subsequent connector fees, capacity or contribution fees, and other similar one-time charges applicable to the Drinking Water System that are available for deposit under the Authorizing Instrument.

“Trustee” shall mean The Bank of New York Mellon Trust Company, N.A., Indianapolis, Indiana, in its capacity as trustee or its successor under the Drinking Water SRF Indenture.

(End of Article I)

ARTICLE II

PURPOSE OF BORROWING AND LOAN TERMS

Section 2.01. Amount; Purpose. The Finance Authority agrees to Loan an amount not to exceed [] Dollars (\$[]) in aggregate principal amount to the Participant as Financial Assistance to pay for the Eligible Costs, as hereinafter described, of the Project on, and subject to, the terms and conditions contained herein. The Loan shall be used only to pay the following Eligible Costs: (a) eligible planning services for the production of a Preliminary Engineering Report (“Planning”), (b) eligible design services for the production of Plans and Specifications (“Design”) and (c) eligible construction costs, including financing and legal costs (“Construction”). The Loan shall be funded solely from available proceeds of the Finance Authority Bonds contained in the Purchase Account or from other sources that the Finance Authority may, in its sole discretion, designate. The Loan is evidenced by the Bonds executed and delivered by the Participant contemporaneously herewith. The Bonds shall be in fully registered form, with the Finance Authority registered as the registered owner. So long as the Finance Authority is the registered owner, the principal of and redemption premium, if any, and interest on the Bonds shall be paid to the Trustee by a wire transfer referenced as follows: The Bank of New York, ABA 021 000 018, For Credit to 610026840C, Account Name: Goshen Drinking Water, Attn: Derick Rush. The Participant agrees to undertake and complete the Project and to receive and expend the Loan proceeds in accordance with this Agreement.

Section 2.02. The Bonds.

(a) Until paid, the Bonds will bear interest at the per annum rate of [] percent ([]%). Such interest shall be calculated on the basis of a 360 day year comprised of twelve 30 day months, and be as provided in I.C. 5-1.2-10-15 and -20. Interest, if any, on the Bonds will be payable on January 1 and July 1 of each year, commencing [] 1, 20[]. The Bonds will be in the aggregate principal amount of [] Dollars (\$[]). Subject to Section 2.05 and 2.06 herein, the Bonds will mature on January 1 and July 1 of each of the years set forth in, and at the principal amount set opposite each such month and year set forth in the schedule contained in the attached Exhibit B to this Agreement (which is hereby incorporated by reference); provided, however, notwithstanding the foregoing or the terms of the Bonds to the contrary, no maturity of Bonds shall extend beyond the date which is thirty-five (35) years after the date of this Agreement. If the maturity date for any Bonds is beyond such date, unless otherwise agreed to, such Bonds, together with accrued and unpaid interest thereon, will be due and payable on such date.

(b) The Bonds will be subject to redemption by the Participant as provided in the Authorizing Instrument; provided however that in no event shall the Participant exercise any provision contained in the Authorizing Instrument or the Bonds permitting a redemption of the Bonds at the option of the Participant unless and until such has been consented by the Authority. The Loan, and the Bonds evidencing it, will be subject to payment by the Participant as provided in this Agreement.

(c) The form and other terms of the Bonds will be in conformity with the Authorizing

Instrument.

(d) The additional terms contained in the attached Exhibit D are applicable to this Loan (as and to the extent set forth in Exhibit D) to the same effect as if such were set forth in this section.

Section 2.03. Disbursement Conditions. Each of the following shall be a condition precedent to the disbursement of the Loan or any portion thereof (including from the Construction Fund):

(a) (1) With respect to procurement of professional services related to the Project to be paid from Loan proceeds, the Participant shall have complied with applicable State law and SRF Policy Guidelines. Additionally costs related to Planning and Design shall only be Eligible Costs upon compliance with paragraph A of the attached Exhibit D. (2) With respect to procurement of all other goods and services related to the Project to be paid from Loan proceeds, the Participant shall have complied with I.C. 36-1-12 and SRF Policy Guidelines.

(b) No representation, warranty or covenant of the Participant contained in this Agreement or in any paper executed and delivered in connection with the transactions contemplated by this Agreement shall be false or inaccurate in any material respect.

(c) The Participant shall undertake and faithfully perform each of its obligations, agreements and covenants contained in this Agreement, the Authorizing Instrument and the Bonds.

(d) There shall be available to the Finance Authority uncommitted funds in an amount sufficient to satisfy the Finance Authority's obligations hereunder from the proceeds of Finance Authority Bonds in the Purchase Account or from other sources that the Finance Authority may, in its sole discretion, designate; provided however, once Loan proceeds have been deposited in the Construction Fund, such condition shall be deemed satisfied.

(e) The Participant shall have undertaken all actions necessary to comply with and satisfy the conditions and requirements for a Loan secured with money made available from the Drinking Water SRF Fund as set forth in federal and State statutes, rules and regulations, including I.C. 5-1.2-10, SRF Policy Guidelines, the Safe Drinking Water Act and 40 C.F.R. Part 35.

(f) Prior to making any Loan disbursement to pay any Construction costs, the Project shall have been approved by the State's Historical Preservation Officer in a manner consistent with the policies and practices of the Drinking Water SRF Program (the "Historical Preservation Approval"). Notwithstanding any provision of this Agreement to the contrary, in the event a Historical Preservation Approval has not been given within four (4) months after the date of this Agreement, the Finance Authority may, in its sole discretion, (i) reduce the aggregate amount of the Loan to the amount then disbursed and outstanding under this Agreement and (ii) if any amounts are held in the Construction Fund,

require a Loan Reduction Payment pursuant to Section 2.06 herein as if it were a date that was three (3) years after the dated date of the Bonds. Upon giving notice to the Participant of such action, no further Loan disbursement (including from the Construction Fund) may be made under this Agreement unless consented to by the Finance Authority.

(g) In the event the Bonds are payable from rates and charges of the Drinking Water System and if requested by the Finance Authority, the Participant shall provide evidence satisfactory to the Finance Authority demonstrating that such rates and charges are at a level adequate to produce and maintain sufficient net revenue after providing for the proper Operation and Maintenance of the Drinking Water System, on a proforma basis consistent with SRF Policy Guidelines, to provide 1.25x coverage on all obligations of the Drinking Water System (including the Bonds).

Section 2.04. Disbursement Procedures. Loan proceeds (including any held from time to time in the Construction Fund) shall be disbursed to the Participant by the Disbursement Agent for actual Eligible Costs incurred with respect to the Project. The Finance Authority may, in its discretion, cause Loan disbursements to be made (a) directly to the person or entity identified in the Disbursement Request to whom payment is due, or (b) if advised in writing by the Participant that I.C. 36-1-12-14 or a similar law applies to the Project, to the Participant for purposes of collecting retainage, or some combination thereof. Any Loan proceeds in excess of the amount subject to retainage controlled by the Participant will be immediately remitted to the person or entity to whom payment is due, no later than three (3) Business Days after receipt or the date such Loan proceeds are no longer subject to retainage. The Finance Authority may, in its discretion, cause Loan disbursements to be made from time to time, in whole or in part, to the Participant's Construction Fund for disbursement consistent with this Agreement. Loan disbursements shall not be made more frequently than monthly and shall only be made following the submission of a Disbursement Request to the Finance Authority. Disbursement Requests shall be approved by the Director of Environmental Programs prior to submission to the Disbursement Agent for a Loan disbursement. Disbursement Requests shall be numbered sequentially, beginning with the number 1.

Section 2.05. Effect of Disbursements. Loan disbursements made to or for the benefit of the Participant shall be deemed to be a purchase of the Bonds in such amounts and with such maturities as achieves as level debt service as practicable, and with no maturity longer than the original maturity schedule; provided that any principal payments originally scheduled under Section 2.02 herein as being due prior to one year after Substantial Completion of Construction shall first be deemed to be a purchase of the Bonds in order of maturity. The deposit of Loan proceeds in the Construction Fund shall be deemed to be a purchase of the Bonds. Interest on the Loan commences on disbursement of the Loan to or for the benefit of the Participant (including any amounts disbursed to the Construction Fund) by the Finance Authority and the Bonds shall be deemed to be purchased in the full amount thereof. Each disbursement (including any amounts disbursed from the Construction Fund) shall be made pursuant to a Disbursement Request. In the event any Loan disbursement (including any amounts disbursed from the Construction Fund) shall be made in excess of Eligible Costs, such excess disbursements shall be immediately paid by the Participant to the Disbursement Agent (and if made from any amounts held in the Construction Fund, shall be immediately deposited by the Participant into such Construction Fund) and

thereafter may, subject to the terms and conditions set forth in this Agreement, be applied thereafter to pay Eligible Costs of the Project by the Participant.

Section 2.06. Acknowledgment of Amount of Loan; Final Disbursement. (a) Within 30 days after any request by the Finance Authority from time to time, the Participant shall execute and deliver to the Finance Authority an acknowledgment in the form prescribed by the Finance Authority which acknowledges the outstanding principal of and interest on the Bonds. Unless the Finance Authority consents in writing, no Loan disbursement shall be made more than one year after Substantial Completion of Construction. After Substantial Completion of Construction, upon the request of the Finance Authority, the Participant shall replace, at its expense, the Bonds with substitutes issued pursuant to the Authorizing Instrument to evidence the outstanding principal under the Loan.

(b) In the event there remains a balance (inclusive of Loan proceeds and any earnings) in the Construction Fund on the date that is the earlier of (i) one year after Substantial Completion of Construction or (ii) three (3) years after the dated date of the Bonds (or in either such circumstance, such later date as the Finance Authority may approve in its discretion), the Participant agrees to make a Loan Reduction Payment to the Finance Authority within 10 days after any Finance Authority written demand. Any Loan Reduction Payment shall be applied to pay principal in such amounts and with such maturities as achieves as level debt service as practicable consistent with methodology prescribed in the Authorizing Instrument and as originally applied to the Bonds, and with no maturity longer than the original maturity schedule; provided that any principal payments originally scheduled under Section 2.02 herein as being due prior to the Loan Reduction Payment shall be unaffected by such payment. If the Authorizing Instrument permits the Participant to apply Bond proceeds to pay interest accruing on or before Substantial Completion of Construction, the Participant may seek to reimburse itself for such interest costs it has paid pursuant to a Disbursement Request provided. If the Participant fails to make such Loan Reduction Payment by such date, the Finance Authority and Deposit Agreement Counterparty are authorized to cause any balance held in the Construction Fund to be so applied without further direction and authorization from the Participant. Notwithstanding the foregoing, if requested by the Finance Authority, in lieu of the Participant making a Loan Reduction Payment, the Finance Authority may in its discretion require the Participant to hold any remaining balance (inclusive of Loan proceeds and any earnings) in the Construction Fund until such amounts may be applied on the first optional redemption date applicable to the Bonds, and upon any such request, the Participant agrees to cause such amounts to be so held and applied on such date.

(End of Article II)

ARTICLE III

REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE PARTICIPANT

Section 3.01. Planning, Design and Construction Covenants. The Participant hereby covenants and agrees with the Finance Authority that the Participant will:

(a) Provide information as requested by the Finance Authority to determine the need for, or to complete any necessary, environmental review or analysis.

(b) Comply with the procurement procedures and affirmative action requirements contained in SRF Policy Guidelines in the Planning, Design and Construction of the Project to the extent that such are to be paid from Loan proceeds.

(c) With respect to prime and first tier contract awards, report minority and women business enterprise utilization in the Planning, Design and Construction of the Project, to the extent that such are to be paid from Loan proceeds, by executing and delivering to the Finance Authority upon its request Agency Form SF 5700-52 whenever any agreements or subagreements are awarded. (These reports must be submitted on regular reporting cycles consistent with SRF Policy Guidelines commencing after such agreement or subagreement is awarded.)

(d) Comply with all applicable federal, State and local statutes, rules and regulations relating to the acquisition and construction of the Drinking Water System.

(e) In the event Construction is to be paid from Loan proceeds, prior to an award of any contract for Construction of the Project, obtain a construction permit from the Department and receive the written approval of the Finance Authority of the Preliminary Engineering Report.

(f) Obtain the property rights necessary to construct the Drinking Water System and, in procuring any such rights comply with federal and State law.

(g) In the event Construction is to be paid from Loan proceeds, comply with the federal Davis-Bacon Act, codified at 40 U.S.C. 276a-276a-5 unless separately waived by the Finance Authority.

(h) In the event Construction is to be paid from Loan proceeds, execute and deliver to the Finance Authority upon its request any other forms as may be required by the Safe Drinking Water Act or SRF Policy Guidelines.

(i) In the event Construction is to be paid from Loan proceeds, follow guidance issued by the Finance Authority in procuring contracts for Construction, including (1) submission to the Finance Authority of Project change orders, (2) obtaining approval from the Director of Environmental Programs of any Project change order which significantly

changes the scope or Design of the Project or, when taking into account other change orders and contracts, are reasonably expected to result in expenditures in an amount greater than the Loan, (3) receiving approval from the Director of Environmental Programs prior to the award of any contract for Construction and (4) receiving authorization from the Director of Environmental Programs prior to initiating procurement of Construction of the Project.

(j) In the event Construction is to be paid from Loan proceeds, before awarding Construction contracts, receive approval of the Director of Environmental Programs for the user charge system (including any use ordinance and interlocal agreement) associated with the Project.

(k) In the event Construction is to be paid from Loan proceeds, cause the Project to be constructed in accordance with the Preliminary Engineering Report and the Plans and Specifications, using approved contract papers.

(l) Permit the Finance Authority and its agents to inspect from time to time (1) the Project, (2) the Drinking Water System and (3) the books and other financial records of the Drinking Water System, including the inspections described in SRF Policy Guidelines. Construction contracts shall provide that the Finance Authority or its agents will have access to the Project and the work related thereto and that the Participant's contractor will provide proper facilities for such access and inspection. All files and records pertaining to the Project shall be retained by the Participant for at least six years after Substantial Completion of Construction.

(m) Upon Substantial Completion of Construction and when requested by the Finance Authority, provide audited reports to the Finance Authority to permit the Finance Authority to determine that the Loan proceeds have been used in compliance with this Agreement.

(n) In the event Construction is to be paid from Loan proceeds, within one year of Substantial Completion of Construction, consistent with SRF Policy Guidelines, certify to the Finance Authority that the Project meets performance standards, or if not met, (1) submit to the Finance Authority (or if directed by the Finance Authority, to the Department) a corrective action plan and (2) promptly and diligently undertake any corrective action necessary to bring the Project into compliance with such standards.

(o) In the event Construction is to be paid from Loan proceeds, within one year of Substantial Completion of Construction, provide as-built plans (if requested by the Finance Authority) for the Project to the Finance Authority (or if directed by the Finance Authority, to the Department).

Section 3.02. General Covenants. The Participant hereby covenants and agrees with the Finance Authority that the Participant will:

(a) Comply with all applicable federal, State and local statutes, rules and regulations relating to Operation and Maintenance.

(b) (1) Own, operate and maintain the Project and the Drinking Water System for their useful life, or cause them to be operated and maintained for their useful life; (2) at all times maintain the Drinking Water System in good condition and operate it in an efficient manner and at a reasonable cost; and (3) not sell, transfer, lease or otherwise encumber the Drinking Water System or any portion thereof or any interest therein without the prior written consent of the Finance Authority

(c) Obtain and maintain the property rights necessary to operate and maintain the Drinking Water System, and in procuring any such rights, comply with federal and State law.

(d) Acquire and maintain insurance coverage acceptable to the Finance Authority, including fidelity bonds, to protect the Drinking Water System and its operations. All insurance shall be placed with responsible insurance companies qualified to do business under State law. Insurance proceeds and condemnation awards shall be used to replace or repair the Drinking Water System unless the Finance Authority consents to a different use of such proceeds or awards.

(e) Establish and maintain the books and other financial records of the Project and the Drinking Water System (including the establishment of separate accounts or subaccounts for the Project and revenues and expenses of the Drinking Water System) in accordance with (1) generally accepted governmental accounting principles, as promulgated by the Government Accounting Standards Board (including GASB No. 34 standards relating to the reporting of infrastructure) and (2) the rules, regulations and guidance of the State Board of Accounts; provided, however, to the extent the Participant does not maintain separate accounts or subaccounts for the revenues and expenses of the Drinking Water System, it hereby certifies to the Finance Authority that it has adopted sufficient accounting and/or bookkeeping practices to accurately track all revenues and expenses of the Drinking Water System.

(f) Provide to the Finance Authority and not the Agency (unless specifically requested by the Agency) such periodic financial and environmental reports as it may request from time to time, including (1) annual operating and capital budgets and (2) any and all environmental data related to the Project that is required to be reported. Additionally, the Participant shall provide such other information requested or required of the Finance Authority or the Participant by the Agency.

(g) Provide to the Finance Authority audited financial statements of the Participant inclusive of the activities of the Drinking Water System, commencing with financial statements for a calendar year period that ends not more than two (2) years after the date of this Agreement (and for each calendar year period that ends every two (2) years thereafter until the Loan has been repaid), which audit (i) shall have been performed by the Indiana State Board of Accounts or by an independent public accountant and (ii) shall be submitted to the Finance Authority no later than nine (9) months following the end of the calendar year period to which such audit pertains.

(h) Continue to update, implement, and maintain its Asset Management Program (inclusive of Fiscal Sustainability Plan) of which the Participant has certified to the Authority that it has developed. In addition, as part of maintaining and updating the Asset Management Program, the Participant shall annually undertake a cyber security assessment, which the Participant may use “CISA’s Free Cyber Vulnerability Scanning Assessment” or a similar cyber security assessment tool acceptable to the Finance Authority. The results of the Cyber Vulnerability Scanning Assessment shall be reviewed by the Participant and incorporated into its existing cybersecurity protocol.

(i) Provide notice to the Finance Authority under the circumstances contemplated, and undertake inspections as required, by SRF Policy Guidelines.

(j) (1) Establish and maintain just and equitable rates and charges for the use of and the service rendered by the Drinking Water System, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses the Drinking Water System, or that in any way uses or is served by the Drinking Water System, (2) establish, adjust and maintain rates and charges at a level adequate to produce and maintain sufficient revenue (when determined including user and other charges, fees, income or revenues available to the Participant, provided that to the extent permitted by law System Development Charges shall be excluded when determining if such are sufficient) to provide for the proper Operation and Maintenance of the Drinking Water System, to comply with and satisfy all covenants contained herein and to pay all obligations of the Drinking Water System and of the Participant with respect thereto, and (3) if and to the extent Bonds are payable from property taxes, levy each year a special ad valorem tax upon all property located in the boundaries of the Participant, to pay all obligations of the Participant with respect thereto.

(k) If the Bonds are payable from the revenues of the Drinking Water System, not borrow any money, enter into any contract or agreement or incur any other liabilities in connection with the Drinking Water System without the prior written consent of the Finance Authority if such undertaking would involve, commit or use the revenues of the Drinking Water System; provided that the Participant may authorize and issue additional obligations, payable out of the revenues of its Drinking Water System, ranking on a parity with the Bonds for the purpose of financing the cost of future additions, extensions and improvements to the Drinking Water System, or to refund obligations of the Drinking Water System, subject to the conditions, if any, in the Authorizing Instrument.

(l) Comply with the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000d et seq., the Age Discrimination Act, as amended, Public Law 94-135, Section 504 of the Rehabilitation Act of 1973, as amended (including Executive Orders 11914 and 11250), 29 U.S.C. Section 794, Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, Executive Order 11246 regarding equal employment opportunity, and Executive Orders 11625 and 12138.

(m) Undertake all actions necessary to investigate all potential, material claims

which the Participant may have against other persons with respect to the Drinking Water System and the Project and take whatever action is necessary or appropriate to (1) recover on any actionable, material claims related to the Project or the Planning, Design or Construction thereof, (2) meet applicable Project performance standards and (3) otherwise operate the Drinking Water System in accordance with applicable federal, State and local law.

(n) Not modify, alter, amend, add to or rescind any provision of the Authorizing Instrument without the prior written consent of the Finance Authority.

(o) In the event the Participant adopts an ordinance or resolution to refund the Bonds, within 5 days of the adoption of the ordinance or resolution, provide written notice to the Finance Authority of the refunding. Any refunding of the Bonds shall only be undertaken by the Participant with the prior written consent of the Finance Authority.

(p) In any year in which total expenditures of Federal financial assistance received from all sources exceeds \$750,000 the Participant shall comply with the Federal Single Audit Act (SAA) of 1984, as amended by the Federal Single Audit Act Amendments of 1996 (see 2 CFR 200 Subpart F) and have an audit of their use of Federal financial assistance. The Participant agrees to provide the Finance Authority with a copy of the SAA audit within 9 months of the audit period.

(q) Inform the Finance Authority of any findings and recommendations pertaining to the SRF program contained in an audit of 2 CFR 200 Subpart F (a/k/a "Super Circular") matters in which SRF Federal financial assistance was less than \$750,000.

(r) Initiate within 6 months of the audit period corrective actions for those audit reports with findings and recommendations that impact the SRF financial assistance.

(s) Notwithstanding anything in the Authorizing Instrument related to the Bonds (or in any authorizing instrument related to any other outstanding bonds payable from the revenues of the Drinking Water System which are on a parity with the Bonds) to the contrary, in the event any Credit Provider that has provided a Credit Instrument fails to be rated on a long term basis at least "A-/A3" by S&P Global Ratings and Moody's Investors Service, Inc., and their successors (such Credit Instrument, a "Disqualified Instrument"), within 12 months of such failure (or pursuant to such other schedule as may be approved by the Finance Authority), the Participant shall cause cash (or a replacement Credit Instrument from a Credit Provider that is rated on a long term basis at least "AA-/Aa3" by S&P Global Ratings and Moody's Investors Service, Inc., and their successors)(or some combination thereof) in an aggregate amount equal to the stated credit available under the Disqualified Instrument(s) to be deposited in the related reserve account(s) in lieu of such Disqualified Instrument(s). No Disqualified Instrument shall be included as part of the reserve balance which satisfies any such reserve requirement under any such authorizing instrument. Nothing in this subsection shall waive or modify additional requirements contained in any such authorizing instrument (including the Authorizing Instrument related to the Bonds); the provisions of this subsection and any such authorizing instrument

(including the Authorizing Instrument related to the Bonds) shall both be required to be met. Unless and until notice shall be given by the Finance Authority to the Participant, a surety policy issued by MBIA Insurance Corporation or Financial Guaranty Insurance Company that has been reinsured by National Public Finance Guarantee Corporation (formerly known as MBIA Insurance Corp. of Illinois) shall not be treated as a Disqualified Instrument.

(t) (i) comply with Title 40 CFR Part 34 (New Restrictions on Lobbying) and the Byrd Anti-Lobbying Amendment ("Lobbying Restrictions"); (ii) provide certifications and disclosures related to Lobbying Restrictions in a form and manner as may from time to time be required by SRF Policy Guidelines or the Safe Drinking Water Act including without limitation the Lobbying Restrictions; and (iii) pay any applicable civil penalty required by the Lobbying Restrictions as may be applicable to making a prohibited expenditure under Title 40 CFR Part 34, or failure to file any required certification or lobbying disclosures. The Participant understands and acknowledges that pursuant to such Lobbying Restrictions, the making of any such prohibited expenditure, or any such failure to file or disclose, is subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.

(u) Comply with all federal requirements applicable to the Loan (including those imposed by the Safe Drinking Water Act and related SRF Policy Guidelines) which the Participant understands includes, among other, requirements that all of the iron and steel products used in the Project are to be produced in the United States ("American Iron and Steel Requirement") unless (i) the Participant has requested and obtained a waiver from the Agency pertaining to the Project or (ii) the Finance Authority has otherwise advised the Participant in writing that the American Iron and Steel Requirement is not applicable to the Project.

(v) Comply with all record keeping and reporting requirements under the Safe Drinking Water Act, including any reports required by a Federal agency or the Finance Authority such as performance indicators of program deliverables, information on costs and project progress. The Participant understands that (i) each contract and subcontract related to the Project is subject to audit by appropriate federal and state entities and (ii) failure to comply with the Safe Drinking Water Act and this Agreement may be a default hereunder that results in a repayment of the Loan in advance of the maturity of the Bonds and/or other remedial actions.

(w) Whenever from time to time requested by the Finance Authority, submit evidence satisfactory to the Finance Authority demonstrating that the Participant's rates and charges are at a level adequate to produce and maintain sufficient net revenue after providing for the proper Operation and Maintenance of the Drinking Water System, on a proforma basis consistent with SRF Policy Guidelines, to provide 1.25x coverage on all obligations of the Drinking Water System (including the Bonds) and, in the event the Participant's rates and charges are insufficient to demonstrate such coverage, then to the extent permitted by law annually enact an increase in its rates and charges reasonably designed to be consistent with SRF Policy Guidelines regarding such coverage.

(x) Notwithstanding any provision of the Authorization Instrument to the contrary, not make any payment in lieu of property taxes from any account of the Drinking Water System (i) if the Finance Authority provides notice to the Participant that the Finance Authority has determined in its reasonable discretion that such a transfer adversely affects the Finance Authority and (ii) more frequently than semiannually if the Authority provides notice to the Participant so requiring such a limitation on frequency.

(y) Comply with all requirements of this Agreement applicable to the Loan (including those imposed by the attached Exhibit D).

Section 3.03. Representations and Warranties of the Participant. After due investigation and inquiry, the Participant hereby represents and warrants to the Finance Authority that:

(a) The Participant is duly organized and existing under State law and constitutes a “political subdivision” within the meaning of I.C. 5-1.2-2-57 and a “participant” within the meaning of I.C. 5-1.2-2-54. The Project and the Drinking Water System are subject to I.C. 8-1.5 and the Participant has the financial, managerial, technical, and legal capability to operate and maintain its Drinking Water System and the Project, consistent with SRF Policy Guidelines including applicable requirements of the Drinking Water SRF Act.

(b) The Participant and its Drinking Water System are not subject to the jurisdiction of the Commission under I.C. 8-1-2 or any other applicable law and the Project and the Bonds are not subject to the Commission’s review and approval requirements. If the Participant or its Drinking Water System is subject to the jurisdiction of the Commission under I.C. 8-1-2 or any other applicable law, the Commission has reviewed and approved the Project and the issuance of the Bonds and no additional approvals or consents are required to be obtained from the Commission related thereto.

(c) The Participant has full power and authority to adopt the Authorizing Instrument, enter into this Agreement and issue the Bonds and perform its obligations hereunder and thereunder.

(d) By all required action, the Participant has duly adopted the Authorizing Instrument and authorized the execution and delivery of this Agreement, the Bonds and all other papers delivered in connection herewith.

(e) Neither the execution of, nor the consummation of the transaction contemplated by, this Agreement nor the compliance with the terms and conditions of any other paper referred to herein, shall conflict with, result in a breach of or constitute a default under, any indenture, mortgage, lease, agreement or instrument to which the Participant is a party or by which the Participant or its property, including the Drinking Water System, is bound or any law, regulation, order, writ, injunction or decree of any court or governmental agency or instrumentality having jurisdiction.

(f) There is no litigation pending or, to the knowledge of the Participant, upon investigation, threatened that (1) challenges or questions the validity or binding effect of this Agreement, the Authorizing Instrument or the Bonds or the authority or ability of the Participant to execute and deliver this Agreement or the Bonds and perform its obligations hereunder or thereunder or (2) would, if adversely determined, have a significant adverse effect on the ability of the Participant to meet its obligations under this Agreement, the Authorizing Instrument or the Bonds.

(g) The Participant has not at any time failed to pay when due interest or principal on, and it is not now in default under, any warrant or other evidence of obligation or indebtedness of the Participant.

(h) All information furnished by the Participant to the Finance Authority or any of the persons representing the Finance Authority in connection with the Loan or the Project is accurate and complete in all material respects including compliance with the obligations, requirements and undertakings imposed upon the Participant pursuant to this Agreement.

(i) The Participant has taken or will take all proceedings required by law to enable it to issue and sell the Bonds as contemplated by this Agreement.

(j) For any outstanding bonds payable from the revenues of the Drinking Water System which are on a parity with the Bonds, each Credit Provider, if any, that has provided a Credit Instrument is at least rated on a long term basis "A-/A3" long term by S&P Global Ratings and Moody's Investors Service, Inc., and their successors, except as represented and set forth in Exhibit C attached thereto (and with respect to which true, accurate and complete copies of each such Credit Instrument have been delivered to the Finance Authority).

Each of the foregoing representations and warranties will be deemed to have been made by the Participant as of the date of this Agreement and as of the date of any disbursement of Loan proceeds (including from the Construction Fund). Each of the foregoing representations and warranties shall survive the Loan disbursements regardless of any investigation or investigations the Finance Authority may have undertaken.

Section 3.04. Covenants Regarding Assignment. The Participant acknowledges that the Finance Authority may pledge, sell or assign the Bonds or cause the Bonds to be pledged, sold or assigned, and certain of its rights related thereto, as permitted pursuant to Section 5.02 herein. The Participant covenants and agrees to cooperate with and assist in, at its expense, any such assignment. Within 30 days following a request by the Finance Authority, the Participant covenants and agrees with the Finance Authority that the Participant will, at its expense, furnish any information, financial or otherwise, with respect to the Participant, this Agreement, the Authorizing Instrument and the Bonds and the Drinking Water System as the Finance Authority reasonably requests in writing to facilitate the sale or assignment of the Bonds.

Section 3.05. Nature of Information. All information furnished by the Participant to the Finance Authority or any person representing the Finance Authority in connection with the Loan

or the Project may be furnished to any other person the Finance Authority, in its judgment, deems necessary or desirable in its operation and administration of the Drinking Water SRF Program.

Section 3.06. Tax Covenants. The Participant hereby covenants that it will not take, or cause or permit to be taken by it or by any party under its control, or fail to take or cause to permit to be taken by it or by any party under its control, any action that would result in the loss of the exclusion from gross income for federal income tax purposes of interest on the Bonds pursuant to Section 103 of the Code. The Participant further covenants that it will not do any act or thing that would cause the Bonds to be “private activity bonds” within the meaning of Section 141 of the Code or “arbitrage bonds” within the meaning of Section 148 of the Code. In furtherance and not in limitation of the foregoing, the Participant shall take all action necessary and appropriate to comply with the arbitrage rebate requirements under Section 148 of the Code to the extent applicable to the Participant or the Bonds, including accounting for and making provision for the payment of any and all amounts that may be required to be paid to the United States of America from time to time pursuant to Section 148 of the Code.

Section 3.07. Non-Discrimination Covenant. Pursuant to and with the force and effect set forth in I.C. 22-9-1-10, the Participant hereby covenants that the Participant, and its contractors and subcontractors for the Project, shall not discriminate against any employee or applicant for employment, to be employed in the performance of this Agreement, with respect to the hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, sex, disability, national origin or ancestry.

(End of Article III)

ARTICLE IV - DEFAULTS

Section 4.01. Remedies. The Finance Authority's obligation to make a disbursement under the Loan to the Participant hereunder may be terminated at the option of the Finance Authority, without giving any prior notice to the Participant, in the event: (a) the Participant fails to undertake or perform in a timely manner any of its agreements, covenants, terms or conditions set forth herein or in any paper entered into or delivered in connection herewith (including the Authorizing Instrument); or (b) any representation or warranty made by the Participant as set forth herein or in any paper entered into or delivered in connection herewith is materially false or misleading. Any such event shall constitute an event of default and in addition to any other remedies at law or in equity, the Finance Authority may (x) require a Loan Reduction Payment pursuant to Section 2.06 herein as if it were a date that was three (3) years after the dated date of the Bonds, (y) in the event a Deposit Agreement has not previously been entered into related to the Participant's Bond Fund (including any related reserve), require the Participant to enter into a Deposit Agreement (or to modify any such previously entered Deposit Agreement) and the Participant shall enter into (or modify) such an agreement within 5 days after any such demand and (z) without giving any prior notice, declare the entire outstanding principal amount of the Loan, together with accrued interest thereon, immediately due and payable.

Section 4.02. Effect of Default. Failure on the part of the Finance Authority in any instance or under any circumstance to observe or perform fully any obligation assumed by or imposed upon the Finance Authority by this Agreement or by law shall not make the Finance Authority liable in damages to the Participant or relieve the Participant from paying any Bond or fully performing any other obligation required of it under this Agreement or the Authorizing Instrument; provided, however, that the Participant may have and pursue any and all other remedies provided by law for compelling performance by the Finance Authority of such obligation assumed by or imposed upon the Finance Authority. The obligations of the Finance Authority hereunder do not create a debt or a liability of the Finance Authority or the State under the constitution of the State or a pledge of the faith or credit of the Finance Authority or the State and do not directly, indirectly or contingently, obligate the Finance Authority or the State to levy any form of taxation for the payment thereof or to make any appropriation for their payment. Neither the Finance Authority or the State, nor any agent, attorney, member or employee of the Finance Authority or the State shall in any event be liable for damages, if any, for the nonperformance of any obligation or agreement of any kind whatsoever set forth in this Agreement.

Section 4.03. Defaults under Prior Agreements. The Participant and the Finance Authority agree that any event of default occurring under the Prior Agreements shall constitute an event of default under this Agreement. Similarly, the Participant and the Finance Authority agree that any event of default under this Agreement, or under any subsequent financial assistance agreement entered into between the Participant and the Finance Authority, shall constitute an event of default under the Prior Agreements and the subsequent financial assistance agreement, if any, as the case may be.

(End of Article IV)

ARTICLE V

MISCELLANEOUS

Section 5.01. Citations. Any reference to a part, provision, section or other reference description of a federal or State statute, rule or regulation contained herein shall include any amendments, replacements or supplements to such statutes, rules or regulation as may be made effective from time to time. Any reference to a Loan disbursement shall include any disbursement from the Construction Fund. Any use of the term “including” herein shall not be a limitation as to any provision herein contained but shall mean and include, without limitation, the specific matters so referenced.

Section 5.02. Assignment. Neither this Agreement, nor the Loan or the proceeds thereof may be assigned by the Participant without the prior written consent of the Finance Authority and any attempt at such an assignment without such consent shall be void. The Finance Authority may at its option sell or assign all or a portion of its rights and obligations under this Agreement, the Authorizing Instrument, and the Bonds to an agency of the State or to a separate body corporate and politic of the State or to a trustee under trust instrument to which the Finance Authority, the State or any assignee is a beneficiary or party. The Finance Authority may at its option pledge or assign all or a portion of its rights under this Agreement, the Authorizing Instrument, and the Bonds to any person. The Participant hereby consents to any such pledge or assignment by the Finance Authority. This Agreement shall be binding upon and inure to the benefit of any permitted secured party, successor and assign.

Section 5.03. No Waiver. Neither the failure of the Finance Authority nor the delay of the Finance Authority to exercise any right, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege preclude any other further exercise of any other right, power or privilege.

Section 5.04. Modifications. No change or modification of this Agreement shall be valid unless the same is in writing and signed by the parties hereto.

Section 5.05. Entire Agreement. This Agreement contains the entire agreement between the parties hereto and there are no promises, agreements, conditions, undertakings, warranties and representations, either written or oral, expressed or implied between the parties hereto other than as herein set forth or as may be made in the Authorizing Instrument and the other papers delivered in connection herewith. In the event there is a conflict between the terms of this Agreement and the Authorizing Instrument, the terms of this Agreement shall control. It is expressly understood and agreed that except as otherwise provided herein this Agreement represents an integration of any and all prior and contemporaneous promises, agreements, conditions, undertakings, warranties and representations between the parties hereto. This Agreement shall not be deemed to be a merger or integration of the existing terms under the Prior Agreements except as expressly set forth in Section 4.03 herein.

Section 5.06. Execution of Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be executed by the Finance Authority and the

Participant, and all of which shall be regarded for all purposes as one original and shall constitute one and the same instrument.

Section 5.07. Severability of Invalid Provisions. If any one or more of the covenants or agreements provided in this Agreement on the part of the Finance Authority or the Participant to be performed shall be deemed by a court of competent jurisdiction to be contrary to law or cause the Bonds to be invalid as determined by a court of competent jurisdiction, then such covenant or covenants or agreement or agreements shall be deemed severable from the remaining covenants and agreements and waived and shall in no way affect the validity of the other provisions of this Agreement.

Section 5.08. Notices. All notices hereunder shall be sufficiently given for all purposes hereunder if in writing and delivered personally or sent or transmitted to the appropriate destination as set forth below in the manner provided for herein. Notice to the Finance Authority shall be addressed to:

Indiana Finance Authority
SRF Programs
100 North Senate, Room 1275
Indianapolis, Indiana 46204
Attention: Director of Environmental Programs

or at such other address(es) or number(s) and to the attention of such other person(s) as the Finance Authority may designate by notice to the Participant. Notices to the Participant shall be addressed to:

City of Goshen, Indiana
202 South Fifth Street
Goshen, Indiana 46528
Attention: Clerk-Treasurer

or at such other address(es) or number(s) and to the attention of such other person(s) as the Participant may designate by notice to the Finance Authority. Any notice hereunder shall be deemed to have been served or given as of (a) the date such notice is personally delivered, (b) three (3) Business Days after it is mailed U.S. mail, First Class postage prepaid, (c) one (1) Business Day after it is sent on such terms by Federal Express or similar next-day courier, or (d) the same day as it is sent by facsimile transmission with telephonic confirmation of receipt by the person to whom it is sent.

Section 5.09. Expenses. The Participant covenants and agrees to pay (a) the fees, costs and expenses in connection with making the Loan, including issuing the Bonds and providing the necessary certificates, documents and opinions required to be delivered therewith; (b) the fees, costs and expenses in connection with making and administering the Loan; (c) the costs and expenses of complying with its covenants made herein; and (d) any and all costs and expenses, including attorneys' fees, incurred by the Finance Authority in connection with the enforcement of this Agreement, the Authorizing Instrument and the Bonds in the event of the breach by the Participant of or a default under this Agreement, the Authorizing Instrument or the Bonds. Notwithstanding clause (b) above, the Participant shall not be obligated to pay any of the fees, costs and expenses in connection with administering the Loan except as follows: (1) the Finance Authority may request and the Participant shall promptly pay (no later than the date first above written), a closing fee in connection with the Loan in an amount determined by the Finance Authority, but not exceeding \$1,500, which may not be paid from a Loan disbursement; (2) the Finance Authority may request and the Participant shall promptly pay (no later than thirty (30) days after any request), an annual administrative fee in connection with the Loan in an amount determined by the Finance Authority, but not exceeding \$1,500, which may not be paid from a Loan disbursement; (3) the Finance Authority may request and the Participant shall promptly pay (no later than thirty (30) days after any request), a Non-Use Fee in connection with the Loan, which may not be paid from a Loan disbursement; (4) for so long as the Finance Authority is the registered owner of the Bonds, at the direction of the Finance Authority, the interest rate on the Bonds may be adjusted to lower the interest rate on the Bonds, and the difference between the amount payable as the original rate on the Bonds and the lower rate shall be deemed an additional administrative fee in connection with the Drinking Water SRF Program; and (5) the Participant shall only be obligated to pay fees, costs and expenses of the Finance Authority's counsel and financial advisers in connection with making the Loan, which may be paid from a Loan disbursement.

Section 5.10. Applicable Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Indiana.

Section 5.11. Term. This Agreement shall terminate at such time as the Participant has fully met and discharged all of its obligations hereunder, which term may extend beyond the final payment of the Bonds or provision for the payment of the Bonds pursuant to the Authorizing Instrument.

Section 5.12. Non-Collusion. The undersigned attests, subject to the penalties of perjury, that he/she is an authorized officer or representative of the Participant, that he/she has not, nor has any other officer or representative of the Participant, directly or indirectly, to the best of the undersigned's knowledge, entered into or offered to enter into any combination, collusion or agreement to receive pay, and that the undersigned has not received or paid any sum of money or other consideration for the execution of this Agreement other than that which appears upon the face of the agreement or is a payment to lawyers, accountants and engineers by the Participant related to customary services rendered in connection with the Loan.

Section 5.13. Federal Award Information. The Catalogue of Federal Domestic Assistance (“CFDA”) Number for the Authority’s Drinking Water SRF Program is 66.468 and the Federal Agency & Program Name is “US Environmental Protection Agency Capitalization Grant for Drinking Water State Revolving Funds.”

(End of Article V)

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BEEN INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers or officials, all as of the date first above written.

CITY OF GOSHEN, INDIANA

INDIANA FINANCE AUTHORITY

“Participant”

“Finance Authority”

By: _____

By: _____

Printed: _____

James P. McGoff
Director of Environmental Programs

Title: _____

Attest: _____

EXHIBIT A

The Project consists of the following improvements to the Participant's Drinking Water System:

-
-
-
-

[The Project contains components that are GPR Projects, which GPR Projects Expenditures have been determined and are expected as of the date of this Agreement to be in the amount as set forth in the Participant's business case or categorical exclusion which is posted at www.srf.in.gov.]

The Project is more fully described in, and shall be in accordance with, the Preliminary Engineering Report and the Plans and Specifications approved by the Finance Authority (or if designated by the Finance Authority, the Department).

[End of Exhibit A]

EXHIBIT B
Principal Payment Schedule for the Bonds

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Maturity Date</u>	<u>Principal Amount</u>
07/01/2024	\$	07/01/2041	\$
01/01/2025		01/01/2042	
07/01/2025		07/01/2042	
01/01/2026		01/01/2043	
07/01/2026		07/01/2043	
01/01/2027		01/01/2044	
07/01/2027		07/01/2044	
01/01/2028		01/01/2045	
07/01/2028		07/01/2045	
01/01/2029		01/01/2046	
07/01/2029		07/01/2046	
01/01/2030		01/01/2047	
07/01/2030		07/01/2047	
01/01/2031		01/01/2048	
07/01/2031		07/01/2048	
01/01/2032		01/01/2049	
07/01/2032		07/01/2049	
01/01/2033		01/01/2050	
07/01/2033		07/01/2050	
01/01/2034		01/01/2051	
07/01/2034		07/01/2051	
01/01/2035		01/01/2052	
07/01/2035		07/01/2052	
01/01/2036		01/01/2053	
07/01/2036		07/01/2053	
01/01/2037		01/01/2054	
07/01/2037		07/01/2054	
01/01/2038		01/01/2055	
07/01/2038		07/01/2055	
01/01/2039		01/01/2056	
07/01/2039		07/01/2056	
01/01/2040		01/01/2057	
07/01/2040		07/01/2057	
01/01/2041		01/01/2058	
		TOTAL	
			\$

[End of Exhibit B]

EXHIBIT C
Credit Instrument

Credit Providers rated on a long term basis lower than "A-/A3" long term by S&P Global Ratings and Moody's Investors Service, Inc. are:

- None.

[End of Exhibit C]

Exhibit D

Additional Terms

A. The following additional terms in this Paragraph A are [NOT] applicable to the Loan:

“Equivalency Project” shall mean a project designated by the Finance Authority as an “equivalency project” under the Safe Drinking Water Act related to the “US Environmental Protection Agency Capitalization Grant for Drinking Water State Revolving Funds” for the federal fiscal year designated by the Finance Authority.

“BIL” shall mean the Bipartisan Infrastructure Law (BIL) (P.L. 117-58), also known as the “Infrastructure Investment and Jobs Act of 2021” (IIJA), signed into law on November 15, 2021.

The Participant understands and acknowledges that the Project has been designated as an Equivalency Project and is required to meet the related applicable requirements of the Safe Drinking Water Act.

The Participant further understands and agrees that it is required to comply with all terms of 2 CFR 200.216, Prohibition on certain telecommunication and video surveillance services or equipment, which among other requirements prohibits the use of Loan proceeds by the Participant to procure (by means of entering into, extending, or renewing contracts) or obtain equipment, systems or services that use “covered telecommunications equipment or services” identified in the regulation as a substantial or essential component of any Drinking Water System, or as critical technology as part of any Drinking Water System. Such prohibitions extend to the use of Loan proceeds by the Participant to enter into a contract with an entity that “uses any equipment, system, or service that uses covered telecommunications equipment or services” as a substantial or essential component of any Drinking Water System, or as critical technology as part of any Drinking Water System. The Participant represents and warrants that it has not procured or obtained from Loan proceeds equipment, systems or services that use “covered telecommunications equipment or services” identified in the regulation as a substantial or essential component of any Drinking Water System, or as critical technology as part of any Drinking Water System.

The Participant further understands and agrees that it shall comply with all federal requirements applicable to the assistance received (including those imposed by BIL) which the Participant understands includes, but is not limited to, the following requirements: that all of the iron and steel, manufactured products, and construction materials used in the Project are to be produced in the United States (“Build America, Buy America Requirements”) unless (i) the Participant has requested and obtained a waiver from the cognizant Agency pertaining to the Project or the Project is otherwise covered by a general applicability waiver; or (ii) all of the contributing Agencies have otherwise advised the Participant in writing that the Build America, Buy America Requirements are not applicable to the Project.

The Participant further understands and agrees that it shall comply with all record keeping and reporting requirements under all applicable legal authorities, including any reports required by the Finance Authority or the Agency, such as performance indicators of program deliverables,

information on costs and progress of the Project. The Participant understands that (i) each contract and subcontract related to the Project is subject to audit by appropriate federal and state entities and (ii) failure to comply with the applicable legal requirements and this Agreement may result in a default hereunder that results in a repayment of the Loan in advance of the maturity of the Bonds, termination and/or repayment of grants, cooperative agreements, direct assistance or other types of financial assistance, and/or other remedial actions.

The Participant further understands and agrees that it shall comply with (i) Executive Order 14030, regarding Climate-Related Financial Risk and (ii) Executive Order 13690, regarding Flood Risk Management Standards.

The Participant further understands that the Project is being financed, in whole or in part, with BIL funds, and shall place a physical sign displaying the official Building a Better America emblem and Agency logo at the site of the Project.

B. The following additional terms in this Paragraph B related to GPR Projects (and the related defined terms) are [NOT] applicable to the Loan.

“GPR Projects” shall mean Project components that meet the requirement of the “Green Project Reserve (GPR) Sustainability Incentive Program” consistent with SRF Policy Guidelines including applicable requirements of the Drinking Water SRF Act.

“GPR Projects Adjustment Fee” shall mean an amount which would equal the gross additional interest that would have accrued on the Bonds from the date of this Agreement through their scheduled final maturity, had such Bonds been issued at an interest rate determined under the Drinking Water SRF Program’s interest rate policies and practices using the final, actual GPR Projects Expenditures (rather than the amount referenced in the Participant’s business case or categorical exclusion posted at www.srf.in.gov), all as determined by the Finance Authority.

“GPR Projects Expenditures” shall mean those costs and expenses incurred by the Participant that are part of the Project which are GPR Projects in nature (within the meaning of the Drinking Water SRF Act) as determined by the Finance Authority, in order for the Bonds to receive special interest rate treatment under the Drinking Water SRF Program’s interest rate policies and practices.

The Participant understands and acknowledges that a special interest rate has been applied to the Bonds as a result of a portion of the Project having been identified by the Participant as being a GPR Projects project. In the event GPR Projects Expenditures are hereafter determined by the Finance Authority to be less than the amount referenced in the Participant’s business case or categorical exclusion, then the Finance Authority may request and the Participant shall promptly pay (no later than thirty (30) days after any request), a GPR Projects Adjustment Fee in connection with the Loan. The Participant shall certify to the Finance Authority those Loan disbursements it represents to be its GPR Projects Expenditures when and as required by SRF Policy Guidelines. The Participant understands and acknowledges that it is required to submit a business case or categorical exclusion documenting GPR Projects prior to loan closing or if a request is made pursuant to Section 3.02(f) of this

Agreement.

- C. *The following additional terms in this Paragraph C related to LLR Projects (and the related defined terms) are [NOT] applicable to the Loan.*

“LLR Projects” shall mean Project components that meet the requirement of the “Lead Line Replacement (LLR) Incentive Program” consistent with SRF Policy Guidelines including applicable requirements of the Drinking Water SRF Act.

“LLR Projects Adjustment Fee” shall mean an amount which would equal the gross additional interest that would have accrued on the Bonds from the date of this Agreement through their scheduled final maturity, had such Bonds been issued at an interest rate determined under the Drinking Water SRF Program’s interest rate policies and practices using the final, actual LLR Projects Expenditures (rather than the amount referenced in the Participant’s related post-bid and other documents submitted to the Finance Authority), all as determined by the Finance Authority.

“LLR Projects Expenditures” shall mean those costs and expenses incurred by the Participant that are part of the Project which are LLR Projects in nature (within the meaning of the Drinking Water SRF Act) as determined by the Finance Authority, in order for the Bonds to receive special interest rate treatment under the Drinking Water SRF Program’s interest rate policies and practices.

The Participant understands and acknowledges that a special interest rate has been applied to the Bonds as a result of a portion of the Project having been identified by the Participant as being a LLR Projects project. In the event LLR Projects Expenditures are hereafter determined by the Finance Authority to be less than the amount referenced in the Participant’s related post-bid and other documents submitted to the Finance Authority, then the Finance Authority may request and the Participant shall promptly pay (no later than thirty (30) days after any request), a LLR Projects Adjustment Fee in connection with the Loan. The Participant shall certify to the Finance Authority those Loan disbursements it represents to be its LLR Projects Expenditures when and as required by SRF Policy Guidelines.

[End of Exhibit D]



STORMWATER DEPARTMENT

CITY OF GOSHEN

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

Phone (574) 534-2201 • Fax (574) 533-8626

stormwater@goshencity.com • www.goshenindiana.org

MEMORANDUM

TO: Goshen City Council

FROM: Goshen Stormwater Department

RE: **GOSHEN STORMWATER MANAGEMENT ORDINANCE (ORDINANCE 5209)**

DATE: December 16, 2024

In December 2021, the Indiana Department of Environmental Management (IDEM) formally transitioned the State's stormwater regulations from a permit by rule to a general permit. Thus, replacing 327 IAC 15-5 (Rule 5) with the new Construction Stormwater General Permit (CSGP) and 327 IAC 15-13 (Rule 13) with a new Municipal Separate Storm Sewer System (MS4) General Permit (MS4 GP). Since these permits had not been updated by the State since 2003, they incorporated several new or revised provisions that would impact how the stormwater construction and post-construction associated with new development or redevelopment would need to be reviewed and permitted, either by IDEM (through the CSGP) or by MS4 entities (through the MS4 GP). Regulated Indiana MS4 entities such as counties, cities, and towns are required to incorporate these new changes (in the MS4 GP) into their existing and required local ordinances.

It is important to note that local jurisdictional and MS4 entities do not have the authority to directly implement or enforce IDEM's CSGP and MS4 GP. Instead, a local ordinance serves this purpose and is used to implement and enforce stormwater and erosion and sediment control requirements at a local level.

To assist with promoting statewide consistency among these local ordinances the Indiana Local Technical Assistance Program (LTAP) was asked to develop a model stormwater management ordinance for MS4 communities to use. To complete this task, LTAP secured funding and retained the services of Christopher B. Burke Engineering, LLC (Burke) to assist with the development of a model stormwater management ordinance and an accompanying stormwater technical standards manual for use by Indiana counties and local communities.

The Goshen Stormwater Department chose to take the provided model stormwater management ordinance and stormwater technical standards manual and modify them to fit the needs of the City of Goshen while being no more stringent than the requirements of the State of Indiana. In May of this year, the Goshen Stormwater Department convened a focus group of local elected officials and members of the development community to discuss the language in the model stormwater management ordinance. The focus group included council representatives: Linda

Gerber and Don Riegsecker, Brad Mosness (Abonmarche), Dean Sprunger (Schrock Homes, Inc.), Doug VonGunten (Ancon Construction), and City Staff: Jason Kauffman, Dustin Sailor, and Don Shuler.

The stormwater technical standards manual will be presented to the Goshen Board of Public Works and Safety and Stormwater Board for acceptance in the near future.

The following bullet points highlight several Key Points:

- ❖ Proposed Ordinance 5209 incorporates and replaces existing Ordinances 4327, 4328, and 4329.
- ❖ The updated language in the Ordinance and Technical Standards Manual will memorialize the requirements the Goshen Engineering and Stormwater Departments have been implementing over the past few decades.
- ❖ Stormwater storage requirements are not changing for projects keeping their stormwater on-site (retention), while projects that will be detaining stormwater runoff on their property and then releasing it to a public storm sewer or a waterway have been updated.
 - Retention Requirements = a 3” rain event over a 24-hour period
 - Detention Requirements = a 6” rain event over a 24-hour period
- ❖ The area of disturbance threshold triggering the need to obtain a CSGP remains at one acre. A CSGP requires the preparation of a Stormwater Pollution Prevention Plan and the preparation of a Post-Construction Stormwater Management Plan.
- ❖ Projects disturbing less than one acre will continue to be reviewed for proper treatment and storage of stormwater runoff both during and after construction.
- ❖ Section 2. in Ordinance 4328 established the application fees for a stormwater clearance and the proposed stormwater management ordinance will update these fees as follows:
 - The application fee will go from \$50 to
 - \$150 for projects not required to submit a post-construction stormwater management plan
 - \$325 for projects required to submit a new or amended post-construction stormwater management plan
 - A new resubmittal fee of \$100 will be assessed on any project going through the City’s Technical Review process if more than one resubmittal is required.
 - No changes are proposed at this time to the following fees:
 - A stormwater clearance renewal is still \$100
 - For projects required to obtain a CSGP, a supplemental filing fee of \$100 per disturbed acre and fractional acre is due and payable at the time a stormwater pollution prevention plan is submitted to the Elkhart County Soil and Water Conservation District
 - These fees are included in the proposed Ordinance 5209 but will be included in the next update to the City’s Fee Ordinance.

Following the Council’s discussion this evening, the Goshen Stormwater Department requests the Goshen City Council vote on the first reading of Ordinance 5209 *Stormwater Management*.

ORDINANCE 5209

City of Goshen Stormwater Management Ordinance

December ____, 2024

Abbreviated Table of Contents

Section	Title
1	GENERAL INFORMATION
2	Prohibited Discharges and Connections
3	Stormwater Quantity Management
4	Stormwater Pollution Prevention for Construction Sites
5	Stormwater Quality Management for Post-Construction
6	Permit Requirements and Procedures
7	Compliance and Enforcement
8	Miscellaneous
Appendices	
A	Abbreviations and Definitions

SECTION 1

General Information

(a) AUTHORITY AND TITLE

This Ordinance is adopted in accordance with statutory authority granted to City of Goshen under "Home Rule" and further is required by Phase II of the National Pollutant Discharge Elimination System Stormwater program (40 CFR Parts 9, 122, 123, and 124; December 8, 1999) authorized by the 1987 amendments to the Clean Water Act, the Indiana Department of Environmental Management's (IDEM) Municipal Separate Storm Sewer System (MS4) General Permit (MS4 GP), and the Indiana Department of Environmental Management's Construction Stormwater General Permit (CSGP). Based on this authority and these requirements, this Ordinance regulates:

- i. Discharges of prohibited non-stormwater flow into the stormwater drainage system.
- ii. Stormwater drainage improvements related to development of lands located within the corporate boundaries of the City of Goshen.
- iii. Drainage control systems installed during new construction and grading of lots and other parcels of land.
- iv. Stormwater, including stormwater runoff, snowmelt runoff, and surface runoff and drainage, associated with construction activity or demolition activity that results in land disturbance.
- v. Stormwater discharges from construction support activities directly related to construction sites or demolition sites subject to this ordinance.
- vi. Erosion and sediment control systems installed during new construction and grading of lots and other parcels of land.
- vii. The design, construction, and maintenance of stormwater drainage facilities and systems.
- viii. The design, construction, and maintenance of stormwater quality facilities and systems.
- ix. The design, construction, and maintenance of new dams.
- x. The development downstream of existing dams.
- xi. Development within floodplains, floodways, fluvial erosion hazard corridors, and bluff zones.

This Ordinance shall be known and may be cited as the City of Goshen Stormwater Management Ordinance. Once adopted, 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.

(b) APPLICABILITY AND EXEMPTIONS -

This Ordinance shall be applicable to all parcels of real estate within the jurisdiction of the City of Goshen unless exempt under this Ordinance. In addition, this Ordinance shall regulate all development and redevelopment occurring within the City of Goshen no matter what type of sewer (combined or separated) the property drains to. No zoning clearance, foundation permit, building permit, driveway permit, right-of-way permit, or other license or authorization for construction activities shall be issued and no land disturbance started for any construction in a development, as defined in Appendix A, until the plans required by this Ordinance for such construction have been reviewed and accepted in writing by the City of Goshen and a Stormwater Clearance has been issued. No person shall engage in a land disturbing activity affecting one (1) acre of land or more within the City of Goshen jurisdiction without having and maintaining in effect a Stormwater

Clearance from the Department of Stormwater Management and the Elkhart County SWCD or the City's current plan review consultant. An application for a Stormwater Clearance shall be filed with the Department of Stormwater Management on a form provided by the Department of Stormwater Management.

With the exception of the requirements of Section 2 of this Ordinance, single-family dwelling houses and duplexes in accepted subdivisions and land-disturbing activities affecting less than one (1) acre (43,560 square feet) of area shall be exempt from obtaining a permit under this Ordinance, however, all projects reviewed through the City of Goshen's Technical Review process will be assessed for compliance with stormwater drainage and quality. Also exempt from this Ordinance shall be agricultural land-disturbing activities, as defined in Appendix A.

In addition to the requirements of this Ordinance and its companion Stormwater Technical Standards Manual, compliance with all applicable ordinances of the City of Goshen as well as with applicable Federal, State of Indiana, and other Local statutes and regulations shall also be required. Unless otherwise stated, all other specifications referred to in this Ordinance shall be the most recent edition available. The City of Goshen capital improvement projects shall obtain all necessary state permits and are expected to meet all applicable technical requirements of this Ordinance and the City of Goshen Stormwater Technical Standards Manual. If the project site includes a part of an Elkhart County Regulated Drainage Easement, the applicant will need to check with the Elkhart County Surveyor's Office to learn if additional Surveyor's Office requirements specific to that regulated drain would apply to the site. In case there are conflicts between the requirements contained in this Ordinance and applicable requirements contained in other regulatory documents referenced above, the most restrictive shall prevail.

Any construction project which has had its final drainage plan accepted by the City of Goshen within a 1-year period prior to the effective date of this Ordinance shall be exempt from all requirements of this Ordinance that are in excess of the requirements of ordinances in effect at the time of acceptance. Such an exemption is not applicable to the requirements detailed in Section 2 of this Ordinance.

The City of Goshen has the authority to modify, grant exemptions, and/or waive any and all the requirements of this Ordinance and its associated Technical Standards Manual. A pre-development meeting with the City of Goshen may be requested by the applicant to discuss the applicability of various provisions of the Ordinance and its associated Technical Standards Manual with regards to unique or unusual circumstances relating to a project. However, any initial determination of such applicability shall not be binding on future determinations of the City of Goshen that may be based on the review of more detailed information and plans.

(c) FINDINGS

The City of Goshen finds that:

- i. Water bodies, roadways, structures, and other property within the City of Goshen or its planning jurisdiction boundary are at times subjected to flooding;
- ii. Flooding is a danger to the lives and property of the public and is also a danger to the natural resources of the region;
- iii. Land development alters the hydrologic response of watersheds, resulting in increased stormwater runoff rates and volumes, increased flooding, increased stream channel erosion, and increased sediment transport and deposition;

- iv. Soil erosion resulting from land-disturbing activities has the potential to cause a significant amount of sediment and other pollutants to be transported off-site and deposited in ditches, streams, wetlands, lakes, and reservoirs;
- v. Increased stormwater runoff rates and volumes, and the sediments and pollutants associated with stormwater runoff from future development projects within the *City of Goshen* will, absent reasonable regulation and control, adversely affect the *City of Goshen's* water bodies and water resources;
- vi. Pollutant contributions from illicit discharges within the *City of Goshen* will, absent reasonable regulation, monitoring, and enforcement, adversely affect the *City of Goshen's* water bodies and water resources;
- vii. Stormwater runoff, soil erosion, nonpoint source pollution, and illicit sources of pollution can be controlled and minimized by the regulation of stormwater management;
- viii. Adopting the standards, criteria, and procedures contained and referenced in this Ordinance and implementing the same will address many of the deleterious effects of stormwater runoff and illicit discharges;
- ix. Adopting this Ordinance is necessary for the preservation of public health, safety, and welfare, for the conservation of natural resources, and for compliance with State and Federal regulations.

(d) PURPOSE

The purpose of this Ordinance is to provide for the health, safety, and general welfare of the citizens of the *City of Goshen* through the regulation of stormwater and non-stormwater discharges to the MS4 stormwater drainage system and to protect, conserve, and promote the orderly development of land and water resources within the *City of Goshen*. This Ordinance establishes methods for managing the quantity and quality of stormwater entering into the MS4 stormwater drainage system to comply with the requirements of an NPDES permit. The objectives of this Ordinance are:

- i. To prevent or reduce the harm caused by excessive stormwater runoff and periodic flooding, including loss of life and property and threats and inconveniences to public health, safety, and welfare.
- ii. To protect, conserve, and promote orderly economic development of water and land resources by implementing beneficial design features and conservation techniques.
- iii. To prevent or reduce additional disruption of the economy and governmental services due to stormwater and flood drainage.
- iv. To conserve the natural hydrologic, hydraulic, water quality and other beneficial functions of watercourses, floodplains and wetlands.
- v. To regulate the contribution of pollutants to the stormwater drainage system from construction site runoff.
- vi. To regulate the contribution of pollutants to the stormwater drainage system from runoff from new development, re-development, and any other user.
- vii. To prohibit illicit connections and discharges into the stormwater drainage system, waters of the State, and waters of the United States.
- viii. To establish legal authority to carry out all plan review, inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this Ordinance.

(e) INCORPORATION BY REFERENCE

The latest version of the City of Goshen Technical Standards Manual, as edited, amended, or replaced from time to time, is hereby adopted as the technical manual of reference for the management of stormwater runoff for the City of Goshen.

The latest version of the state erosion and sediment control manual (currently known as the Indiana Stormwater Quality Manual), as edited, amended, or replaced from time to time, is hereby adopted as the technical manual of reference for the minimum control requirements for erosion and sediment control for the City of Goshen.

Copies of these documents are on file with the City of Goshen Clerk-Treasurer's Office and are available for public inspection.

(f) ABBREVIATIONS AND DEFINITIONS

For the purpose of this Ordinance, the abbreviations and definitions provided in Appendix A shall apply.

(g) RESPONSIBILITY FOR ADMINISTRATION

Except as otherwise provided, the Superintendent of the Department of Stormwater Management shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted or duties imposed upon the Superintendent of the Department of Stormwater Management may be delegated in writing by the Superintendent to qualified persons or entities acting in the beneficial interest of or in the employ of the City of Goshen.

(h) INTERPRETATION

Words and phrases in this Ordinance shall be construed according to their common and accepted meanings, except that words and phrases defined in Appendix A, shall be construed according to the respective definitions given in that section. Technical words and technical phrases that are not defined in this Ordinance, but which have acquired particular meanings in law or in technical usage shall be construed according to such meanings. Additionally, In their interpretation and application, these regulations shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare.

(i) PROVISIONAL SEPARABILITY

The provisions of this Ordinance are hereby deemed to be severable. If any part or provision of these regulations or the application thereof to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The City hereby declares that it would have enacted the remainder of these regulations even without any such part, provision or application, so long as the remainder of these regulations promotes the purposes of this ordinance.

(j) SEVERABILITY

The provisions of this Ordinance are hereby deemed to be severable. In the event any provisions of this Ordinance are determined by a court of competent jurisdiction to be unenforceable, such determination shall not affect the remaining provisions of this Ordinance which shall remain in full force and effect.

(k) DISCLAIMER OF LIABILITY

The degree of protection required by this Ordinance is considered reasonable for regulatory purposes and is based on historical records, engineering, and scientific methods of study. Larger storms may occur or stormwater runoff amounts may be increased by human-made or natural causes. This Ordinance does not imply that land uses permitted will be free from stormwater damage. This Ordinance shall not create liability on the part of the City of Goshen or any officer, representative, or employee thereof, for any damage that may result from reliance on this Ordinance or on any administrative decision lawfully made there under.

The words “approve” and “accept”, and their common derivations as used in this Ordinance in relation to plans, reports, calculations, and permits shall mean that the City of Goshen has reviewed the material produced and submitted by the applicant or their agents for general compliance with this Ordinance and the City of Goshen Stormwater Technical Standards Manual, and that such compliance would qualify the applicant to receive a stormwater management approval or permit. Such an “approval” or “acceptance” is based on the assumption that the project engineer has followed all appropriate engineering methods in the design. Any stormwater quantity (drainage) or water quality problems associated with the project caused by poor construction by the contractor and/or poor engineering design or judgment, either on-site or off-site, are the responsibility of the developer and the project engineer.

Consideration, design, construction, and maintenance of safety measures for proposed or existing stormwater facilities and infrastructure shall be the responsibility of the developer, applicant, and/or the property owner. The City of Goshen and its officials and representatives shall not be responsible for maintenance nor liability for any accidents.

(l) COMPATABILITY WITH OTHER PERMIT AND ORDINANCE REQUIREMENTS

This ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule, regulation, statute, or other provision of law. The requirements of this ordinance should be considered minimum requirements, and where any provisions of this ordinance impose restrictions different from those imposed by any other ordinance, rule or regulation, or other provisions of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

SECTION 2

Prohibited Discharges and Connections

(a) APPLICABILITY AND EXEMPTIONS

This section shall apply to all discharges, including illegal dumping, entering the stormwater drainage system under the control of the City of Goshen, regardless of whether the discharge originates from developed or undeveloped lands, and regardless of whether the discharge is generated from an active construction site or a stabilized site. These discharges include flows from direct connections to the stormwater drainage system, illegal dumping, and contaminated runoff.

Stormwater runoff from agricultural, timber harvesting, and mining activities is exempted from the requirements of this section unless determined to contain pollutants not associated with such activities or in excess of standard practices. Farm residences are *not* included in this exemption.

Any non-stormwater discharge permitted under an NPDES permit, waiver (unless the waiver is solely based on point source considerations, still allowing nonpoint source discharge of a pollutant), or waste discharge order issued to the discharger and administered under the authority of the U.S. Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for the subject discharge to the stormwater drainage system, is also exempted from this section.

(b) PROHIBITED DISCHARGES AND CONNECTIONS

No person shall connect to or allow the continued connection of any drain or conveyance to an MS4 conveyance, watercourse, or waterbody, directly or indirectly, which allows any substance other than stormwater or an exempted discharge. Any person discharging stormwater shall effectively minimize pollutants from also being discharged with the stormwater, through the use of best management practices (BMPs).

No person may reinstate a MS4 access if that access has been suspended pursuant to this Ordinance until such time as the suspension is lifted by the Department of Stormwater Management, the Stormwater Board, or a court of competent jurisdiction.

No person subject to an NPDES stormwater discharge permit shall allow or permit any discharge to enter the MS4 conveyance, watercourse or waterbody without complete compliance with the terms and conditions of the NPDES permit.

No person subject to an NPDES stormwater discharge permit shall unreasonably delay the Department of Stormwater Management's access to a permitted facility.

No person owning a parcel of real estate, in possession of a parcel of real estate, in charge of any facility or operation, or responsible for the emergency response or the operation at any facility, shall fail to notify the Department of Stormwater Management as soon as practicable of any improper or unpermitted release of materials, discharges, or pollutants into stormwater, the stormwater drainage system, or any watercourse if such person has information that such discharge or release may have occurred.

No person owning a parcel of real estate, in possession of a parcel of real estate, in charge of any facility or operation or responsible for the emergency response at any facility or the operation, shall fail to take all reasonable steps to ensure the discovery, containment, and cleanup of any improper or unpermitted release or discharge.

Concrete washout material, cementitious wash water, or slurry created during cutting or demolition operations must be properly contained within an appropriate practice and any waste material properly disposed of regardless of the size of the project.

The City of Goshen is authorized to require dischargers to implement pollution prevention measures, utilizing BMPs necessary to prevent or reduce the discharge of pollutants into the City of Goshen's stormwater drainage system, and to require any pollutant discharge to be properly and fully cleaned up in a timely manner.

(c) EXEMPTED DISCHARGES AND CONNECTIONS

Notwithstanding other requirements in this Ordinance, the following categories of non-stormwater discharges or flows are exempted from the requirements of this section:

- i. Water line flushing;
- ii. Landscape irrigation, lawn watering, and irrigation water;
- iii. Diverted streamflows;
- iv. Rising groundwaters;
- v. Uncontaminated groundwater infiltration;
- vi. Uncontaminated pumped groundwater;
- vii. Discharges from potable water sources;
- viii. Foundation or footing drains (not including active groundwater dewatering systems) but must be outside of the public right-of-way;
- ix. Air conditioning condensation;
- x. Springs;
- xi. Water from crawl space pumps;
- xii. Water used to wash vehicles and equipment, provided that there is no discharge of soaps, solvents, or detergents used for such purposes;
- xiii. Flows from riparian habitats and wetlands;
- xiv. Dechlorinated swimming pool discharges not including discharges from saltwater swimming pools;
- xv. Street wash water;
- xvi. Discharges from emergency firefighting activities;
- xvii. Discharge specified by an authorized enforcement agency as being necessary to protect public health or safety;
- xviii. Dye testing (verbal notification to the Department of Stormwater Management is required before the test);
- xix. Naturally introduced detritus (e.g., leaves and twigs);
- xx. Routine external building washdown water that does not use detergents.

(d) STORAGE OF HAZARDOUS OR TOXIC MATERIAL

Outside or open storage or stockpiling of hazardous or toxic material within any watercourse, or in its associated floodway or floodplain, is strictly prohibited. Storage or stockpiling of hazardous or toxic material, including sewage treatment plant stockpiles, on active construction sites must

include adequate protection and/or containment to prevent any such materials from entering any temporary or permanent stormwater conveyance or watercourse.

(e) PRIVATE PROPERTY MAINTENANCE DUTIES

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse located within their property boundaries free of trash, debris, excess vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(f) SPILL REPORTING

As soon as any person responsible for a facility or operation or responsible for the emergency response for a facility or operation has information of a known or suspected release of materials which may result in an illegal discharge into the stormwater, or storm drain system, such person shall take all necessary steps to contain and clean up the release.

Any person owning a parcel of real estate, in possession of a parcel of real estate, in charge of any facility or operation, or responsible for the emergency response or operation at any facility (the discharger) who accidentally discharges into a waterbody any substance other than stormwater or an exempted discharge or has information that such a discharge or release may have occurred shall immediately inform the City of Goshen concerning the discharge by contacting the Department of Stormwater Management if such a release occurs within normal business hours and if not occurring within normal business hours by informing emergency dispatch services. Additionally, the discharger shall contact IDEM Emergency Response 24-Hour Emergency Spill Line if the discharge is a reportable spill as defined by the Indiana Spill Rule (327 Indiana Administrative Code 2-6.1). A written report concerning the discharge shall be filed with the City of Goshen, the Elkhart County Health Department, and IDEM, by the dischargers, within five (5) days. The written report shall specify:

- i. The composition of the discharge and the cause thereof;
- ii. The date, time, and estimated volume of the discharge;
- iii. All measures taken to clean up the accidental discharge, and all measures proposed to be taken to prevent any recurrence;
- iv. The name and telephone number of the person making the report, and the name and telephone number of a person who may be contacted for additional information on the matter.

A properly reported accidental discharge shall be an affirmative defense to a civil infraction proceeding brought under this Ordinance against a discharger for such discharge. It shall not, however, be a defense to a legal action brought to obtain an injunction, to obtain recovery of costs or to obtain other relief because of or arising out of the discharge. A discharge shall be considered properly reported only if the discharger complies with all the requirements of this section. This requirement does not relieve discharger from notifying other entities as required by state or federal regulations.

(g) INSPECTIONS AND MONITORING

1. Stormwater Drainage System

The City of Goshen has the authority to periodically inspect the portion of the stormwater drainage system under the City of Goshen's control, in an effort to detect and eliminate illicit connections and discharges into the system. This inspection will include a screening of discharges from outfalls connected to the system in order to determine if prohibited flows are being conveyed into the stormwater drainage system. It could also include spot testing of waters contained in the stormwater drainage system itself to detect the introduction of pollutants into the system by means other than a defined outfall, such as dumping or contaminated sheet runoff.

2. Potential Polluters

If, as a result of the stormwater drainage system inspection, a discharger is suspected of an illicit discharge, the City of Goshen may inspect and/or obtain stormwater samples from stormwater runoff facilities of the subject discharger, to determine compliance with the requirements of this Ordinance. Upon notice, the discharger shall allow the City of Goshen's properly identified representative to enter upon the premises of the discharger at all hours necessary for the purposes of such inspection or sampling. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Department of Stormwater Management.

Facility operators shall allow the City of Goshen ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of the records that must be kept under the conditions of a NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Superintendent of the Department of Stormwater Management or their designee and shall not be replaced if so requested. The costs of clearing such access shall be borne by the operator.

The City of Goshen or its properly identified representative may place on the discharger's property the equipment or devices used for such sampling or inspection. Additionally, the City of Goshen or its properly identified representative has the right to require the discharger to install monitoring equipment at any commercial or industrial facility or any facility containing more than three (3) residential units. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy. Identified illicit connections or discharges shall be subject to enforcement action as described in Section 7 of this Ordinance.

3. New Development and Re-Development

Following the final completion of construction and the receipt of record drawings by the City of Goshen, the City of Goshen has the authority to inspect new development and re-development sites to verify that all on-site stormwater conveyances and connections to the stormwater drainage system are in compliance with this section.

SECTION 3

Stormwater Quantity Management

(a) APPLICABILITY AND EXEMPTIONS

The storage of, and where applicable, approved controlled release of stormwater runoff shall be required for all new business, institutional developments, commercial and industrial developments, residential subdivisions, planned development, rural estate subdivisions, and any redevelopment or other new construction located within the City of Goshen. The City of Goshen, after thorough investigation and evaluation, may waive the requirement of controlled runoff for minor subdivisions and parcelization. Additional potential exemptions regarding the retention/detention requirements are provided under Sub-section (b).

(b) POLICY ON STORMWATER QUANTITY MANAGEMENT

It is recognized that most streams and drainage channels flowing through the City of Goshen do not have sufficient capacity to receive and convey stormwater runoff resulting from continued urbanization. Accordingly, the storage and, when allowed, controlled release of excess stormwater runoff shall be required for all developments and redevelopments (as defined in Appendix A) located within the City of Goshen. Release rate requirements, downstream restriction considerations, acceptable outlet, and adjoining property impact considerations are detailed in the City of Goshen Stormwater Technical Standards.

Due to unknowns regarding the future development patterns and the associated proposed stormwater quantity management systems within a watershed, it is the policy of the City of Goshen to (1) that an engineered drainage plan shall be submitted to the City of Goshen via the Technical Review process for any new development, redevelopment, new construction, addition to existing construction, or other land-disturbing activity located within the City's jurisdiction which results in the addition of impervious surfaces or the redirection of the surface water runoff in pervious areas. And (2) encourage the retention of runoff from new development or redevelopment except where the detention of runoff is necessary. Other special circumstances when such a waiver may be considered by the City of Goshen include situations where the design of a regional stormwater basin/pond has already taken into account the provision of direct release in certain areas in the watershed. In which case, the project will at a minimum provide appropriate stormwater quality treatment before release to a regional stormwater drainage system, a public stormwater drainage system, or a waterway as explained in Section 5.

(c) CALCULATIONS AND DESIGN STANDARDS AND SPECIFICATIONS

The calculation methods as well as the type, sizing, and placement of all stormwater facilities shall meet the design criteria, standards, and specifications outlined in the City of Goshen Stormwater Technical Standards Manual. The methods and procedures in the Stormwater Technical Standards Manual are consistent with the policy stated above.

(d) DRAINAGE EASEMENT REQUIREMENTS

All public stormwater systems, including detention or retention basins, conveyance systems, structures and appurtenances, located outside of the right-of-way shall be placed within a

drainage easement. There shall be no trees or shrubs planted, nor any structures or fences erected in any drainage easement, unless otherwise accepted by the City of Goshen. Additional easement requirements along stormwater conveyance systems are contained in the City of Goshen Stormwater Technical Standards Manual. All drainage improvements performed relative to the conveyance of stormwater runoff and the perpetual maintenance thereof, within the latter easements, shall be the responsibility of the owner or homeowner association.

Any outlet to, crossing, and/or encroachment of a County Regulated Drainage Easement requires application and acceptance from the Elkhart County Drainage Board in accordance with the Indiana Drainage Code.

(e) PLACEMENT OF UTILITIES

No utility company may disturb existing public storm drainage facilities without the consent of the City of Goshen staff, whose decision may be appealed to the City of Goshen's Board of Public Works and Safety and Stormwater Board. All existing drainage facilities shall have senior rights and damage to said facilities shall result in penalties as prescribed in Section 7 of this Ordinance.

(f) STRUCTURES NEAR COUNTY REGULATED DRAINS

For regulated drains not located in platted subdivisions, unless otherwise accepted by the Elkhart County Drainage Board, no permanent structure (including fences) shall be erected within seventy-five feet measured at right angles from a) the existing top edge of each bank of a regulated open drain, as determined by the Elkhart County Drainage Board; or b) the center line of a piped Regulated Drain. The Indiana Drainage Code may be consulted for further details.

(g) INSPECTION, MAINTENANCE, RECORD KEEPING, AND REPORTING

After the acceptance of a project's site plan, SWPPP, and post-construction stormwater management plan (PCSMP) (Stormwater Clearance) by the City of Goshen and the City's current plan review consultant, the issuance of a construction stormwater general permit by the IDEM, and the commencement of construction activities, the City of Goshen and the City's current site inspection consultant have the authority to conduct inspections of the work being done to ensure full compliance with the provisions of this section, the Stormwater Technical Standards Manual, Design and Construction Standards, and the terms and conditions of the approved permit.

The City of Goshen also has the authority to perform long-term, post-construction inspection of all public or privately owned stormwater quantity facilities. The inspection will cover physical conditions, available storage capacity, and the operational condition of key facility elements. Stormwater quantity facilities shall be maintained in good condition, in accordance with the designed and approved performance specifications for the facilities, in addition to any prescribed Operation & Maintenance procedures, and shall not be subsequently altered, revised or replaced except as approved by the City of Goshen. If deficiencies are found during the inspection, the owner of the facility will be notified by the City of Goshen and will be required to take all necessary measures to correct such deficiencies. If the owner fails to correct the deficiencies within the allowed time period, as specified in the notification letter, the City of Goshen will undertake the work and collect from the owner using lien rights if necessary.

Assignment of responsibility for maintaining facilities serving more than one lot or holding shall be documented by appropriate covenants to property deeds, unless responsibility is formally accepted by a public body, and determined before the final stormwater permit is approved.

SECTION 4

Stormwater Pollution Prevention for Construction Sites

(a) APPLICABILITY AND EXEMPTIONS

The City of Goshen will require a Stormwater Pollution Prevention Plan (SWPPP or SWP3), which includes erosion and sediment control measures and materials handling procedures, to be submitted as part of a project's construction plans and specifications. Any project located within the corporate boundaries of the City of Goshen that includes clearing, grading, excavation, or other land disturbing activities resulting in the disturbance of one (1) acre (43,560 square feet) or more of total land area is subject to the requirements of this section. This includes both new development and re-development. This section also applies to disturbances of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one (1) acre or more of total land area. Section 4 (c) provides guidelines for calculating land disturbance. Projects meeting the coverage requirements of IDEM's CSGP shall also comply with the requirements contained in that permit.

The requirements under this section do not apply to the following activities, provided other applicable state permits contain provisions requiring immediate implementation of soil erosion and sediment control measures:

- i. Landfills that have been issued a certification of closure under 329 IAC 10.
- ii. Coal mining activities permitted under IC 14-34.
- iii. Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the Indiana Department of Environmental Management under 329 IAC 10 that contains equivalent stormwater requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary.

For an individual lot where land disturbance is expected to be one (1) acre or more, the individual lot owner must complete their own notice of intent (NOI) letter, apply for a stormwater permit from the City of Goshen, and ensure that a sufficient stormwater pollution prevention plan is completed and submitted in accordance with Section 6 of this Ordinance, regardless of whether the individual lot is part of a larger permitted project site. Details of the permitting process are contained in Section 6.

An individual lot located within a larger permitted project site, is considered part of the larger permitted project site, and the individual lot operator must comply with the terms and conditions of the stormwater permit approved for the larger project site. The stormwater permit application for the larger project site must include detailed erosion and sediment control measures for individual lots.

It will be the responsibility of the project site owner to complete a stormwater permit application and ensure that a sufficient stormwater pollution prevention plan is completed and submitted to the City of Goshen and the Elkhart County SWCD or the City's current plan review consultant in accordance with Section 6 of this Ordinance. It will be the responsibility of the project site owner to ensure compliance with this Ordinance during the construction activity and implementation of the construction plan, and to notify the Elkhart County SWCD or the City's current plan review consultant and the City of Goshen upon completion of the project and permanent stabilization of the site, requesting a termination inspection to be performed by the Elkhart County SWCD or the City's current plan review consultant and the City of Goshen. However, all persons engaging in

construction and land disturbing activities on a permitted project site meeting the applicability requirements must comply with the requirements of this section and this Ordinance.

(b) POLICY ON STORMWATER POLLUTION PREVENTION

Effective stormwater pollution prevention on construction sites is dependent on a combination of preventing movement of soil from its original position (erosion control), intercepting displaced soil prior to entering a waterbody (sediment control), and proper on-site materials handling.

For land disturbance of one (1) acre or more, the developer must submit to the Elkhart County SWCD or the City's current plan review consultant and the City of Goshen, a SWPPP with detailed erosion and sediment control plans as well as a narrative describing materials handling and storage, and construction sequencing. The SWPPP and the project management log must be retained for at least three (3) years from the date the project permit is terminated. For land disturbances totaling less than one (1) acre, appropriate erosion and sediment control measures that are consistent with the City of Goshen Stormwater Technical Standards Manual must be designed and shown on the plans.

The required IDEM general and implementation requirements that apply to all land-disturbing activities are contained in the City of Goshen Stormwater Technical Standards Manual.

(c) CALCULATIONS AND DESIGN STANDARDS AND SPECIFICATIONS

In calculating the total area of land disturbance, for the purposes of determining applicability of this section to a project, the following guidelines should be used:

- i. Off-site construction activities that provide services (for example, road extensions, sewer, water, offsite stockpiles, and other utilities) to a land disturbing project site, must be considered as a part of the total land disturbance calculation for the project site, when the activity is under the control of the project site owner.
 - a. Projects under the control of a site owner but separated by a quarter of a mile will be considered separate projects unless the area falls under the requirements of Appendix 5(B) in the CSGP.
- ii. To determine if multi-lot project sites are regulated by this section, the area of land disturbance shall be calculated by adding the total area of land disturbance for improvements, such as, roads, utilities, or common areas, and the expected total disturbance on each individual lot, as determined by the following:
 - a. For a single-family residential project site where the lots are one-half (0.5) acre or more, one-half (0.5) acre of land disturbance must be used as the expected lot disturbance.
 - b. For a single-family residential project site where the lots are less than one half (0.5) acre in size, the total lot must be calculated as being disturbed.
 - c. To calculate lot disturbance on all other types of project sites, such as industrial and commercial, a minimum of one (1) acre of land disturbance must be used as the expected lot disturbance, unless the lots are less than one (1) acre in size, in which case the total lot must be calculated as being disturbed.
- iii. Considerations for additions and expansions on non-residential project sites:
 - a. Additional development happening within one year of a project obtaining a permit termination from IDEM will be considered part of a larger common plan of development and will be required to obtain a permit no matter the area of disturbance.

- b. The area of disturbance for building additions, hard surface expansions, utility modifications, etc. will be calculated as the area being disturbed along with an appropriate buffer for the work to be done.

The calculation methods as well as the type, sizing, and placement of all stormwater pollution prevention measures for construction sites shall meet the design criteria, standards, and specifications outlined in the Indiana Stormwater Quality Manual, the City of Goshen Stormwater Technical Standards Manual, and the product guidance/specifications of the manufacturer. The methods and procedures included in these references are in keeping with the above stated policy and meet the requirements of the IDEM's CSGP. A Copy of the current version of the Indiana Stormwater Quality Manual, as amended or replaced from time to time, may be obtained online through IDEM's website.

The design requirements that would apply to all land-disturbing activities and shall be considered in the selection, design, and implementation of all stormwater quality and management measures contained in the SWPPP are contained in the City of Goshen Stormwater Technical Standards Manual.

(d) INSPECTION, MAINTENANCE, RECORD KEEPING, AND REPORTING

Following acceptance of the project's site plan, SWPPP, and PCSMP by the City of Goshen and the City's current plan review consultant and commencement of construction activities, the City of Goshen and the City's current site inspection consultant has the authority to conduct inspections of the site to ensure full compliance with the provisions of this section, the approved Stormwater Pollution Prevention Plan, the Stormwater Technical Standards Manual, the Indiana Stormwater Quality Manual, and the terms and conditions of the approved permit.

A self-monitoring program (SMP) must be implemented by the project site owner to ensure the stormwater pollution prevention plan is working effectively. A trained individual, acceptable to the City of Goshen, shall monitor and manage project construction and stormwater activities. Details regarding the required monitoring activities are contained in the City of Goshen Stormwater Technical Standards Manual.

The SWPPP and PCSMP shall serve as a guideline for stormwater quality but should not be interpreted to be the only basis for implementation of stormwater quality measures for a project site. The project site owner is responsible for implementing, in accordance with this section, all measures necessary to adequately prevent polluted stormwater runoff. Recommendations by the trained individual for modified stormwater quality measures should be implemented.

A project management log must be maintained at the project site or in the possession of on-site individuals associated with the management and operations of the construction activities. Details regarding requirements related to the project management log are contained in the City of Goshen Stormwater Technical Standards Manual.

SECTION 5

Stormwater Quality Management for Post-Construction

(a) APPLICABILITY AND EXEMPTIONS

In addition to the requirements of Section 4, the post-construction stormwater management plan (PCSMP), which describes a project's post-construction stormwater quality measures, is to be submitted to the City of Goshen as part of the City's Technical Review process. These measures are incorporated as a permanent feature into the site plan and are left in place following completion of construction activities to continuously treat stormwater runoff from the stabilized site. Any project located within the corporate boundaries of the City of Goshen that includes clearing, grading, excavation, and other land disturbing activities, resulting in the disturbance of one (1) acre or more of total land area is subject to the requirements of this section. This includes both new development, re-development, and disturbances of land less than one (1) acre of total land area that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one (1) acre or more of total land area. In addition, regardless of the amount of disturbance, the City of Goshen reserves the right to require pre-treatment BMPs for proposed hot spot developments in accordance with provisions contained in the City of Goshen Stormwater Technical Standards Manual. Additionally, if a property contains an existing PCSMP and the property owner is planning to add a building addition, expand parking, add hard surface areas, or change drainage patterns then an amended PCSMP must be submitted to the City of Goshen for review, acceptance, and recording.

The requirements under this section do not apply to the following activities:

- i. Forest harvesting activities.
- ii. Agricultural land distributing activities.
- iii. Any real estate less than one (1) acre, which is not part of a larger common plan of development or sale; or individual building lots within a larger permitted project.
- iv. Additions or modifications to existing single-family structures.
- v. Repairs to any stormwater treatment practice deemed necessary by Goshen's Department of Stormwater Management.
- vi. Demolition that conforms the real estate to the adjacent terrain at completion.
- vii. Fill. Provided the fill is less than one foot (1') in depth placed on natural terrain with a slope flatter than four percent (4%), does not exceed one thousand (1,000) cubic yards per acre and does not obstruct the existing drainage pattern.

The requirements under this section do not apply to the following activities, provided other applicable state permits contain provisions requiring immediate implementation of soil erosion control measures:

- i. Landfills that have been issued a certification of closure under 329 IAC 10.
- ii. Coal mining activities permitted under IC 14-34.
- iii. Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the Indiana Department of Environmental Management under 329 IAC 10 that contains equivalent stormwater requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary.

It will be the responsibility of the project site owner to complete a Stormwater Clearance application and ensure that a sufficient stormwater pollution prevention plan is completed and submitted to the City of Goshen in accordance with Section 6 of this Ordinance. It will be the responsibility of the project site owner to ensure proper construction and installation of all

stormwater BMPs (especially, the protection of post-construction stormwater BMPs during the construction phase) in compliance with this Ordinance and with the approved Stormwater Clearance, to notify the City of Goshen and the City's current plan review consultant upon completion of the project and stabilization of the site to request a final termination inspection, and to submit a permit termination application to the IDEM. However, all eventual property owners of stormwater quality facilities meeting the applicability requirements must comply with the requirements of this section and this Ordinance.

(b) CONDUCT PROHIBITED

Any entity owning or operating non-exempt real estate shall not do any of the following:

- i. Discharges from new development and redevelopment sites will not be allowed directly into sensitive areas (as defined in Section 6(h)(1) without pre-treatment measures in place.
- ii. Discharge stormwater in a manner that is inconsistent with applicable state or federal law.

(c) STORMWATER QUALITY MANAGEMENT REQUIREMENTS

The project site owner must prepare and submit to the Elkhart County SWCD or the City of Goshen's current plan review consultant a Stormwater Pollution Prevention Plan (SWPPP) that shows the placement of appropriate stormwater management Best Management Practices (BMPs). In addition, the project site owner must submit a Post-Construction Stormwater Management Plan (PCSMP), as part of the City of Goshen's Technical Review process, describing all post-construction BMPs included in the project. These BMPs must be designed, constructed, and maintained according to guidelines provided or referenced in the City of Goshen Stormwater Technical Standards Manual. Practices other than those specified in the pre-approved list may be utilized. However, the burden of proof, as to whether the performance and ease of maintenance of such practices will be according to guidelines provided in the City of Goshen Stormwater Technical Standards Manual, would be placed with the applicant. Details regarding the procedures and criteria for consideration of acceptance of such BMPs are provided in the City of Goshen Stormwater Technical Standards Manual.

In addition, the PCSMP must include a notarized Post-Construction Stormwater Maintenance Agreement providing for the long-term maintenance of the proposed BMPs. The Maintenance Agreement must include the following:

- i. Maintenance of all stormwater management facilities in a development, redevelopment, or sale where parcels of real estate, units, or buildings are owned by different entities shall be insured through the creation of a formal maintenance covenant that must be approved by the City of Goshen Stormwater Board and recorded with the Elkhart County Recorder's Office prior to the issuance of the Certificate of Occupancy by the Building Department. As part of the covenant, a schedule shall be developed for when and how often maintenance will occur to ensure the proper function of the stormwater management measures. The covenant shall also include plans for periodic inspections to ensure proper performance of the measures between scheduled cleanouts.
- ii. All stormwater management measures must undergo, at the minimum, an annual inspection to document maintenance and repair needs and ensure compliance with the requirements of this Ordinance and the accomplishment of its purposes. These needs include the removal of silt, litter, and other debris from all storm sewer structures, drainage pipes, and stormwater storage facilities (above and below ground), grass cutting and vegetation removal, and necessary replacement of landscape vegetation. Any maintenance needs found must be addressed within sixty (60) days of the report.

- iii. In addition, once every five (5) years the property owner will hire a qualified professional (third-party agent) to complete an inspection of all stormwater management measures. A copy of the inspection report shall be filed with the City's Department of Stormwater Management. Any maintenance needs found must be addressed within sixty (60) days of the report.
- iv. All developers must execute an easement and an inspection and maintenance agreement binding on all subsequent owners of the real estate served by on-site stormwater management measures.
- v. Any development, redevelopment, or sale consisting of two (2) or more lots (and totaling in the aggregate one (1) or more acres) shall execute an enforceable maintenance agreement that designates the parties responsible for the operation, maintenance, and repair of all stormwater management measures, and any other system, structure, or measure required by this ordinance. The agreement shall include provisions for funding all required maintenance.
- vi. The design and planning of all stormwater management measures shall include detailed maintenance and repair procedures to ensure their continued function. These plans will identify the parts or components of a stormwater management measure that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.
- vii. Parties responsible for the operation and maintenance of a property's stormwater management measures shall make records of the installation and of all maintenance and repairs and shall retain the records for at least five (5) years. These records should be made available to the City of Goshen during an inspection of the facility and at other reasonable times upon request.
- viii. The developer of the real estate must establish a landscaping plan which provides for the maintenance of vegetation at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.

Once reviewed by the Goshen Stormwater Department and accepted by the City of Goshen's Stormwater Board, the overall PCSMP document will be recorded with the Elkhart County Recorder's Office on the deed for the property on which the project is located.

Gasoline outlets and refueling areas must install appropriate practices (as noted under "Hot Spots" provision in the Technical Standards Manual) to reduce lead, copper, zinc, and polyaromatic hydrocarbons in stormwater runoff. These requirements will apply to all new facilities and existing facilities that replace their tanks, regardless of the size of the facility.

All stormwater measures defined as a Class V injection well by the U.S. EPA must be registered with the U.S. EPA. Refer to the U.S. EPA Underground Injection Well Program for the definitions and complete registration process.

Infiltration practices will not be allowed in wellhead protection areas as the primary water quality treatment measures, unless the measure is designed to treat the pollutant(s) of concern that originate in the drainage area of the measure.

Further requirements include:

- i. Maintain all stormwater measures and practices identified in the construction plan that were intended to remain in place after construction activities have been completed.
- ii. Install and maintain each post-construction stormwater quality measure approved as part of the construction plan.
- iii. Maintain all drainage systems and stormwater storage facilities in good working order.

- iv. Maintain natural drainage for any portion of the real estate not served by a constructed drainage system.
- v. Maintain all erosion sediment control systems installed on the real estate or identified as part of the construction plan unless such systems were temporary measures only intended to be in place during construction.
- vi. Maintain all drainage channels and swales installed or identified as part of the construction plan so they do not cause erosion in the receiving channel or at the outlet.
- vii. Keep all natural features such as wetlands and sinkholes protected from stormwater runoff pollutants.
- viii. Annually inspect all stormwater management facilities to insure compliance with this ordinance and provide for the removal of silt, litter, grass clippings, vegetation, and other debris from all catch basins, inlets, and stormwater retention/detention areas.
- ix. Annually inspect all landscaping to insure compliance with provisions of the management plan.

(d) CALCULATIONS AND DESIGN STANDARDS AND SPECIFICATIONS

Calculation of land disturbance should follow the guidelines discussed in Section 3(c).

The calculation methods as well as the type, sizing, and placement of all stormwater quality management measures, or BMPs, shall meet the design criteria, standards, and specifications outlined in the City of Goshen Stormwater Technical Standards Manual. The methods and procedures included in the referenced Standards are in keeping with the above stated policy and meet or exceed the requirements of IDEM’s MS4 GP.

(e) EASEMENT REQUIREMENTS

All public stormwater quality management systems, including detention or retention basins, filter strips, pocket wetlands, in-line filters, infiltration systems, conveyance systems, structures, and appurtenances located outside of the right-of-way shall be incorporated into permanent easements. For the purposes of monitoring, inspection, and general maintenance activities an adequate easement width beyond the actual footprint of the stormwater quality management facility as well as a sufficiently sized access easement from a public right-of-way to each stormwater facility shall be provided.

(f) INSPECTION, MAINTENANCE, RECORD KEEPING, AND REPORTING

After the acceptance of a project’s site plan, SWPPP, and PCSMP by the City of Goshen and the City’s current plan review consultant and the commencement of construction activities, the City of Goshen and the City’s current site inspection consultant have the authority to conduct inspections of the work being done to ensure full compliance with the provisions of this section, the approved SWPPP and PCSMP, the City of Goshen Stormwater Technical Standards Manual, and the terms and conditions of the approved permit.

Stormwater quality facilities shall be maintained in good condition, in accordance with the Post-Construction Stormwater Management procedures listed in the City of Goshen Stormwater Technical Standards Manual, in addition to the designed and approved performance specifications for the facilities listed in the accepted PCSMP and shall not be subsequently altered, revised, or replaced except as approved by the City of Goshen.

The City of Goshen also has the authority to perform long-term, post-construction inspection of all public or privately owned stormwater quality facilities. The inspection will cover physical conditions, available water quality storage capacity and the operational condition of key facility elements. Noted deficiencies and recommended corrective action will be included in an inspection report.

SECTION 6

Permit Requirements and Procedures

(a) PRELIMINARY DRAINAGE PLAN REVIEW

In order to gain an understanding of the drainage requirements for a specific project, a developer may submit preliminary drainage plans for review by the City of Goshen as part of a pre-development meeting with City staff. The direction provided by the City of Goshen during such a review is based on preliminary data and shall not be construed as an acceptance or binding on either party. The following is a general listing of minimum data requirements for the review of conceptual drainage plans:

- i. A preliminary plan showing general project layout, including existing and proposed drainage systems.
- ii. General description of the existing and proposed drainage systems in narrative form.

(b) PERMIT PROCEDURES

This section applies to all development, or re-development of land, that results in land disturbance of one (1) acre or more. Individual lots with land disturbance less than one (1) acre shall refer to Sections 4 and 5 and subsection (d) below for plan review requirements and procedures.

1. General Procedures

The project site owner shall submit an application for a Stormwater Clearance to the City of Goshen per the City's Technical Review requirements, which includes following the Elkhart County SWCD's or the City's current plan review consultant's SWPPP submittal requirements. The application will include a completed application checklist; construction plan sheets; a description of the soils underlying the project and any limitations they may contain (e.g., a geotechnical report), stormwater drainage calculations and, where applicable, a stormwater drainage technical report; a stormwater pollution prevention plan; and any other necessary support information. Specific information to be included in the application can be found in Subsection (c) below. The City of Goshen requires one copy of the application be submitted to the Elkhart County SWCD or the City's current plan review consultant(s).

After the City of Goshen's receipt of the application, the applicant will be notified as to whether their application is sufficient or insufficient. The applicant will be asked for additional information if the application is insufficient. If the application is complete, it will be reviewed in detail by the City of Goshen according to the current year's Technical Review Calendar and guidelines and/or its plan review consultant(s)'s timeline and guidelines. Once all comments have been received and the review completed, the City of Goshen will either accept the project as sufficient or mark the project as insufficient and request modifications/revisions. If the applicant or an interested person who objects to or is dissatisfied with the review actions and decision of the Department of Stormwater Management and/or the Elkhart County SWCD/City's current plan review consultant in accepting or denying any application for a Stormwater Clearance may file an appeal with the Goshen Board of Public Works and Safety and Stormwater Board; provided such filing is made within fifteen (15) calendar days of the action of the Department of Stormwater Management and/or the Elkhart County SWCD/City's current plan review consultant in question. The action of the Department of Stormwater Management and/or the Elkhart County SWCD/City's current plan review consultant shall be final and conclusive after the appeal deadline has expired. Any appeal shall be filed on the

forms required by the Board with a copy of the Stormwater Clearance. The Board shall conduct a public hearing on the appeal within forty-five (45) calendar days after receipt of the filing. After an appeal has been filed, no land disturbing activities may begin or continue unless in compliance with the Stormwater Clearance if one was issued. Prior to the scheduled hearing the City will provide the applicant with a complete list of comments and objects to the plans and accompanying data. Following the conclusion of the public hearing which may adjourn from time to time, the Board shall render a decision on the appeal which decision may affirm, modify, or overturn the action of the Department of Stormwater Management and/or the Elkhart County SWCD/City's current plan review consultant or refer the matter back to the Department of Stormwater Management and/or the Elkhart County SWCD/City's current plan review consultant for further consideration.

The project site owner must notify the City of Goshen, the City's current plan review consultant, and IDEM before beginning construction. Notification to the City of Goshen and the City's current plan review consultant shall be in the form of an email or phone call while the notification to IDEM shall be in the form of an online IDEM NOI submittal. Once a permit has been issued and the pending construction notifications submitted to the City of Goshen, the City's current plan review consultant, and IDEM, construction may commence. Once construction starts, the project owner shall monitor construction activities and inspect all stormwater pollution prevention measures in compliance with this Ordinance and the terms and conditions of the approved permit. Upon completion of construction activities, record drawings containing the items listed in section 6(i) must be submitted to the City of Goshen.

Once the construction site has been stabilized and all temporary erosion and sediment control measures have been removed, a notification shall be sent to the City of Goshen and the City's current plan review consultant, requesting a termination inspection. The City of Goshen, or its representative, shall inspect the construction site to verify that the completed project is fully stabilized and meets the requirements of the City of Goshen's Stormwater Management Ordinance, its technical standards, and the terms and conditions of the permit. Once the applicant receives a signed copy of the final Termination Inspection Report confirming compliance, they must forward a copy to IDEM along with the required IDEM NOT form.

Permits issued by the City of Goshen or its plan review consultant under this scenario will expire on December 31 of the year which is one (1) year after the date the Stormwater Clearance application was submitted. If construction is not completed and permit termination requirements have not been achieved within this timeframe then renewal with the Elkhart County SWCD or the City's current plan review consultant is required annually until the following has occurred:

- a. All land disturbing activities, including construction on all building lots, have been completed and the entire site has been permanently stabilized;
- b. All temporary erosion and sediment control measures have been removed; and
- c. A request for a final site inspection for permit termination consideration has been submitted to the Elkhart County SWCD or the City's current plan review consultant, and a final site inspection has determined the site meets termination requirements,
- d. A notice of termination application has been submitted and accepted by the IDEM.

The above requirements must be accomplished by the expiration of the Stormwater Clearance to avoid paying a permit renewal fee.

Permits issued by IDEM will expire five (5) years from the date of issuance and if termination requirements have not been met an updated NOI must be submitted to IDEM at least 90 days prior to expiration.

2. SWPPP Review Time Limits

Pursuant to IC 13-18-27-16, an MS4-designated entity or other review authority, such as an SWCD, must make a preliminary determination as to whether the construction plan associated with the SWPPP is substantially complete before the end of the tenth (10th) working day (for sites with less than 5 acres of land disturbance) after the day on which the SWPPP is submitted to the review authority or the fourteenth (14th) working day (for sites with 5 acres or larger of land disturbance) after the day on which the SWPPP is submitted to the review authority. Depending on the outcome of the SWPPP review, the following scenarios may play out:

- a. No SWPPP review notification received: If the review authority does not notify the applicant of its preliminary determination as to whether the construction plan is substantially complete within either 10 or 14 days as noted above, the project site owner may submit a notice of intent letter to IDEM including the information required by this Ordinance and the City of Goshen Stormwater Technical Standards Manual, and 48 hours after the NOI is submitted to IDEM, may begin the construction project, including the land disturbing activities of the construction project.
- b. SWPPP not substantially complete: If the review authority notifies the applicant that the construction plan is not substantially complete, the project site owner may not submit a notice of intent letter to IDEM until the review authority makes a conclusive favorable determination concerning the construction plan under this Ordinance and the City of Goshen Stormwater Technical Standards Manual.
- c. Unfavorable SWPPP: If the review authority notifies the applicant that the construction plan is substantially complete; and makes a conclusive unfavorable determination concerning the construction plan under this Ordinance and the City of Goshen Stormwater Technical Standards Manual, the project site owner may not submit a notice of intent letter to IDEM.
- d. Preliminary SWPPP review: If the review authority notifies the applicant that the construction plan is substantially complete and a preliminary review has been completed, the project site owner may submit a notice of intent letter to IDEM including the information required by IDEM, or this Ordinance and the City of Goshen Stormwater Technical Standards Manual, and 48 hours after the NOI is submitted to IDEM, may begin the construction project, including the land disturbing activities of the construction project. The plan review authority reserves the right to perform a comprehensive review at a later date, and revisions may be required at that time.
- e. Conditional SWPPP review: If the review authority notifies the applicant that the construction plan is substantially complete and a conditional review has been completed, the project site owner may submit a notice of intent letter to IDEM including the information required by IDEM, or this Ordinance and the City of Goshen Stormwater Technical Standards Manual, and 48 hours after the NOI is submitted to IDEM, may begin the construction project, including the land disturbing activities of the construction project provided that the requirements included in the conditional review are fulfilled.
- f. Favorable SWPPP review: If the review authority notifies the applicant that the construction plan is substantially complete and a preliminary review has been completed, the project site owner may submit a notice of intent letter to IDEM including the information required by IDEM, or this Ordinance and the City of Goshen Stormwater Technical Standards Manual, and 48 hours after the NOI is submitted to IDEM, may begin the construction project, including the land disturbing activities of the construction project.

Note that the above time limits only apply to the SWPPP portion of the overall stormwater permit submittal and does not affect any official or non-official permit review timelines set by the entity for other aspects of the stormwater permit application.

(c) INFORMATION REQUIREMENTS

Specific projects or activities may be exempt from all or part of the informational requirements listed below. Exemptions are detailed in the “Applicability and Exemptions” Sections of Sections 2 through 5. If a project or activity is exempt from any or all requirements of this Ordinance, an application should be filed listing the exemption criteria met, in lieu of the information requirements listed below. This level of detailed information is not required from individual lots, disturbing less than 1 acre of land, developed within a larger permitted project site. Review and acceptance of such lots is covered under Section (d).

The different elements of a permit submittal include an application checklist, construction plans, an existing soils report, a stormwater drainage technical report, a stormwater pollution prevention plan for active construction sites, a post-construction stormwater management plan, and any other necessary supporting information. All plans, reports, calculations, and narratives shall be signed and sealed by a professional engineer or a licensed surveyor, registered in the State of Indiana who also meets the definition of a Trained Individual found in Appendix A.

1. Application Checklist

As part of the *City of Goshen* Stormwater Clearance application package, the City of Goshen Technical Review application checklist requirements must be followed. *City of Goshen*

2. Construction Plans

Construction plan sheets (larger than 11” by 17”, but not to exceed 24” by 36” in size) and an accompanying narrative report shall describe and depict the existing and proposed conditions. Note that in order to gain an understanding of and to evaluate the relationship between the proposed improvements for a specific project section/phase and the proposed improvements for an overall multi-section (phased) project, the detailed information requested herein for the first section/phase being permitted must be accompanied by an overall project plan that includes the location, dimensions, and supporting analyses of all detention/retention facilities, primary conveyance facilities, and outlet conditions. Construction plans must include items listed in the City of Goshen’s Technical Review application checklist.

3. Existing Soils Report

A written soils report must include a description of the existing soil conditions, depth to groundwater, soil limitations, how those limitations will be cured or otherwise overcome, etc. Examples of a soils report include a geotechnical report, a report from the USDA NRCS Web Soil Survey (<https://websoilsurvey.sc.egov.usda.gov/>), or an equivalent source.

4. Stormwater Drainage Technical Report

A written stormwater drainage technical report must include an explanation of how the stormwater drainage system was designed. Note that to gain an understanding of and to evaluate the relationship between the proposed improvements for a specific project section/phase and the proposed improvements for an overall multi-section (phased) project, the detailed information requested herein for the first section/phase being permitted must be accompanied by an overall project plan that includes the location, dimensions, and supporting analyses of all detention/retention facilities, primary conveyance facilities, and outlet conditions. The technical report needs to include items listed in the City of Goshen Technical Review application checklist City of Goshen.

5. Stormwater Pollution Prevention Plan for Construction Sites

For sites with a total disturbance of one (1) acre or more, a stormwater pollution prevention plan (SWPPP) associated with construction activities must be designed to, at least, meet the requirements of this Ordinance. The SWPPP and construction plans must include the items listed in the IDEM CSGP SWPPP development guidance document or its successor. For land disturbances totaling 200 square feet or more of land area but less than one (1) acre and not part of a larger common plan of development or sale, appropriate erosion and sediment control measures consistent with the City of Goshen Technical Standards must be shown on the plans.

6. Post-Construction Stormwater Management Plan

For sites with total land disturbance of one (1) acre or more of total land area, a post-construction stormwater management plan must be designed to, at least, meet the requirements of this Ordinance and must include the information provided in the City of Goshen Stormwater Technical Standards Manual. The post-construction stormwater management plan must include items listed in the\ City of Goshen Technical Review application checklist

(d) CHANGES TO PLANS

Any changes or deviations in the detailed site plans and specifications after acceptance of the Stormwater Clearance shall be filed with, and accepted by, the City of Goshen and the City's current plan review consultant prior to the land development involving the change. The modified plan sheets, if accepted, shall be attached to the original plans and specifications. A copy of the updated site plans and specifications will be provided to all reviewing entities.

(e) FILING AND RENEWAL FEES FOR STORMWATER CLEARANCE

1. Application Fee Amount

As a condition of the submittal and the review of development plans by the City of Goshen and the City's current plan review consultant, the applicant shall agree to pay the applicable Stormwater Clearance fees as described below or as superseded and stated in the City of Goshen Fee Ordinance, as amended, with respect to the review of all drainage submittals, preliminary plans, final plans, construction plans and accompanying information and data.

- a. The basic filing fee for a Stormwater Clearance under this ordinance will be determined by the following guidelines and will be due and payable at the time of application for the Stormwater Clearance:
 - i. For projects not required to submit a post-construction stormwater management plan a filling fee of One Hundred Fifty Dollars (\$150.00)
 - ii. For projects required to submit a post-construction stormwater management plan or an amendment to an existing post-construction stormwater management plan a filling fee of Three Hundred Twenty-Five Dollars (\$325.00)
- b. For project sites that are required to obtain a construction stormwater general permit pursuant to this Ordinance, a supplemental filing fee in the amount of One Hundred Dollars (\$100.00) per disturbed acre and per fractional acre exceeding a whole acre for review of the stormwater pollution prevention plans shall be due and payable at the time of application to the City's current plan review consultant. Fee submittal will be per the consultant's guidelines.

2. Resubmittal Review Fee

An additional fee in the amount of One Hundred Dollars (\$100.00) or as superseded and stated in the City of Goshen Fee Ordinance, as amended, will be charged for additional reviews that are required when multiple changes are submitted after the first resubmittal. The extra fee will only apply to resubmittals before issuing a zoning clearance and building permit. The additional fee will not be charged if the resubmittal is necessitated solely due to staff oversight.

3. Stormwater Clearance Renewal Fee

A Stormwater Clearance will expire on December 31st of the year which is one (1) year after the date the Stormwater Clearance application was submitted to the City's plan review consultant. A renewal fee in the amount of One Hundred Dollars (\$100.00) or as superseded and stated in the City of Goshen Fee Ordinance, as amended, will be due and payable no later than January 31st of the year after the expiration of the Stormwater Clearance and each year thereafter until the following has occurred:

- a. All land disturbing activities, including construction on all building lots, have been completed and the entire site has been stabilized;
- b. All temporary erosion and sediment control measures have been removed; and
- c. IDEM CSGP termination requirements have been met as verified by the City of Goshen and the Elkhart County SWCD or the City's current plan review consultant and a notice of termination application has been submitted to and accepted by the IDEM.

4. Indiana Department of Environmental Management Fee

In addition to these charges, the Indiana Department of Environmental Management has their own separate and distinct fees.

(f) TERMS AND CONDITIONS OF PERMITS

In granting a Stormwater Clearance, the City of Goshen may impose such terms and conditions as are reasonably necessary to meet the purposes of this Ordinance. The project site owner shall insure compliance with such terms and conditions. Non-compliance with the terms and conditions of permits will be subject to enforcement as described in Section 7.

The project site owner shall inform all general contractors, construction management firms, grading or excavating contractors, utility contractors, and the contractors that have primary oversight on individual building lots of the terms and conditions of the Stormwater Clearance and the schedule for proposed implementation.

In the event that a project site is determined to impact or discharge to a Sensitive Area (as described below) or is located in an Impact Drainage Area (as described below), the City of Goshen will require more stringent stormwater quantity and quality measures than detailed in this Ordinance or in the Indiana Stormwater Quality Manual, as amended or replaced from time to time.

1. Determination of Sensitive Areas

Sensitive Areas include highly erodible soils, wetlands, karst areas, threatened or endangered species habitat, outstanding waters, impaired waters, recreational waters, surface drinking water sources, and groundwater drinking water sources (as defined by the Elkhart County Health Department and City of Goshen Wellhead Protection Areas). Any discharge from a stormwater practice that is a Class V injection well shall meet the Indiana groundwater quality standards and be registered with the U.S. EPA as required by the IDEM. If wetlands are suspected on a site, a wetland delineation should be completed in accordance with the

methodology established by the U.S. Army Corps of Engineers (USACE). The need for the applicant to check for the presence of threatened or endangered species habitat will be determined on a case-by-case basis. Special terms and conditions for development determined to impact or discharge to any Sensitive Area shall be included in the Stormwater Clearance.

2. Determination of Impact Drainage Areas

The following areas shall be designated as Impact Drainage Areas.

- a. A floodway or floodplain as designated by the most updated FEMA Code dealing with floodplain regulation and/or by the Best Available Data through the Indiana Department of Natural Resources (IN DNR).
- b. Flood Resilience Areas 1 through 4 as described in the July 2022 City of Goshen Flood Resilience Plan (and future updates).
- c. Land within 25 feet of each bank of any ditch within the City of Goshen's system.
- d. Land within drainage easements within the City of Goshen.
- e. Land within 75 feet of each bank of a county open regulated drain.
- f. Land within 50 feet of a natural drainageway.
- g. Land within 75 feet of the centerline of any tiled regulated drain.
- h. Land within the Fluvial Erosion Hazard (FEH) corridor.
- i. Land within the expected breach inundation zone of an existing or proposed new dam, and areas protected from flooding by a levee.

The City of Goshen or City of Goshen Engineer is authorized, but is not required, to classify certain geographical areas as Impact Drainage Areas. In determining Impact Drainage Areas, the City of Goshen may consider such factors as topography, soil type, capacity of existing drains, distance from adequate drainage facility, groundwater tables, etc.

Land that does not have an adequate outlet, taking into consideration the capacity and depth of the outlet, may be designated as an Impact Drainage Area by the City of Goshen. Special terms and conditions for development within any Impact Drainage Area shall be included in the terms and conditions of the Stormwater Clearance.

(g) CERTIFICATION OF RECORD DRAWINGS

This section shall apply to all projects whether the stormwater management system or portions thereof will be dedicated to the City of Goshen or retained privately. After completion of the construction of the project and before the issuance of the Termination Inspection Report, a professionally prepared and certified set of record drawings will be submitted to the City of Goshen for review. These record drawings must be prepared and certified by the Engineer of Record, i.e., the company/engineer who originally prepared the construction plans. The record drawings and any finalized digital versions of all analyses, models, manuals, and reports that are consistent with the final project conditions is required to be submitted electronically in a format acceptable to the City of Goshen. These plans shall include all pertinent data relevant to the completed stormwater drainage system and stormwater management facilities, and will include:

1. Pipe size and pipe material
2. Invert elevations
3. Top rim elevations
4. Elevation of the emergency overflow (spillway) for stormwater basins/ponds, as applicable
5. Grades along the emergency flood routing path(s), as applicable

6. Pipe structure lengths
7. BMP types, dimensions, and boundaries/easements
8. "As-planted" plans for BMPs, as applicable
9. Data and calculations showing retention/detention basin storage volume
10. Data and calculations showing BMP treatment capacity

SECTION 7

Compliance and Enforcement

(a) COMPLIANCE WITH THIS ORDINANCE

To secure compliance with the requirements of this Ordinance, violations thereof shall be subject to the enforcement provisions set forth under (b) following. Compliance with all applicable ordinances of the City of Goshen as well as with applicable State of Indiana statutes and regulations shall also be required. Unless otherwise stated, all other specifications referred to in this Ordinance shall be the most recent edition available.

1. Definitions (more in Appendix A)

- i. **Violation.** Any action or inaction that violates the provisions of this Ordinance, the requirements of an accepted stormwater pollution prevention plan, the requirements of an accepted construction stormwater general permit, and/or the requirements of a recorded post-construction stormwater maintenance agreement within the corporate boundaries of the city of Goshen may be subject to the enforcement actions outlined in this Section. Any such action or inaction is deemed to be a public nuisance and may be abated by injunctive or other equitable relief, in addition to and separate from the imposition of any of the enforcement actions described below.
- ii. **Compliance.** The act of correcting a violation or violations within the time frame specified by the City of Goshen.
- iii. **Offense.** Both a violation and a failure of compliance on a particular project constitute an "offense." If there are multiple violations or multiple failures of compliance on the same project, each shall be considered a separate offense as further stated in section (b)(3).

2. Warning Notice

When the City of Goshen finds that any person has violated, or continues to violate, any provision of this Ordinance, or any order issued hereunder, the City of Goshen may serve upon that person a written Warning Notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the Warning Notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Warning Notice. Nothing in this subsection shall limit the authority of the *City of Goshen* to take any action, including emergency action or any other enforcement action, without first issuing a Warning Notice.

(b) ENFORCEMENT OF THIS ORDINANCE

1. Notice of Violation/Citation

- a. If the City of Goshen Department of Stormwater Management determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved stormwater pollution prevention plan, a recorded post-construction stormwater maintenance agreement, or the provisions of this Ordinance, the Superintendent of the Department of Stormwater Management or the Superintendent's designee may take one (1) or more of the following actions:
 - i. Notify the person who committed the act or failed to meet the requirements of this ordinance by telephone and request compliance or cessation of the prohibited act.
 - ii. Notify the person who committed the act or failed to meet the requirements of this ordinance in writing and order compliance or cessation of the prohibited act.

- iii. Enter into an agreed order with the approval of the City of Goshen Stormwater Board which order may include payment of a fine by the violator.
 - iv. Issue a stop work order until all corrective measures have been completed.
 - v. File a notice of violation before the City of Goshen Stormwater Board describing the violation of this ordinance found by the Superintendent of the Department of Stormwater Management or their designee.
 - vi. File a complaint in a court of competent jurisdiction within Elkhart County seeking a judicial determination that this ordinance has been violated and requesting the imposition of fines.
- b. If the Superintendent of the Department of Stormwater Management takes any authorized action and taking such action does not result in compliance with this ordinance, the Superintendent may take any other authorized action to obtain compliance.
 - c. The Superintendent of the Department of Stormwater Management may file a complaint with a court of competent jurisdiction to enforce the terms of an agreed order or an order of the City of Goshen Stormwater Board.
 - d. Filing a notice of violation is not a prerequisite to filing a complaint alleging a violation before a court of competent jurisdiction within Elkhart County.
 - e. Any written notice of violation shall be issued upon the responsible party by regular US mail or delivered personally to the responsible party unless the applicable ordinance or statute requires different written notice.
 - f. The Goshen Stormwater Board or any court may order the owner of the real estate or the responsible party for the operations on the real estate to take any and all actions necessary to comply with this ordinance.

2. Right to Enter Premises

- a. The City of Goshen shall be granted at all reasonable terms the right to enter any premises for any of the following reasons:
 - i. Investigate: Any construction site to determine the need for a Stormwater Clearance or compliance with the terms of the clearance, IDEM's CSGP, State Stormwater Quality Manual, or a construction project's SWPPP;
 - ii. Compliance with a property's recorded PCSMP and to inspect any stormwater measure (structural or non-structural);
 - iii. A suspected spill or discharge into a waterway or waterbody, a wetland, a private stormwater drainage system, or the City of Goshen's stormwater drainage system.
 - iv. To carry out routine inspections;
 - v. To carry out routine sampling;
 - vi. When any new drainage control facility is installed on private property, or when any new connection is made between private property and a public drainage control system, sanitary sewer or combined sewer, the property owner shall grant to the City of Goshen the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this ordinance is occurring or has occurred, and to enter to correct a violation of this ordinance.
 - vii. To verify compliance with any agreed order, order of the City of Goshen Stormwater Board or order of any court of competent jurisdiction.
- b. If the City of Goshen has been refused access to any part of the premises from which stormwater is discharged and the City is able to reasonably demonstrate probable cause to believe that there may be a violation of this Ordinance, or that there is a need to inspect or sample as part of the City's routine inspections and sampling program designed to verify compliance with this Ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, the Department

of Stormwater Management may seek issuance of a search warrant from any court of competent jurisdiction within Elkhart County.

- c. The City of Goshen may enter upon private property and take any and all measures necessary to abate a violation, if a court of competent jurisdiction has found that a violation of this Ordinance has occurred and has approved the action to be taken by the City. The costs of such an abatement shall be assessed to the owner of the private property.
- d. Any written notice of violation shall be issued upon the responsible party by regular US mail or delivered personally to the responsible party unless the applicable ordinance or statute requires different written notice.

3. Stormwater Board Hearing

- a. Before any Stormwater Board hearing is held, a party alleged to have violated this Ordinance shall receive written notice of the violation including the nature of the violation and a summary of the facts that constitute that violation. In the event of an emergency hearing before the Stormwater Board, this information may be orally presented to the affected party and the affected party may elect to proceed or the affected party may insist on written notice and delay the hearing. The emergency action taken by the City shall continue until a hearing can be held.
- b. A party alleged to have violated this ordinance has the right to have an attorney present to cross examine witnesses and has the right to present evidence and have witnesses testify.
- c. A party found to have violated this Ordinance has a right to appeal the determination of the Stormwater Board to a court of competent jurisdiction within twenty (20) days of the action of the Board by filing a verified complaint. The court may affirm, modify, or reverse the action taken by the Board. Any such appeal shall be heard de novo.
- d. Filing a notice of violation is not a prerequisite to filing a complaint alleging a violation before a court of competent jurisdiction within Elkhart County.

4. Compensatory Action

In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the City of Goshen may impose upon a violator, alternative compensatory actions, such as storm drain stenciling, attendance at compliance/training workshops, waterway cleanup, public/employee education, etc.

5. Civil Penalties for Violations

Any person who commits an offense under this Ordinance commits a civil infraction subject to a fine of up to Two Thousand Five Hundred Dollars (\$2,500.00) for each offense, plus costs, damages, and expenses. Each day such violation occurs or continues without a compliance action that is satisfactory to the City of Goshen constitutes a new and separate offense and shall make the violator liable for the imposition of a fine for each day. The rights and remedies provided for in this section are cumulative and in addition to any other remedies provided by law. An admission or determination of responsibility shall not exempt the offender from compliance with the requirements of this Ordinance.

Any person who aids or abets a person in a violation of this Ordinance shall be subject to the penalties provided in this section.

The City of Goshen Stormwater Board, by Resolution 2017-15 adopted May 1, 2017, established an Enforcement Matrix that standardizes the approach the City of Goshen may, in its discretion, employ in dealing with stormwater regulation offenses subject to this Ordinance and the associated Technical Standards document.

Likewise, in order to standardize the approach that the City of Goshen may, in its discretion, employ in the imposition of Administrative Penalties, the Common Council of the City of Goshen established an Ordinance Violation Bureau, most recently in Ordinance 5171, on or about November 13, 2023.

6. Stop Work Order

In addition to the penalties listed above, if land disturbance activities or post-construction activities are conducted contrary to the provisions of IDEM's CSGP, the State Stormwater Quality Manual, this Ordinance, an accepted site plan, or an accepted post-construction stormwater management plan, the City of Goshen may order the work stopped by notice in writing served on any person engaged in the doing or causing of such work to be done, and any such persons shall forthwith stop such work until authorized by the City of Goshen to proceed with the work. A Stop Work Order will be posted on the site by the City of Goshen and it is unlawful for any person to remove the notice or continue any work on the site without permission from the City of Goshen. The City of Goshen may also undertake, or cause to be undertaken, any necessary or advisable protective measures to prevent violations of this Ordinance or to avoid or reduce the effects of noncompliance herewith. The cost of any such protective measures shall be the responsibility of the owner of the property upon which the work is being done and the responsibility of any person carrying out or participating in the work.

The City of Goshen may bring an action under IC 34-28-5-1 (b), to be read together with IC 34-6-2-86(1)(B) and 13-21-3-12(4), to enforce a stop work order against any person who neglects or fails to comply with a stop work order.

For construction projects that are operating under a SWPPP approved by the City of Goshen, if a Stop Work Order is issued on the grounds that the erosion and sediment control measures included in the construction plan are not adequate, the project site owner must be notified in writing of the inadequacies in the erosion and sediment control measures and the project site owner has seventy-two (72) hours after receiving written notice to resolve the identified inadequacies before the Stop Work Order can take effect.

The seventy-two (72) hour period to resolve identified inadequacies on a construction project does not apply if the Stop Work Order is issued to a construction project where the project site owner is creating a public health hazard or safety hazard.

7. Withhold Certificate of Occupancy

The City of Goshen may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise satisfied the requirements of this Ordinance as determined by the City of Goshen.

8. Suspension, Revocation, or Modification of Permits

The City of Goshen may suspend, revoke, or modify any existing permit that the violator may also have been previously granted. A suspended, revoked, or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated upon such conditions as the City of Goshen may deem necessary to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

9. Suspension of Access to the Stormwater Drainage System

The City of Goshen may suspend MS4 discharge access to stop an actual or threatened discharge that presents an imminent and substantial danger to the environment, to the health

or welfare of any person, to the MS4, or to the waters of the United States. This suspension may be without notice if an emergency exists, but a hearing will be held at the next City of Goshen Stormwater Board meeting after the owner of the real estate can be notified to determine the existence of an emergency and that there is a substantial and imminent danger.

10. Emergency Cease and Desist Orders

When the City of Goshen finds that any person has violated, or continues to violate, any provision of this Ordinance, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the State or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the City of Goshen may issue an emergency order to the violator directing it immediately to cease and desist all such violations and directing the violator to immediately comply with all ordinance requirements and take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

Any person notified of an emergency order directed to it under this Subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the City of Goshen may commence court action against such person under IC 34-28-5-1 (b), to be read together with IC 34-6-2-86(1)(B) and 13-21-3-12(4), to enforce a stop work order, a temporary restraining order, or permanent injunction which restrains or requires specific compliance with this Ordinance.

The City of Goshen may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the City of Goshen that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this Ordinance. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the City of Goshen within five (5) days of receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

11. Suspension Due to Illicit Discharges in Emergency Situations

The City of Goshen may, without prior notice, suspend stormwater drainage system discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the stormwater drainage system or waters of the State or waters of the United States if the violator fails to comply with a suspension order issued in an emergency, the City of Goshen may take such steps as deemed necessary to prevent or minimize damage to the stormwater drainage system or waters of the State or waters of the United States, or to minimize danger to persons.

12. Suspension Due to the Detection of Illicit Discharge

Any person discharging to the stormwater drainage system in violation of this Ordinance may have their stormwater drainage system access terminated if such termination would abate or reduce an illicit discharge. The City of Goshen will notify a violator of the proposed termination of its stormwater drainage system access. The violator may petition the City of Goshen for a reconsideration and hearing. A person commits an offense if the person reinstates stormwater drainage system access to premises terminated pursuant to this Section, without the prior approval of the City of Goshen.

(c) COST OF ABATEMENT OF THE VIOLATION

In addition to any other remedies, should the violator, the owner of the real estate, or the responsible party for the operations on the real estate fail to comply with the provisions of this Ordinance, the City of Goshen may, after giving notice and opportunity for compliance, have the necessary work done, and the owner shall be required to promptly reimburse the City of Goshen for all costs of such work.

Nothing herein contained shall prevent the City of Goshen from taking such other lawful action as may be necessary to prevent or remedy any violation. All costs connected therewith shall accrue to the person or persons responsible. Costs include, but are not limited to, repairs to the stormwater drainage system made necessary by the violation, as well as those penalties levied by the U.S. EPA or IDEM for violation of the City of Goshen's NPDES permit, land restoration costs, administrative costs, attorney fees, court costs, and other costs and expenses associated with the enforcement of this Ordinance, including sampling and monitoring expenses and the cost of actual damages incurred by the City.

If the amount due for abatement of the violation is not paid within a timely manner as determined by the decision of the City of Goshen or by the expiration of the time in which to file an appeal, the City of Goshen may establish a lien upon the property or commence a court action to recover the costs assessed under IC 34-28-5-1 (b), to be read together with IC 34-6-2-86(1)(B) and 13-21-3-12(4).

(d) APPEALS

1. Appeal of Notice of Violation

Any person to whom any provision of this Ordinance has been applied may appeal in writing, not later than 20 days after the action or decision being appealed from, to the City of Goshen Stormwater Board the action or decision whereby any such provision was so applied. Such appeal shall identify the matter being appealed, and the basis for the appeal. The City of Goshen Stormwater Board City of Goshen shall consider the appeal and make a decision whereby it affirms, rejects, or modifies the action being appealed. In considering any such appeal, the City of Goshen Stormwater Board may consider the recommendations of the City Staff and the comments of other persons having knowledge of the matter. In considering any such appeal, the City of Goshen Stormwater Board may grant a variance from the terms of this Ordinance to provide relief, in whole or in part, from the action being appealed, but only upon finding that the following requirements are satisfied:

- a. The application of the Ordinance provisions being appealed will present or cause practical difficulties for a development or development site; provided, however, that practical difficulties shall not include the need for the developer to incur additional reasonable expenses in order to comply with the Ordinance; and
- b. The granting of the relief requested will not substantially prevent the goals and purposes of this Ordinance, nor result in less effective management of stormwater runoff.
- c. Any person who has appealed a violation to the City of Goshen Stormwater Board may appeal an adverse decision of the Board to a court of competent jurisdiction within twenty (20) days the Elkhart County court within 60 days of the Boards order, all pursuant to IC 36-1-6-9 (e) & (f).

2. Enforcement Measures After Appeal

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within five (5) days of the decision of the Stormwater Board upholding the decision of the City of Goshen, then representatives of the City of Goshen shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property, including the commencing of a court action under IC 34-28-5-1 (b), to be read together with IC 34-6-2-86(1)(B) and 13-21-3-12(4), to enforce the order of the Stormwater Board.

SECTION 8

Miscellaneous

(a) EFFECTIVE DATE

This ordinance shall be in full force and effect from and after its passage, approval, and publication as provided by law.

Passed by the Goshen Common Council on December ____, 2024.

Presiding Officer

ATTEST:

Richard R. Aguirre, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on _____, 2024, at the hour of _____m.

Richard R. Aguirre, Clerk-Treasurer

APPROVED and ADOPTED on _____, 2024.

Gina M. Leichty, Mayor

Abbreviations and Definitions

(a) ABBREVIATIONS

BMP	Best Management Practice
CSGP	Construction Stormwater General Permit (IDEM)
CWA	Clean Water Act
GIS	Geographical Information System
IDEM	Indiana Department of Environmental Management
IN DNR	Indiana Department of Natural Resources
MS4	Municipal Separate Storm Sewer System
NRCS	USDA-Natural Resources Conservation Service
NOI	Notice of Intent
NOT	Notice of Termination
NPDES	National Pollutant Discharge Elimination System
PCSMP	Post-Construction Stormwater Management Plan
POTW	Publicly Owned Treatment Works
SMP	Self-Monitoring Program
SWCD	Soil and Water Conservation District
SWPPP	Stormwater Pollution Prevention Plan
USACE	United States Army Corps of Engineers
USDA	United States Department of Agriculture
US EPA	United States Environmental Protection Agency

(b) DEFINITIONS

Agricultural Land Disturbing Activity. Tillage, planting, cultivation, or harvesting operations for the production of agricultural or nursery vegetative crops. The term also includes pasture renovation and establishment, the construction of agricultural conservation practices, and the installation and maintenance of agricultural drainage tile.

As-Built Drawings. Drawings are typically prepared by the contractor during the construction phase of the project. These drawings are based on information the contractor provides, typically

through the contractor's mark-ups to the project engineer's original drawings. Primarily, these drawings are marked in red ink (or another method of identification) showing the on-site changes and/or deviations from the original contract documents.

Base Flow. Stream discharge derived from groundwater sources as differentiated from surface runoff. Sometimes considered to include flows from regulated lakes or reservoirs.

Best Management Practices (BMPs). Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Buffer Strip. An existing, variable width strip of vegetated land intended to protect water quality and habitat. See "Filter Strip".

Capacity (of a Storm Drainage Facility). The maximum flow that can be conveyed or stored by a storm drainage facility without causing damage to public or private property.

Catch Basin. A chamber usually built at the curb line of a street for the admission of surface water to a storm drain or subdrain, having at its base a sediment sump designed to retain grit and detritus below the point of overflow.

Cementitious Wash Water. Water that may contain a slurry of cement fines resulting from the cleaning of tools, and equipment used in the delivery, mixing, handling, and working of materials that contain cement and has the properties of cement such as high pH and containing toxic metals and is often associated with materials such as mortar, plaster, stucco, and grout.

Channel. A portion of a natural or artificial watercourse which periodically or continuously contains moving water, or which forms a connecting link between two bodies of water. It has a defined bed and banks which serve to confine the water.

Compliance. The act of correcting a violation or violations within the time frame specified by the *City of Goshen*.

Comprehensive Stormwater Management. A comprehensive stormwater program for effective management of stormwater quantity and quality throughout the community.

Concrete Washout. The rinsing of chutes, pumps, curb and paving machines, hoppers, wheelbarrows, hand tools and any other equipment that are used to handle concrete, mortar, stucco, grout or other mixtures of cement. Concrete washout water is a wastewater slurry containing cementitious materials, metals and is caustic or corrosive, having a high pH.

Constructed Wetland. A human-made shallow pool that creates growing conditions suitable for wetland vegetation and is designed to maximize pollutant removal.

Construction Activity. Land disturbing activities, and land disturbing activities associated with the construction of infrastructure and structures. This term includes the demolition of existing structures or utilities but does not include routine ditch or road maintenance or minor landscaping projects. See "Development."

Construction Site Access. A stabilized stone surface at all points of ingress or egress to a project site, to capture and detain sediment carried by tires of vehicles or other equipment entering

or exiting the project site. Stone is the common material used to create a stabilized construction site access, however, there are other options available.

Construction Support Activities. Include, but are not limited to, the following: concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow areas. Such activities must not support multiple, unrelated projects, be a commercial/industrial operation, or continue to operate beyond the completion of the construction activity for the project it supports.

Contiguous. Adjoining or in actual contact with.

Contour. An imaginary line on the surface of the earth connecting points of the same elevation.

Contour Line. Line on a map which represents a contour or points of equal elevation.

Contractor or Subcontractor. An individual or company hired by the project site or individual lot owner, their agent, or the individual lot operator to perform services on the project site.

Conveyance. Any structural method for transferring stormwater between at least two points. The term includes piping, ditches, swales, curbs, gutters, catch basins, channels, storm drains, and roadways.

Cross Section. A graph or plot of ground elevation across a stream valley or a portion of it, usually along a line perpendicular to the stream or direction of flow.

Culvert. A closed conduit used for the conveyance of surface drainage water under a roadway, railroad, canal or other impediment.

Dechlorinated Swimming Pool Discharge. Chlorinated water that has either sat idle for seven (7) days following chlorination prior to discharge to the MS4 conveyance, or, by analysis, does not contain detectable concentrations (less than five-hundredths (0.05) milligram per liter) of chlorinated residual.

Design Storm. A selected storm event, described in terms of the probability of occurring once within a given number of years, for which drainage or flood control improvements are designed and built.

Detention. Managing stormwater runoff by temporary holding and controlled release.

Detention Basin. A facility constructed or modified to restrict the flow of stormwater to a prescribed maximum rate, and to detain concurrently the excess waters that accumulate behind the outlet.

Detention Storage. The temporary detaining of storage of stormwater in storage facilities, on rooftops, in streets, parking lots, school yards, parks, open spaces or other areas under predetermined and controlled conditions, with the rate of release regulated by appropriately installed devices.

Detention Time. The theoretical time required to displace the contents of a stormwater basin, tank, or unit at a given rate of discharge (volume divided by rate of discharge).

Detritus. Dead or decaying organic matter; generally contributed to stormwater as fallen leaves and sticks or as dead aquatic organisms.

Developer. Any person financially responsible for construction activity, or an owner of property who sells or leases, or offers for sale or lease, any lots in a subdivision.

Development. Any human-made change to improved or unimproved real estate including but not limited to:

- i. Construction, reconstruction, conversion, structural alteration, enlargement, or placement of a building or any addition to a building;
- ii. Demolition of a building or structures in preparation for redevelopment or to return real estate to vegetation;
- iii. Any land disturbing activity that is, or that may be, associated with the preparation of a site for a new or intensified use;
- iv. Construction of flood control structures such as levees, dikes, dams, or channel improvements;
- v. Construction or reconstruction of bridges or culverts;
- vi. Installing a manufactured home on a site, preparing a site for a manufactured home, or installing a recreational vehicle on a site for more than one hundred eighty (180) days;
- vii. Installing utilities, erection of walls, construction of roads, or similar projects;
- viii. Mining, dredging, filling, grading, excavation, or drilling operations;
- ix. Storage of materials; or
- x. Any other activity that might change the direction, height, or velocity of flood or surface waters.

“Development” does not include activities such as the maintenance of existing buildings and facilities such as painting, re-roofing, resurfacing roads, or gardening, plowing and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent buildings.

Discharge. In the context of water quantity provisions, usually the rate of water flow. A volume of fluid passing a point per unit time commonly expressed as cubic feet per second, cubic meters per second, gallons per minute, or millions of gallons per day. In the context of water quality provisions, the discharge means any addition of liquids or solids to a water body or a flow conveyance facility

Disposal. The discharge, deposit, injection, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that the solid waste or hazardous waste, or any constituent of the waste, may enter the environment, be emitted into the air, or be discharged into any waters, including groundwater.

Ditch. A human-made, open watercourse in or into which excess surface water or groundwater drained from land, stormwater runoff, or floodwaters flow either continuously or intermittently.

Drain. A buried slotted or perforated pipe or other conduit (subsurface drain) or a ditch (open drain) for carrying off surplus groundwater or surface water.

Drainage. The removal of excess surface water or groundwater from land by means of ditches or subsurface drains. See “Natural Drainage.”

Drainage Area. The area draining into a stream at a given point. It may be of different sizes for surface runoff, subsurface flow and base flow, but generally the surface runoff area is considered as the drainage area. See “Watershed.”

Dry Well. A type of infiltration practice that allows stormwater runoff to flow directly into the ground via a bored or otherwise excavated opening in the ground surface. Also known as a Class

V stormwater drainage well or Class V injection well as defined in the UIC regulations (40 CFR144.3).

Duration. The time period of a rainfall event.

Environment. The sum total of all the external conditions that may act upon a living organism or community to influence its development or existence.

Erodibility Index (EI). The soil erodibility index (EI) provides a numerical expression of the potential for a soil to erode considering the physical and chemical properties of the soil and the climatic conditions where it is located. The higher the index, the greater the investment needed to maintain the sustainability of the soil resource base if intensively cropped. It is defined to be the maximum of $(R \cdot K \cdot LS)/T$ (from the Universal Soil Loss Equation) and $(C \cdot I)/T$ (from the Wind Erosion Equation), where R is a measure of rainfall and runoff, K is a factor of the susceptibility of the soil to water erosion, LS is a measure of the combined effects of slope length and steepness, C is a climatic characterization of windspeed and surface soil moisture and I is a measure of the susceptibility of the soil to wind erosion. Erodibility Index scores equal to or greater than 8 are considered highly erodible land.

Erosion. The wearing away of the land surface by water, wind, ice, gravity, or other geological agents. The following terms are used to describe distinct types of water erosion:

- ❖ Accelerated erosion – Erosion much more rapid than normal or geologic erosion, primarily because of the activities of humans.
- ❖ Channel erosion – An erosion process whereby the volume and velocity of flow wears away the bed and/or banks of a well-defined channel.
- ❖ Gully erosion – An erosion process whereby runoff water accumulates in narrow channels and, over relatively short periods, removes the soil to considerable depths, ranging from 1-2 feet to as much as 75-100 feet.
- ❖ Rill erosion – An erosion process in which numerous small channels only several inches deep are formed; occurs mainly on recently disturbed and exposed soils.
- ❖ Sheet erosion: The gradual removal of a uniform soil layer from the land surface by runoff water.
- ❖ Splash erosion – The spattering of small soil particles caused by the impact of raindrops on wet soils; the loosened and spattered particles may or may not be subsequently removed by surface runoff.

Erosion & Sediment Control. A practice, or a combination of practices, to minimize sedimentation by first reducing or eliminating erosion at the source and then as necessary, trapping sediment to prevent it from being discharged from or within a project site.

Filter Strip. Usually a long, relatively narrow area (usually, 20-75 feet wide) of undisturbed or planted vegetation used near disturbed or impervious surfaces to filter stormwater pollutants for the protection of watercourses, reservoirs, or adjacent properties. See “Buffer Strip.”

Floatable. Any solid waste that will float on the surface of the water.

Flood (or Floodwaters). A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

Floodplain. The channel proper and the areas adjoining the channel which have been or hereafter may be covered by the regulatory or 1% annual chance flood (100-year flood). Any normally dry land area that is susceptible to being inundated by water from any natural source. The floodplain includes both the floodway and the floodway fringe districts.

Flood Prone Area. Any land area acknowledged by a community as being susceptible to inundation by water from any source. See “Floodplain,” and “Floodway,” and “Floodway Fringe.”

Floodway. The channel of a river or stream and those portions of the floodplains adjoining the channel which are required to efficiently carry and discharge the peak flow of the regulatory flood of any river or stream.

Floodway Fringe. That portion of the floodplain lying outside the floodway, which is inundated by the regulatory flood.

Fluvial Erosion Hazard (FEH) Corridor. Fluvial Erosion Hazard corridors represent the areas along the streams (including the channel and immediate overbanks areas) thought to be subject to stream movement or streambank erosion. These corridors have been delineated for most actively migrating and relatively stationary streams in Indiana through an Indiana Silver Jackets initiative (<https://www.iwr.usace.army.mil/Silver-Jackets/State-Teams/Indiana/>).

Footing Drain. A drainpipe installed around the exterior of a basement wall foundation to relieve water pressure caused by high groundwater elevation.

Garbage. All decayable animal solid, vegetable solid, and semisolid wastes resulting from the processing, handling, preparation, cooking, serving, or consumption of food or food materials. See “Trash or Litter.”

Gasoline Outlet. An operating gasoline or diesel fueling facility whose primary function is the resale of fuels. The term applies to facilities that create five thousand (5,000) or more square feet of impervious surface or generate an average daily traffic count of one hundred (100) vehicles per one thousand (1,000) square feet of land area.

Geographical Information System (GIS). A computer system capable of assembling, storing, manipulation, and displaying geographically referenced information. This technology can be used for resource management and development planning.

Grade. (1) The inclination or slope of a channel, canal, conduit, etc., or natural ground surface usually expressed in terms of the percentage the vertical rise (or fall) bears to the corresponding horizontal distance (rise over run). (2) The finished surface of a canal bed, roadbed, top of embankment, or bottom of excavation; any surface prepared to a design elevation for the support of construction, such as paving or the laying of a conduit. (3) To finish the surface of a canal bed, roadbed, top of embankment, or bottom of excavation, or other land area to a smooth, even condition.

Grading. The cutting and filling of the land surface to a desired slope (grade) or elevation.

Grass. A member of the botanical family *Gramineae*, characterized by blade-like leaves that originate as a sheath wrapped around the stem.

Groundwater. Accumulation of underground water, natural or artificial. The term does not include human-made underground storage or conveyance structures.

Habitat. The environment in which the life needs of a plant or animal are supplied.

Hazardous Materials. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human

health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Highly Erodible Land (HEL). Land that has an erodibility index of eight or more.

Hot Spot Development. Projects involving land uses considered to be high pollutant producers such as vehicle service and maintenance facilities, vehicle salvage yards and recycling facilities, vehicle and equipment cleaning facilities, fleet storage areas for buses, trucks, etc., industrial/commercial or any hazardous waste storage areas or areas that generate such wastes, industrial sites, restaurants and convenience stores, any activity involving chemical mixing or loading/unloading, outdoor liquid container storage, public works storage areas, commercial container nurseries, and some high traffic retail uses characterized by frequent vehicle turnover.

Hydrologic Unit Code (HUC). A numeric (2 to 12 digit long) United States Geologic Survey code that corresponds to a watershed area. Each area also has a text description associated with the numeric code. Example: 04050001 – St. Joseph River Watershed.

Hydrology. The science of the behavior of water in the atmosphere, on the surface of the earth, and underground. A typical hydrologic study is undertaken to compute flow rates associated with specified flood events.

Illicit Connections. Any drain or conveyance, whether on the surface or subsurface, which allows an illicit (or illegal) discharge to enter the storm drain system including, but not limited to any conveyances which allow any non-stormwater discharge including sewage, process waste water, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or, any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Illicit (or Illegal) Discharge. Any discharge to a conveyance (human-made or natural) that is not composed entirely of stormwater except naturally occurring floatables, such as leaves or tree limbs, and those exempted discharges described in Section 2(c) of this Ordinance. Illicit discharges include polluted flows from direct and indirect connections to the MS4 conveyance, illegal dumping, and contaminated runoff.

Impaired Waters. Waters that do not or are not expected to meet applicable water quality standards, as included on IDEM's CWA Section 303(d) List of Impaired Waters.

Impervious Surface. Surfaces, such as pavement and rooftops, which prevent the infiltration of stormwater into the soil.

Individual Building Lot. A single parcel of land within a multi-parcel development.

Individual Lot Operator. A contractor or subcontractor working on an individual lot.

Individual Lot Owner. A person who has financial control of construction activities for an individual lot.

Infiltration. Passage or movement of water into the soil. Infiltration practices include any structural BMP designed to facilitate the percolation of runoff through the soil to groundwater. Examples include infiltration basins or trenches, dry wells, and porous pavement.

Inlet. An opening into a stormwater drainage system for the entrance of surface stormwater runoff, more completely described as a storm drain inlet.

Interested Person. The applicant for a stormwater clearance, the MS4 operator, the MS4 entities in Elkhart County, Indiana including the City of Elkhart, the City of Goshen, the Town of Bristol, and the County of Elkhart, or any person adversely affected by a stormwater clearance.

Land-Disturbing Activity. Any human-made land surface change, including removing vegetative cover that exposes the underlying soil, excavating, filling, transporting, and grading.

Land Surveyor. A person licensed under the laws of the State of Indiana to practice land surveying.

Larger Common Plan of Development or Sale. A plan, undertaken by a single project site owner or a group of project site owners acting in concert, to offer lots for sale or lease; where such land is contiguous, or is known, designated, purchased or advertised as a common unit or by a common name, such land shall be presumed as being offered for sale or lease as part of a larger common plan. The term also includes phased or other construction activity by a single entity for its own use.

Manhole. Storm drain structure through which a person may enter to gain access to an underground storm drain or enclosed structure.

Measurable Storm Event. A precipitation event that results in a total measured precipitation accumulation equal to, or greater than, one-half (0.5) inch of rainfall.

Mulch. A natural or artificial layer of plant residue or other materials covering the land surface which conserves moisture, holds soil in place, aids in establishing plant cover, and minimizes temperature fluctuations.

Municipal Separate Storm Sewer Systems (MS4). An MS4 meets all the following criteria: (1) is a conveyance or system of conveyances owned by the state, county, city, town, or other public entity; (2) discharges to waters of the State or waters of the United States.; (3) is designed or used for collecting or conveying stormwater; (4) is not a combined sewer; and, (5) is not part of a Publicly Owned Treatment Works (POTW).

National Pollutant Discharge Elimination System (NPDES). A permit developed by the U.S. EPA through the Clean Water Act. In Indiana, the permitting process has been delegated to IDEM (pursuant to 33 USC § 1342(b)). This permit authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis; in this case, it covers aspects of municipal stormwater quality.

Natural Drainage. The flow patterns of stormwater runoff over the land in its pre-development state.

Nutrient(s). (1) A substance necessary for the growth and reproduction of organisms. (2) In water, those substances (chiefly nitrates and phosphates) that promote growth of algae and bacteria.

Offense. Both a violation and a failure of compliance on a particular project constitute an "offense." If there are multiple violations or multiple failures of compliance on the same project, each shall be considered a separate offense as further stated in Section 7(b)(3) of this Ordinance.

Open Drain. A natural watercourse or constructed open channel that conveys drainage water.

Open Space. Any land area devoid of any disturbed or impervious surfaces created by industrial, commercial, residential, agricultural, or other human-made activities.

Outfall. The point, location, or structure where a pipe or open drain discharges to a receiving body of water.

Outlet. The point of water disposal from a stream, river, lake, tidewater, or artificial drain to another body of water.

Peak Discharge (or Peak Flow). The maximum instantaneous flow from a given storm condition at a specific location.

Percolation. The movement of water through soil.

Permanent Stabilization. The establishment, at a uniform density of seventy percent (70%) across 100% of the disturbed area with no large bare spots (3" by 3") or signs of erosion, of vegetative cover or permanent non-erosive material that will ensure the resistance of the soil to erosion, sliding, or other movement (e.g., wind).

Person. Any individual, association, organization, partnership, firm, corporation, or other entity recognized by law and acting as either the owner or as the owner's agents.

Pervious. Allowing movement of water through a material.

Point Source. Any discernible, confined, and discrete conveyance including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged (Federal Water Pollution Control Act of 1972, being Public Law 92-500, Section 502[14]).

Pollutant. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinance and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Porous Pavement. A type of infiltration practice to improve the quality and reduce the quantity of stormwater runoff via the use of human-made, pervious pavement which allows runoff to percolate through the pavement and into underlying soils

Premise. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Professional Engineer. A person licensed under the laws of the State of Indiana to practice professional engineering.

Project Site. The entire area on which construction activity is to be performed.

Project Site Owner. The person required to submit a stormwater permit application and required to comply with the terms of this Ordinance, including a developer or a person who has financial and operational control of construction activities, and project plans and specifications, including the ability to make modifications to those plans and specifications.

Rain Barrel or Cistern. A container of varying sizes used to catch rainwater or melting snow runoff from a roof that can be used to water non-edible plants and slow down the release of stormwater to nearby storm drains or waterways.

Rain Garden. A shallow depression filled with deep-rooted native plants that collects stormwater runoff and allows it to soak into the soil or slowly be released to a nearby storm drain and local waterway. A similar measure found in non-residential settings is called a bio-retention area.

Receiving Stream, Receiving Channel, or Receiving Water. The body of water into which runoff or effluent is discharged. The term does not include private drains, unnamed conveyances, retention and detention basins, or constructed wetlands used as treatment.

Recharge. Replenishment of groundwater reservoirs by infiltration and transmission from the outcrop of an aquifer or from permeable soils.

Record Drawings. A complete set of clean drawings typically prepared by the design professional at the project's completion. These drawings are meant to reflect the project in its completed state, including all design and construction changes. Consequently, these drawings are typically meant to capture the original drawings, issued sketches, approved change orders, addenda, on-site instruction, etc., and incorporate the "As-Built" drawings depicting the on-site changes and conditions provided by the contractor.

Redevelopment. Development occurring on a previously developed site.

Refueling Area. An operating gasoline or diesel fueling area whose primary function is to provide fuel to equipment or vehicles.

Regional Stormwater Basin/Pond. A stormwater detention/retention basin or pond intended to serve multiple parcels and or developments, thus eliminating the need for individual on-site facilities. The basin or pond is sized to detain or retain the runoff for the entire upstream drainage area (watershed).

Regulatory Flood. The discharge or elevation associated with the 1% annual chance flood as calculated by a method and procedure which is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The "regulatory flood" is also known as the "base flood" or "100-Year Flood."

Regulatory Floodway. See "Floodway."

Release Rate. The amount of stormwater released from a stormwater control facility per unit of time.

Reservoir. A natural or artificially created pond, lake or other space used for storage, regulation, or control of water. May be either permanent or temporary. The term is also used in the hydrologic modeling of storage facilities.

Retention. The storage of stormwater to prevent it from leaving the development site. May be temporary or permanent.

Retention Basin. A type of storage practice, that has no positive outlet, used to retain stormwater runoff for an indefinite amount of time. Runoff from this type of basin is removed only by infiltration through a porous bottom or by evaporation.

Return Period. The average interval of time within which a given rainfall event will be equaled or exceeded once. A flood having a return period of 100 years has a one percent (1%) probability of being equaled or exceeded in any one year.

Riparian Zone. Of, on, or pertaining to the banks of a stream, river, or pond.

Riparian Habitat. A land area adjacent to a waterbody that supports animal and plant life associated with that waterbody.

Runoff. The portion of rainwater or snowmelt (precipitation) that flows over the land surface, in open channels, or in stormwater conveyance systems, that does not soak into the soil. See "Surface Runoff."

Runoff Coefficient. A decimal fraction relating the amount of rain which appears as runoff and reaches the stormwater drainage system to the total amount of rain falling. A coefficient of 0.5 implies that 50 percent of the rain falling on a given surface appears as stormwater runoff.

Sediment. Solid material (both mineral and organic) that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface.

Sedimentation. The process that deposits soils, debris, and other unconsolidated materials either on the ground surfaces, in bodies of water, or watercourses.

Sensitive Water. A waterbody needs priority protection or remediation based on its:

- i. Providing habitat for threatened or endangered species,
- ii. Usage as a public water supply intake,
- iii. Relevant community value,
- iv. Usage for full body contact recreation,
- v. Exceptional use classification as found in 327 IAC 2-1-11(b),
- vi. Outstanding state resource water classification as found in 327 IAC 2-1-2(3) and 327 IAC 2-1.5-19(b).

Silvicultural. The practice of controlling the establishment, growth, composition, health, and quality of forests to meet diverse needs and values.

- i. Nonpoint activities include source silvicultural activities such as nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations, surface drainage, or road construction and maintenance from which there is natural runoff. Some of these activities (such as stream crossing for roads) may involve the placement of dredged or fill material which may require a CWA section 404 permit and a 401 Water Quality Certification.
- ii. Point source activities include any discernible, confined, and discrete conveyance related to rock crushing, gravel washing, log sorting, or log storage facilities which are operated in connection with silvicultural activities and from which pollutants are discharged into waters of the United States or the State.

Site. The entire area included in the legal description of the parcel of land on which land disturbing activity has been proposed or is being conducted; or the controlled area where runoff originates.

Slope. Degree of deviation of a surface from the horizontal, measured as a numerical ratio or percent. Expressed as a ratio, the first number is commonly the horizontal distance (run) and the second is the vertical distance (rise) – e.g., 2:1. However, the preferred method for designation of slopes is to clearly identify the horizontal (H) and vertical (V) components (length (L) and Width (W) components for horizontal angles). Also note that according to international standards

(Metric), the slopes are presented as the vertical or width component shown on the numerator – e.g., 1V:2H. Slope expressions in this Ordinance follow the common presentation of slopes – e.g., 2:1 with the metric presentation shown in parentheses – e.g., (1V:2H). Slopes can also be expressed in "percent". Slopes given in percent are always expressed as $(100 \cdot V/H)$ – e.g., a 2:1 (1V:2H) slope is a 50% slope.

Soil. The unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of land plants.

Soil and Water Conservation District (SWCD). A public organization created under state law as a special-purpose district to develop and carry out a program of soil, water, and related resource conservation, use, and development within its boundaries. A subdivision of state government with a local governing body, established under IC 14-32.

Solid Waste. Any garbage, refuse, debris, or other discarded material.

Spill. The unexpected, unintended, abnormal, or unapproved dumping, leakage, drainage, seepage, discharge, or other loss of petroleum, hazardous substances, extremely hazardous substances, or objectionable substances. The term does not include releases to impervious surfaces when the substance does not migrate off the surface or penetrate the surface and enter the soil unless it is not cleaned up in a proper and timely manner.

Storm Duration. The length of time that water may be stored in any stormwater control facility, computed from the time water first begins to be stored.

Storm Event. An estimate of the expected amount of precipitation within a given period of time. For example, a 10-year frequency, 24-hour duration storm event is a storm that has a 10% probability of occurring in any one year. Precipitation is measured over a 24-hour period.

Storm Sewer. A closed conduit for conveying collected stormwater, while excluding sewage and industrial wastes. Also called a storm drain.

Stormwater. Water resulting from rain, melting or melted snow, hail, or sleet within a tributary basin, flowing over the surface of the ground or collected in channels or pipes.

Stormwater Clearance. The collection of the accepted site plan, SWPPP, and PCSMP for a given project that allows a project owner to proceed with the filing for a CSGP with IDEM.

Stormwater Drainage System (also known as Storm Sewer System). All methods, natural or human-made, used for conveying stormwater to, through, or from a drainage area to any of the following: conduits and appurtenant features, canals, channels, ditches, storage facilities, swales, streams, culverts, streets, or pumping stations.

Stormwater Management System. A collection of structural and non-structural practices and infrastructure designed to manage stormwater on a site. This system may include but is not limited to erosion control measures, storm drainage infrastructure, detention/retention facilities, and stormwater quality BMPs.

Stormwater Pollution Prevention Plan (SWPPP). A plan developed to minimize the impact of stormwater pollutants resulting from construction activities.

Stormwater Quality Management Plan. A comprehensive written document that addresses stormwater runoff quality.

Stormwater Quality Measure. A practice, or a combination of practices, to control or minimize pollutants associated with stormwater runoff.

Stormwater Runoff. The water derived from rain falling or snow melting within a tributary basin, flowing over the surface of the ground, or collected in channels or conduits.

Strip Development. A multi-lot project where building lots front on an existing road.

Subdivision, Major. Any land that is divided or proposed to be divided into four (4) or more lots, whether contiguous or subject to zoning requirements, for the purpose of sale or lease as part of a larger common plan of development or sale.

Subdivision, Minor. Any land that is divided or proposed to be divided into less than four (4) lots, whether contiguous or subject to zoning requirements, for the purpose of sale or lease as part of a larger common plan of development or sale.

Subsurface Drain. A pervious backfilled trench, usually containing stone and perforated pipe, for intercepting groundwater or seepage.

Surface Runoff. Precipitation that flows onto the surfaces of roofs, streets, the ground, etc., and is not absorbed or retained by that surface but collects and runs off.

Swale. An elongated depression in the land surface that is at least seasonally wet, is usually heavily vegetated, and is normally without flowing water. Swales conduct stormwater into primary drainage channels and may provide some groundwater recharge.

Temporary Stabilization. The covering of soil to ensure its resistance to erosion, sliding, or other movement. The term includes vegetative cover, anchored mulch, or other non-erosive material applied at a uniform density of seventy percent (70%) across the disturbed area with no large bare areas.

Tile Drain. Pipe made of perforated plastic, burned clay, concrete, or similar material, laid to a designed grade and depth, to collect and carry excess water from the soil.

Topographic Map. Graphical portrayal of the topographic features of a land area, showing both the horizontal distances between the features and their elevations above a given datum.

Topography. The representation of a portion of the earth's surface showing natural and human-made features of a given locality such as rivers, streams, ditches, lakes, roads, buildings and most importantly, variations in ground elevations for the terrain of the area.

Trained Individual. An individual who is trained and experienced in the principles of stormwater quality, including erosion and sediment control as may be demonstrated by state registration, professional certification (such as CESSWI and/or CPESC certification), or other documented and applicable experience or coursework as deemed sufficient by the City of Goshen that enable the individual to make judgments regarding stormwater control or treatment and monitoring.

Trash or Litter. Organic or human-made materials discarded onto the land or water where they do not belong, which can clutter up storm drains, storm sewers, and natural areas like a forest or river. These materials are considered a pollutant that poses a risk to public health and the health of plants and wildlife. See "Garbage."

Urban Drain. A drain defined as "Urban Drain" in Indiana Drainage Code.

Urbanization. The development, change or improvement of any parcel of land consisting of one or more lots for residential, commercial, industrial, institutional, recreational, or public utility purposes.

Vegetated Swale. A type of vegetative practice used to filter stormwater runoff via a vegetated, shallow-channel conveyance.

Violation. Any action or inaction that violates the provisions of this Ordinance or the Technical Standards Manual, the requirements of an accepted construction stormwater general permit, and/or the requirements of a recorded post-construction stormwater maintenance agreement within the corporate boundaries of the city of Goshen may be subject to the enforcement actions outlined in Section 7 of this Ordinance. Any such action or inaction is deemed to be a public nuisance and may be abated by injunctive or other equitable relief in addition to, and separate from, the imposition of any of the enforcement actions described in Section 7 of this Ordinance.

Water Quality. A term used to describe the chemical, physical, and biological characteristics of water, usually in respect to its suitability for a particular purpose.

Water Resources. The supply of groundwater and surface water in a given area.

Waterbody. Any accumulation of water, surface, or underground, natural or artificial, excluding water features designed and designated as water pollution control facilities.

Watercourse. Any river, stream, creek, brook, branch, natural or human-made drainageway in or into which stormwater runoff or floodwaters flow either continuously or intermittently.

Watershed. The region of land drained by or contributing water to a specific point that could be along a stream, lake, or other stormwater facility. Watersheds are often broken down into subareas for the purpose of hydrologic modeling.

Watershed Area. All land and water within the confines of a drainage divide. See "Watershed."

Wetlands. Areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.