Agenda for the Goshen Common Council

6:00 p.m., November 17, 2025 Regular Meeting

Council Chamber, Police & Court Building, 111 East Jefferson Street, Goshen, IN

For a live stream of the meeting, go to: https://us02web.zoom.us/j/81652777559

Call to Order by Mayor Gina Leichty

Pledge of Allegiance led by Lily and Maverick Mohler

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 Abril Reyes** (Non-voting)

Approval of Minutes: Unavailable

Approval of Meeting Agenda

1) Ordinance 5240, Revisions to Ordinance 5211 Solid Waste Disposal and Public Nuisance

2) Ordinance 5241, Establishing the Bridge #410 County Contribution Fund (for purposes of receiving contributions from Elkhart County toward bridge work associated with the College Avenue reconstruction project)

3) Interlocal Agreement for Reconstruction of Elkhart County Bridge #410 on College Avenue crossing Horn Ditch

4) Review and revisions of Common Council rules

Privilege of the Floor

Elected Official Reports

Adjournment

Link to the archived recordings – organized in a playlist by meeting:
https://www.youtube.com/@cityofgoshenindiana2605/playlists

ORDINANCE 5240

Revisions to Ordinance 5211
Solid Waste Disposal and Public Nuisance

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, Public Nuisances, when allowed to exist unregulated within the corporate limits of the City of Goshen, are unsightly, detrimental to property values, and a hazard to health and safety;

WHEREAS, this ordinance is intended to regulate and prohibit and require the abatement and/or removal or Public Nuisances on all parcels of real estate within the corporate limits of the City of Goshen;

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.

WHEREAS, this Ordinance is a restatement and revision of City of Goshen Ordinance 5211

NOW THEREFORE, BE IT ORDAINED by the Goshen Common Council that Ordinance 5156, as amended by Ordinance 5211, also identified as Title 6, Article 10, Chapter 1 of the Goshen City Code, shall be amended to read as follows:

Chapter 1 Solid Waste Storage, Collection, and Disposal

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. Nothing in this Chapter limits the City's authority to declare conditions a Public Nuisance under Chapter 2 of this Title.

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, unless otherwise provided in Chapter 2, 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) 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

2) 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.

3) 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.

4) Failure of the Owner or Occupant of a commercial or industrial building to store Solid Waste in a watertight, insect and rodent-proof container.

5) 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.

6) 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).

Chapter 2 Public Nuisance

6.10.2.1 Definitions. For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(a) DEPARTMENT. The City of Goshen Building Department, Planning and Zoning Department, Code Enforcement Department, Police Department, and Legal Department.

(b) DULY AUTHORIZED REPRESENTATIVES. All employees of the Department(s).

(c) PUBLIC NUISANCE. Any condition or action that is injurious to health, indecent, offensive to the senses or an obstruction to the free use of property so as essentially to interfere with the comfortable enjoyment of life or property, as well as other conditions or actions that are otherwise known to the common law or to the statutes of the state as a nuisance, and shall include, but is not limited to, the following:

1) Litter;

2) Boxes, appliances, furniture, household items, unused building supplies, and items of a similar nature that have accumulated outside a storage structure;

3) Demolition remains;

4) Accumulated garbage or trash;

5) Automobile parts, tires, or scrap metal;

6) Structures defaced with paint or graffiti;

7) Any waste water, filth, offal, garbage, rubbish or human excrement, which is deposited, allowed, or caused to be upon any public or private property;

8) The construction of, or the placement of any structure or materials within the drainage way of any right-of-way or public utility easement that will prevent the natural flow of water and cause it to collect and pool upon any private or public property;

9) Any dead domestic or wild animal;

10) Any real or personal property that is infected with contagious disease or on which a condition exists that is likely to cause an immediate health hazard;

11) The placing or accumulating on or within any real or personal property, or the permitting of the same, of any matter that attracts or may attract rodents, insects, domestics or wild animals, in such a manner as to create a health hazard, unsanitary, or dangerous condition;

12) Trees, shrubbery, weeds, or other matter obstructing public ways, or causing visual barriers that create vehicular traffic or pedestrian safety hazards; or

13) The unauthorized placement of fences, signs, shrubbery, or barriers within city road rights-of-way.

(d) PUBLIC NUISANCE PREMISES. The tract of real property on which a public nuisance is located.

(e) ENFORCEMENT AUTHORITY. The City of Goshen Building Commissioner shall be the Enforcement Authority, as that term is understood in I.C. § 36-7-9-2, as amended.

(f) HEARING AUTHORITY. The City of Goshen Board of Public Works and Safety shall be the Hearing Authority, as that term is understood in I.C. § 36-7-9-2, as amended.

6.10.2.2 Administration and Enforcement. The Departments are authorized to administer the terms and provisions of this subchapter. The Enforcement Authority shall enforce the terms and provisions of this chapter. The Departments and the Enforcement Authority are hereby granted all powers reasonable and necessary for the performance of their responsibilities under this chapter.

6.10.2.3 Enforcement Discretion. The Departments shall have all rights and authorities as are provided under state law as the executive department authorized to administer and enforce this chapter. It is hereby acknowledged, understood, and declared by the City of Goshen Common Council that the Enforcement Authority is required to exercise and is vested with the authority to exercise his or her discretion and judgment in order to protect and preserve the public health, safety, and general welfare of the citizens of the City in administering and enforcing this chapter. The authority of the Enforcement Authority to issue or revoke, or fail or refuse to issue or revoke, any notice, approval, order, or similar action under this chapter is hereby declared to be discretionary.

6.10.2.4 Violation. It is a violation of this chapter to have, maintain, or allow a public nuisance on any parcel of real estate in the corporate limits of the City. All owners of parcels of real estate in the City are hereby required to abate and/or remove from such real estate all public nuisances created or existing thereon. All tenants, renters, occupants, or other possessors of real estate who allow, create, make, generate, produce, or otherwise establish a public nuisance on such real estate within the City are hereby required to abate and/or remove from such real estate the public nuisance created or existing thereon.

6.10.2.5 Order to Abate.

(a) If the Enforcement Authority determines after an inspection that a public nuisance exists, the Enforcement Authority may issue an order requiring action relative to the public nuisance, including the abatement and/or removal of the public nuisance. The ordered action must be reasonably related to the condition constituting the public nuisance. Notice of the order must be given in accordance with Section 6.10.2.7.

(b) The order must contain:

1) The name of the person to whom the order is issued;

2) The legal description or address of the public nuisance premises that is the subject of the order;

3) The action the order requires;

4) The period of time in which the action is required to be accomplished;

5) A statement briefly indicating what action can be taken by the Departments if the order is not complied with;

6) If the Enforcement Authority has scheduled a hearing before the Hearing Authority, a statement indicating the exact time and place of the hearing, and stating that person to whom the order was issued is entitled to appear at the hearing with or

without legal counsel, present evidence, cross-examine opposing witnesses, and present arguments.

7) If the Enforcement Authority has not scheduled a hearing before the Hearing Authority, a statement that the order becomes final ten (10) days after notice is given, unless a hearing is requested in writing by a person holding a fee interest, life estate interest, or equitable interest of a contract purchaser in the subject real estate, and the request is delivered to the Enforcement Authority before the end of the ten (10) day period.

8) A statement, including the obligation created by Section 6.10.2.8 relating to notification of subsequent interest holders and the enforcement authority;

9) The name, address, and telephone number of the Enforcement Authority.

(c) The order must allow a sufficient time, of at least ten (10) days but not more than sixty (60) days, from the time when notice of the order is given, to accomplish the required action. If the order allows more than thirty (30) days to accomplish the action, the order may require that a substantial beginning be made in accomplishing the action within thirty (30) days.

(d) The Enforcement Authority may issue an order that modifies an order previously issued, or the Enforcement Authority may rescind an order previously issued, all within the discretion of the Enforcement Authority. The decision to schedule a hearing before the Hearing Authority as provided in Section 6.10.2.5(b)(6) is solely in the discretion of the Enforcement Authority, unless otherwise requested as provided in Section 6.10.2.5(b)(7).

6.10.2.6 Enforcement. In the event that the person or persons given notice of a public nuisance fails to perform the action required by an order issued in Section 6.10.2.5, the Enforcement Authority may:

(a) File a civil action in a court of competent jurisdiction to enjoin or abate the condition or action causing the public nuisance, and in such civil action may seek damages cause by such public nuisance. The Enforcement Authority may also seek an order from the court allowing the Departments or other City personnel, or a private contractor hired by the Departments, to perform work reasonably necessary to abate or remove the condition or action causing the public nuisance.

1) Damages that the Enforcement Authority may seek to collect in a civil action shall include reimbursement for all costs incurred by the City to abate or remove a public nuisance, including:

(a) The actual cost of the work performed by the Department or other City personnel, or a private contractor hired by the Department, reasonable charges for the equipment used, repair costs for damage to equipment used, mileage costs incurred in driving to and from the subject property, disposal costs, and other related expenses and/or the bid price of work accomplished by a contractor hired by the Department to perform work under court order; and

(b) Administrative costs incurred by the Department in abating or removing a public nuisance, including compensation for the time of the Enforcement

Authority and duly authorized representatives spent in enforcing this chapter, costs of sending notice under Section 6.10.2.5, postage charges, charges for office supplies incurred by the Enforcement Authority, reasonable attorney fees and court costs, and other related charges.

(b) Take administrative enforcement action to abate or remove the public nuisance as authorized by I.C. § 36-7-9-10 and I.C. § 36-7-9-11. Such action may include, but is not limited to, causing the abatement or remove work to be performed by the City or by a contractor engaged by the City. The costs of such action, together with administrative expenses, legal expenses, and attorney fees, may be collected and enforced as provided by the Indiana Unsafe Building Law, including the imposing of liens and the recovery of personal judgments against the responsible parties.

(c) All monies recovered under enforcement actions hereunder shall be made payable to and shall be deposited in the City Unsafe Building Fund.

6.10.2.7 Notice. Notice of orders shall be given in accordance with the provisions of I.C. § 36-7-9-25, as amended.

6.10.2.8 Transfers of Property.

(a) A person who has been issued and has received notice of an order relative to a public nuisance and has not complied with that order:

1) Must supply full information regarding the order to a person who takes or agrees to take a substantial property interest in the subject real estate before transferring or agreeing to transfer that interest; and

2) Must, within five (5) days after transferring or agreeing to transfer a substantial property interest in the subject real estate, supply the Enforcement Authority with written copies of:

(a) The full name, address, and telephone number of the person taking a substantial property interest in the public nuisance premises; and

(b) The legal instrument under which the transfer or agreement to transfer the substantial property interest is accomplished.

(b) If a judgment is obtained against the Department, Enforcement Authority, or other government entity for the failure of that entity to provide notice to persons holding an interest in a subject real estate in an action taken by the entity under this chapter, a person who failed to comply with this section is liable to the entity for the amount of the judgment if it can be shown that the entity's failure to give notice was a result of that person's failure to comply with the requirements of this section.

6.10.2.9 Penalty.

(a) Fines. Any person found to be in violation of this chapter shall be guilty of an ordinance violation and shall be subject to a civil penalty up to $2,500 for each violation. Each day that a violation continues shall constitute a separate violation. Any failure to comply with any of the terms and provisions of this chapter shall constitute a violation. The

assessment of a civil penalty shall in no way limit the operation of any other enforcement remedies provided elsewhere in this chapter or other applicable law.

(b) Expenses. The Department may recover reasonable attorney fees, court costs, and other expenses associated with the enforcement of this chapter from any person found to be in violation of this chapter.

(c) Agreed Order. The Enforcement Authority may enter into an agreed order that may include the payment of a civil penalty and other expenses associated with the enforcement of this chapter.

(d) Suit for civil penalties. The Enforcement Authority may file a complaint in a court of competent jurisdiction within the county seeking a judicial determination that this chapter has been violated and requesting the imposition of civil penalties.

(e) Enforcement of Agreed Order. The Enforcement Authority may file a complaint in a court of competent jurisdiction within the county seeking to enforce the terms of an agreed order.

(f) Other action. Nothing contained herein shall prevent the Enforcement Authority from taking any other lawful action as is necessary to prevent or remedy any violation of this chapter.

6.10.2.10 Unsafe Building Law. This Code Chapter specifically adopts the provisions of the Indiana Unsafe Building Law that are included in Indiana Code §§ 36-7-9-1 through 36-7-9-28 inclusive, as amended, specifically noting that the existence of a public nuisance renders a parcel of real estate an unsafe premise under the Indiana Unsafe Building Law.

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

6.10.2.12 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.

6.10.2.13 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 November _____, 2025.

_____
Presiding Officer

ATTEST:

_____
Richard R. Aguirre, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on November _____, 2025, at the hour of _____:_____ ___. m.

Richard R. Aguirre, Clerk-Treasurer

APPROVED and ADOPTED on November _____, 2025.

Gina M. Leichty, Mayor

ORDINANCE 5240~~——5211~~

Revisions to Ordinance 5211~~5156~~
Solid Waste Disposal and Public Nuisance~~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, Public Nuisances, when allowed to exist unregulated within the corporate limits of the City of Goshen, are unsightly, detrimental to property values, and a hazard to health and safety;

WHEREAS, this ordinance is intended to regulate and prohibit and require the abatement and/or removal or Public Nuisances on all parcels of real estate within the corporate limits of the City of Goshen;

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.

WHEREAS, this Ordinance is a restatement and revision of City of Goshen Ordinance 5211

NOW THEREFORE, BE IT ORDAINED by the Goshen Common Council that Ordinance 5156, as amended by Ordinance 5211, also identified as Title 6, Article 10, Chapter 1 of the Goshen City Code, shall be amended to read as follows:

Chapter 1 Solid Waste Storage, Collection, and Disposal~~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. Nothing in this Chapter limits the City's authority to declare conditions a Public Nuisance under Chapter 2 of this Title.

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, unless otherwise provided in Chapter 2, 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)~~1) 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)~~2) 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)~~3) 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)~~4) Failure of~~to~~ the Owner or Occupant of a commercial or industrial building to store Solid Waste in a watertight, insect and rodent-proof container.

~~7)~~5) 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)~~6) 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).

Chapter 2 Public Nuisance

6.10.2.1 Definitions. For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(a) DEPARTMENT. The City of Goshen Building Department, Planning and Zoning Department, Code Enforcement Department, Police Department, and Legal Department.

(b) DULY AUTHORIZED REPRESENTATIVES. All employees of the Department(s).

(c) PUBLIC NUISANCE. Any condition or action that is injurious to health, indecent, offensive to the senses or an obstruction to the free use of property so as essentially to interfere with the comfortable enjoyment of life or property, as well as other conditions or actions that are otherwise known to the common law or to the statutes of the state as a nuisance, and shall include, but is not limited to, the following:

1) Litter;

2) Boxes, appliances, furniture, household items, unused building supplies, and items of a similar nature that have accumulated outside a storage structure;

3) Demolition remains;

4) Accumulated garbage or trash;

5) Automobile parts, tires, or scrap metal;

6) Structures defaced with paint or graffiti;

7) Any waste water, filth, offal, garbage, rubbish or human excrement, which is deposited, allowed, or caused to be upon any public or private property;

8) The construction of, or the placement of any structure or materials within the drainage way of any right-of-way or public utility easement that will prevent the natural flow of water and cause it to collect and pool upon any private or public property;

9) Any dead domestic or wild animal;

10) Any real or personal property that is infected with contagious disease or on which a condition exists that is likely to cause an immediate health hazard;

11) The placing or accumulating on or within any real or personal property, or the permitting of the same, of any matter that attracts or may attract rodents, insects, domestics or wild animals, in such a manner as to create a health hazard, unsanitary, or dangerous condition;

12) Trees, shrubbery, weeds, or other matter obstructing public ways, or causing visual barriers that create vehicular traffic or pedestrian safety hazards; or

13) The unauthorized placement of fences, signs, shrubbery, or barriers within city road rights-of-way.

(d) PUBLIC NUISANCE PREMISES. The tract of real property on which a public nuisance is located.

(e) ENFORCEMENT AUTHORITY. The City of Goshen Building Commissioner shall be the Enforcement Authority, as that term is understood in I.C. § 36-7-9-2, as amended.

(f) HEARING AUTHORITY. The City of Goshen Board of Public Works and Safety shall be the Hearing Authority, as that term is understood in I.C. § 36-7-9-2, as amended.

6.10.2.2 Administration and Enforcement. The Departments are authorized to administer the terms and provisions of this subchapter. The Enforcement Authority shall enforce the terms and provisions of this chapter. The Departments and the Enforcement Authority are hereby granted all powers reasonable and necessary for the performance of their responsibilities under this chapter.

6.10.2.3 Enforcement Discretion. The Departments shall have all rights and authorities as are provided under state law as the executive department authorized to administer and enforce this chapter. It is hereby acknowledged, understood, and declared by the City of Goshen Common Council that the Enforcement Authority is required to exercise and is vested with the authority to exercise his or her discretion and judgment in order to protect and preserve the public health, safety, and general welfare of the citizens of the City in administering and enforcing this chapter. The authority of the Enforcement Authority to issue or revoke, or fail or refuse to issue or revoke, any notice, approval, order, or similar action under this chapter is hereby declared to be discretionary.

6.10.2.4 Violation. It is a violation of this chapter to have, maintain, or allow a public nuisance on any parcel of real estate in the corporate limits of the City. All owners of parcels of real estate in the City are hereby required to abate and/or remove from such real estate all public nuisances created or existing thereon. All tenants, renters, occupants, or other possessors of real estate who allow, create, make, generate, produce, or otherwise establish a public nuisance on such real estate within the City are hereby required to abate and/or remove from such real estate the public nuisance created or existing thereon.

6.10.2.5 Order to Abate.

(a) If the Enforcement Authority determines after an inspection that a public nuisance exists, the Enforcement Authority may issue an order requiring action relative to the public nuisance, including the abatement and/or removal of the public nuisance. The ordered action must be reasonably related to the condition constituting the public nuisance. Notice of the order must be given in accordance with Section 6.10.2.7.

(b) The order must contain:

1) The name of the person to whom the order is issued;

2) The legal description or address of the public nuisance premises that is the subject of the order;

3) The action the order requires;

4) The period of time in which the action is required to be accomplished;

5) A statement briefly indicating what action can be taken by the Departments if the order is not complied with;

6) If the Enforcement Authority has scheduled a hearing before the Hearing Authority, a statement indicating the exact time and place of the hearing, and stating that person to whom the order was issued is entitled to appear at the hearing with or without legal counsel, present evidence, cross-examine opposing witnesses, and present arguments.

7) If the Enforcement Authority has not scheduled a hearing before the Hearing Authority, a statement that the order becomes final ten (10) days after notice is given, unless a hearing is requested in writing by a person holding a fee interest, life estate interest, or equitable interest of a contract purchaser in the subject real estate, and the request is delivered to the Enforcement Authority before the end of the ten (10) day period.

8) A statement, including the obligation created by Section 6.10.2.8 relating to notification of subsequent interest holders and the enforcement authority;

9) The name, address, and telephone number of the Enforcement Authority.

(c) The order must allow a sufficient time, of at least ten (10) days but not more than sixty (60) days, from the time when notice of the order is given, to accomplish the required action. If the order allows more than thirty (30) days to accomplish the action, the order may require that a substantial beginning be made in accomplishing the action within thirty (30) days.

(d) The Enforcement Authority may issue an order that modifies an order previously issued, or the Enforcement Authority may rescind an order previously issued, all within the discretion of the Enforcement Authority. The decision to schedule a hearing before the Hearing Authority as provided in Section 6.10.2.5(b)(6) is solely in the discretion of the Enforcement Authority, unless otherwise requested as provided in Section 6.10.2.5(b)(7).

6.10.2.6 Enforcement. In the event that the person or persons given notice of a public nuisance fails to perform the action required by an order issued in Section 6.10.2.5, the Enforcement Authority may:

(a) File a civil action in a court of competent jurisdiction to enjoin or abate the condition or action causing the public nuisance, and in such civil action may seek damages cause by such public nuisance. The Enforcement Authority may also seek an order from the court allowing the Departments or other City personnel, or a private contractor hired by the

Departments, to perform work reasonably necessary to abate or remove the condition or action causinge the public nuisance.

1) Damages that the Enforcement Authority may seek to collect in a civil action shall include reimbursement for all costs incurred by the City to abate or remove a public nuisance, including:

(a) The actual cost of the work performed by the Department or other City personnel, or a private contractor hired by the Department, reasonable charges for the equipment used, repair costs for damage to equipment used, mileage costs incurred in driving to and from the subject property, disposal costs, and other related expenses and/or the bid price of work accomplished by a contractor hired by the Department to perform work under court order; and

(b) Administrative costs incurred by the Department in abating or removing a public nuisance, including compensation for the time of the Enforcement Authority and duly authorized representatives spent in enforcing this chapter, costs of sending notice under Section 6.10.2.5, postage charges, charges for office supplies incurred by the Enforcement Authority, reasonable attorney fees and court costs, and other related charges.

(b) Take administrative enforcement action to abate or remove the public nuisance as authorized by I.C. § 36-7-9-10 and I.C. § 36-7-9-11. Such action may include, but is not limited to, causing the abatement or remove work to be performed by the City or by a contractor engaged by the City. The costs of such action, together with administrative expenses, legal expenses, and attorney fees, may be collected and enforced as provided by the Indiana Unsafe Building Law, including the imposing of liens and the recovery of personal judgments against the responsible parties.

(c) All monies recovered under enforcement actions hereunder shall be made payable to and shall be deposited in the City Unsafe Building Fund.

6.10.2.7 Notice. Notice of orders shall be given in accordance with the provisions of I.C. § 36-7-9-25, as amended.

6.10.2.8 Transfers of Property.

(a) A person who has been issued and has received notice of an order relative to a public nuisance and has not complied with that order:

1) Must supply full information regarding the order to a person who takes or agrees to take a substantial property interest in the subject real estate before transferring or agreeing to transfer that interest; and

2) Must, within five (5) days after transferring or agreeing to transfer a substantial property interest in the subject real estate, supply the Enforcement Authority with written copies of:

(a) The full name, address, and telephone number of the person taking a substantial property interest in the public nuisance premises; and

(b) The legal instrument under which the transfer or agreement to transfer the substantial property interest is accomplished.

(b) If a judgment is obtained against the Department, Enforcement Authority, or other government entity for the failure of that entity to provide notice to persons holding an interest in a subject real estate in an action taken by the entity under this chapter, a person who failed to comply with this section is liable to the entity for the amount of the judgment if it can be shown that the entity's failure to give notice was a result of that person's failure to comply with the requirements of this section.

6.10.2.9 Penalty.

(a) Fines. Any person found to be in violation of this chapter shall be guilty of an ordinance violation and shall be subject to a civil penalty up to $2,500 for each violation. Each day that a violation continues shall constitute a separate violation. Any failure to comply with any of the terms and provisions of this chapter shall constitute a violation. The assessment of a civil penalty shall in no way limit the operation of any other enforcement remedies provided elsewhere in this chapter or other applicable law.

(b) Expenses. The Department may recover reasonable attorney fees, court costs, and other expenses associated with the enforcement of this chapter from any person found to be in violation of this chapter.

(c) Agreed Order. The Enforcement Authority may enter into an agreed order that may include the payment of a civil penalty and other expenses associated with the enforcement of this chapter.

(d) Suit for civil penalties. The Enforcement Authority may file a complaint in a court of competent jurisdiction within the county seeking a judicial determination that this chapter has been violated and requesting the imposition of civil penalties.

(e) Enforcement of Agreed Order. The Enforcement Authority may file a complaint in a court of competent jurisdiction within the county seeking to enforce the terms of an agreed order.

(f) Other action. Nothing contained herein shall prevent the Enforcement Authority from taking any other lawful action as is necessary to prevent or remedy any violation of this chapter.

~~(e)~~**6.10.2.10 Unsafe Building Law.** This Code Chapter specifically adopts the provisions of the Indiana Unsafe Building Law that are included in Indiana Code §§ 36-7-9-1 through 36-7-9-28 inclusive, as amended, specifically noting that the existence of a public nuisance renders a parcel of real estate an unsafe premise under the Indiana Unsafe Building Law.

~~6.10.1.10~~6.10.2.11 **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~~6.10.2.12 **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~~6.10.2.13 **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 November~~December~~ _____, 2025~~4~~.

_____
Presiding Officer

ATTEST:

_____
Richard R. Aguirre, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on November ~~December~~ _____, 2024~~5~~, at the hour of _____:_____ ___. m.

_____
Richard R. Aguirre, Clerk-Treasurer

APPROVED and ADOPTED on November~~December~~ _____, 2024~~5~~.

_____
Gina M. Leichty, Mayor

ORDINANCE NO. 5241

Establishing the Bridge #410 County Contribution Fund

WHEREAS, the City of Goshen ("City") is delivering a federal-aid roadway reconstruction project along College Avenue under INDOT Contract R-42000, which includes replacement of Elkhart County Bridge #410 (Designation No. 2501041) as a 100% locally funded component within INDOT Project Des. No. 1900739 (the "Project");

WHEREAS, the City and County of Elkhart ("County") intend to enter into an Interlocal Agreement allocating roles and responsibilities for the Bridge #410 work within the Project, including County funding to the City for eligible Bridge costs and City maintenance of segregated accounting for Bridge-related costs;

WHEREAS, the Interlocal Agreement will provide that County will appropriate and transfer Two Million Dollars ($2,000,000.00) to City prior to the December 10, 2025 bid letting, that City will maintain separate accounting for Bridge costs, and that City will return any unused County funds within sixty (60) days after Project Closeout; and

WHEREAS, to ensure proper oversight, transparency, and management of the County's payments, the City desires to establish a dedicated, segregated fund on its general ledger for the Bridge #410 component of the Project;

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

1. Establishment of Fund: There is hereby established a special revenue fund of the City of Goshen to be known as the "Bridge #410 County Contribution Fund" (the "Fund") within the City's general ledger.

2. Purpose: The Fund is created solely to receive, hold, disburse, and account for Ekhart County's payments related to Bridge #410 work delivered within the Project, including eligible construction pay items, construction inspection services (CIS) for the Bridge, change-order items approved as required, and other Bridge-related costs.

3. Sources of Money: Monies deposited into the Fund shall be limited to transfers from County pursuant to the contemplated Interlocal Agreement.

4. Use of Money: Disbursements from the Fund shall be restricted to eligible Bridge #410 costs consistent with the contemplated Interlocal Agreement.

5. Administration: The City shall maintain a segregated accounting of receipts and disbursements from the Fund consistent with the contemplated Interlocal Agreement. The Fund shall be non-reverting, and, upon Project Closeout, the City shall return any unused County monies in the Fund to the County and the Fund shall terminate.

PASSED by the Goshen Common Council on November 17, 2025.

_____

Presiding Officer

ATTEST:

_____

Richard R. Aguirre, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on November ____, 2025, at the hour of _____ __.m.

_____

Richard R. Aguirre, Clerk-Treasurer

APPROVED and ADOPTED on November ____, 2025.

_____

Gina M. Leichty, Mayor

Interlocal Agreement
For Reconstruction of the Bridge on College Avenue Crossing Horn Ditch

THIS AGREEMENT is made and entered into effective as of the last date of signature hereon by and between the City of Goshen, Indiana (hereinafter referred to as "City"), by and through the Goshen Board of Public Works and Safety and the Goshen Redevelopment Commission, and with the approval of the Goshen Common Council, and the County of Elkhart, Indiana (hereinafter referred to as "County"), by and through the Board of Commissioners of Elkhart County, Indiana.

Recitals:

WHEREAS, College Avenue is an east-west road, running from State Road 15 (also known as South Main Street in the corporate limits of Goshen) to the Norfolk Southern Railroad east of U.S. 33 (also known as Lincolnway East in the corporate limits of Goshen);

WHEREAS, City and County previously entered into an Interlocal Agreement dated April 8, 2019 and recorded April 16, 2019 as Document Number 2019-07001 in the Office of the Recorder of Elkhart County, Indiana, relating to the College Avenue Bridge over Horn ditch and certain City utility relocations;

WHEREAS, the City is delivering a federal-aid roadway reconstruction project along College Avenue under INDOT Contract R-42000 that includes the replacement of Elkhart County Bridge #410, having a Designation Number of 2501041 (the "Bridge"), as a 100% locally funded component within the INDOT-let contract, having a Lead Designation Number of 1900739 (the "Project")

WHEREAS, City and County enter into this Agreement to reflect the revised scope, roles, responsibilities, and funding for the Bridge and the Project herein described;

NOW, THEREFORE, in consideration of the following terms, conditions, and commitments, the parties agree as follows:

1. Purpose.

1.1. This sets forth the parties respective roles, responsibilities, and funding obligations for the Bridge work to be delivered within the INDOT-let Project.

1.2. The Bridge will be delivered within the INDOT-let Project described in the Recitals. This Agreement constitutes the complete and current understanding of the parties regarding roles, responsibilities, and funding for the Bridge within that Project.

1.3. The parties acknowledge the Bridge is delivered as a 100% locally funded component inside the INDOT-let Project and that no federal participation applies to Bridge pay items.

2. Lead Agency.

2.1. The City shall serve as the lead agency and designated Local Public Agency (LPA), coordinating with INDOT for the Project, which will bid, award, and administer the INDOT contract.

2.2. The City will coordinate and fulfill LPA responsibilities with INDOT for the Bridge work within the Project, including but not necessarily limited to the following:

2.2.1. Coordination with INDOT on all contract-administration matters affecting the Bridge;

2.2.2. Provide and oversee construction inspection services ("CIS") for the Bridge through a qualified Project Engineer / Supervisor (PE/S);

2.2.3. Maintain complete Project documentation and a segregated accounting of Bridge-related costs consistent with INDOT requirements;

2.2.4. Provide the County, upon request and following Project Closeout, a final Bridge construction cost accounting and as-built drawings for the Bridge reflecting authorized modifications; and

2.2.5. Keep the County reasonably informed of material developments affecting the scope, cost, or schedule of the Bridge work.

2.3. The County's responsibilities include, but are not necessarily limited to, the following:

2.3.1. Designating a County Representative (CR) knowledgeable regarding the Bridge design to:

2.3.1.1. be available to answer, in a reasonable time, all requests for information or other informal questions related to the Bridge that require County input;
2.3.1.2. to review submittals and proposed Change Orders related to changes or additions in Bridge work and to acquire necessary approvals for said Change Orders in a timely manner;
2.3.1.3. to represent the County's interest during the pre-construction and construction phases; and
2.3.1.4. attend key meetings, including but not limited to:

2.3.1.4.1. Project Pre-Construction Conference;
2.3.1.4.2. All Project Progress meetings until such time as the Bridge is open to traffic and Countywide Bridge Inspections are complete;
2.3.1.4.3. Any additional virtual, in-person, and/or on-site meetings regarding the Bridge, provided a minimum notice of forty-eight (48) hours is given;
2.3.1.4.4. Project Pre-Final Inspection
2.3.1.4.5. Project Final Inspection.

2.3.2. Identifying in advance any hold points, submittals, or stages of Bridge work requiring County review to facilitate timely coordination;

2.3.3. Reviewing the punchlist items generated in relation to the Bridge and verifying those items have been satisfactorily completed; and

2.3.4. Performing the initial bridge inspection and load rating for the Countywide Bridge Inspection program in accordance with applicable standards within ninety (90) days after the Bridge opens to traffic and provide such reports to the City's PE/S, and to cover all costs associated with such inspections.

3. Funding.

3.1. County will appropriate and transfer Two Million Dollars ($2,000,000.00) to City prior to December 10, 2025, which is the bid letting date for the Project. The City shall use these funds solely for eligible Bridge costs, including Bridge construction pay items, BridgeCIS, Bridge change order items, and other Bridge-related soft costs.

3.2. City shall reimburse County Two Hundred Twenty-Six Thousand Two Hundred Dollars ($226,200.00) for additional Bridge design services necessary to incorporate the Bridge into the INDOT-let Project. Payment shall be made within sixty (60) days following the effective date of this Agreement and receipt of an invoice from the County.

3.3. City shall maintain a separate accounting for Bridge costs. City shall return any unused County funds within sixty (60) days after Project Closeout and Final Estimate procedures are complete.

3.4. If total Bridge costs exceed the funds provided, County shall remit the documented shortfall within forty-five (45) days after the County approves the related CO(s) or receives City's written request supported by reasonable documentation.

4. Change Orders.

4.1. County shall have authority over all proposed changes to the scope or design of the Bridge work. As the LPA, the City is also required to approve all Bridge Change Orders. INDOT approval is required for all Change Orders.

4.2. The CR shall provide written action on Change Order requests within seven (7) business days after receipt..

4.3. County funds Bridge Change Order items.

5. Ownership of Bridge.

5.1. UponFinal Acceptance, County shall own and maintain the Bridge and associated approaches within the Bridge limits. City shall deliver the Bridge as-built drawings and closeout accounting as provided in Section 2.2.4.

6. Filing Requirements.

6.1. Within thirty (30) days after approval and execution of this Agreement, City shall have this Agreement recorded and filed with the appropriate governmental offices and agencies as required by Indiana Code.

7. Supplemental Documents.

7.1. The Parties agree to execute any and all supplementary documents and to take any and all supplementary steps as are reasonable and appropriate to accomplish the purposes and provisions of this Agreement.

8. Limitations of Liability.

8.1. City acknowledges that County shall not be liable to City for completion of or the failure to complete any activities that are an obligation of City to perform pursuant to this Agreement, and City agrees to defend, indemnify, and hold harmless County and its agents, officers, and employees from all claims and suits of any nature whatsoever arising from City's performance of this Agreement, from all judgments therefore, and for all expenses in defending or appealing any such claims or judgments, including without limitation court costs, attorney's fees, and other expenses.

8.2. County acknowledges that City shall not be liable to City for completion of or the failure to complete any activities that are an obligation of County to perform pursuant to this Agreement, and County agrees to defend, indemnify, and hold harmless City and its agents, officers, and employees from all claims and suits of any nature whatsoever arising from County's performance of this Agreement, from all judgments therefore, and for all expenses in defending or appealing any such claim or judgments, including without limitation court costs, attorney's fees, and other expenses.

9. Non-Discrimination.

9.1. Pursuant to Indiana Code § 22-9-1-10, neither City nor County, nor any of their respective contractors or subcontractors, shall discriminate against any employee or applicant for employment, to be employed in the performance of any work under this Agreement with respect to hire, tenure, terms, or conditions or privileges of employment, or any matter directly or indirectly related to employment because of race, color, religion, sex, disability, national origin, ancestry, or veteran status. Breach of this covenant may be regarded as a material breach of this Agreement.

10. Anti-Nepotism.

10.1. City is aware of the provisions under Indiana Code § 36-1-21 with respect to anti-nepotism in contractual relationships with governmental entities, and shall comply with such statute.

11. Investment Activity.

11.1. Pursuant to Indiana Code § 5-22-16.5, City certifies that it is not engaged in investment activities in Iran.

12. E-Verify Program.

12.1. Pursuant to Indiana Code § 22-5-1.7-11, City agrees to and shall enroll in and verify the work eligibility status of all newly hired employees of City after the date of the Agreement through the E-Verify Program as defined in Indiana Code § 22-5-1.7-3. City further represents and certifies subject to the pains and penalties of perjury that it does not knowingly employ an unauthorized alien.

13. Amendment.

13.1. This Agreement, and any exhibits attached hereto, may be amended only by the mutual written consent of the Parties, by the adoption of a resolution approving said amendment as provided by law, and by the execution of said amendment by the Parties.

14. No Other Agreement.

14.1. Except as otherwise expressly provided herein, this Agreement supersedes all prior agreements, negotiations, and discussions relative to the subject matter hereof and is a full integration of the agreement of the Parties.

15. Severability.

15.1. If any provision, covenant, agreement, or portion of this Agreement or its application to any person, entity, or property is held invalid, such invalidity shall not affect the application or validity of any other provisions, covenants, agreements, or portions of this Agreements, and to that end, any provisions, covenants, agreements, or portions of this Agreement are declared to be severable.

16. Indiana Law.

16.1. This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana.

17. Notice.

17.1. Any notices required or permitted under this Agreement shall be given to the parties at their respective mailing addresses provided below by deposit in the United States mail, certified mail, return receipt requested, with proper postage affixed thereto, and which notices shall be effective three (3) days after date of mailing:

County: County of Elkhart, Indiana
c/o Jeff Taylor, County Administrator
Elkhart County Administration Building
117 North Second Street
Goshen, Indiana 46526
Fax: 574.535.6747
Email: jtaylor@elkhartcounty.com

City: City of Goshen, Indiana

Board of Public Works and Safety
c/o Mayor Gina M. Leichty
202 South Fifth Street
Goshen, Indiana 46528
Fax: 574.533.3074
Email: mayor@goshencity.com

with required copies to:

Donald R. Shuler, Assistant City Attorney
City of Goshen Legal Department
204 East Jefferson Street, Suite 2
Goshen, Indiana 46528
Fax: 574.537.3817
Email: donshuler@goshencity.com

and

Steven J. Olsen, Elkhart County Attorney
Yoder Ainlay Ulmer & Buckingham, LLP
130 North Main Street
Goshen, Indiana 46526
Fax: 574.534.4174
Email: steven.olsen@ya.law

The parties may change their respective mailing addresses by providing written notice of the new address in accordance with the terms and provisions of this paragraph.

18. Binding Effect.

18.1. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns; provided, however, that this Agreement may not be assigned without the express written consent of the non-assigning party.

19. Counterparts.

19.1. This Agreement may be executed in multiple counterparts with multiple but separate signature pages, with the multiple counterparts and multiple but separate signature pages constituting one singled and unified Agreement when combined.

IN WITNESS WHEREOF, the parties have duly executed this Agreement pursuant to all requisite authorizations as of the date first above written.

[Signatures start on the following page].

Goshen Board of Public Works and Safety
City of Goshen, Indiana

_____
Gina M. Leichty

_____
Michael A. Landis

_____
Mary Nichols

_____
Barb Swartley

_____
Orv Myers

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, the undersigned Notary Public in and for said County and State, this ____ day of _____, 2025, personally appeared Gina M. Leichty, Michael A. Landis, Mary Nichols, Barb Swartley, and Orb Myers of the Goshen Board of Public Works and Safety of the City of Goshen, Indiana, being known to me or whose identity have been authenticated by me to be the persons who acknowledged the execution of the foregoing Interlocal Agreement for and on behalf of the City of Goshen, Indiana for the purpose stated therein.

Witness my hand and Notarial Seal.

_____
Printed Name: _____
Notary Public of _____ County, Indiana
My Commission Expires: _____
Commission Number: _____

Goshen Redevelopment Commission
City of Goshen, Indiana

_____
Brian Garber, President

_____
Jonathan Graber, Secretary

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, the undersigned Notary Public in and for said County and State, personally appeared Brian Garber, President, and Jonathan Graber, Secretary, of the Goshen Redevelopment Commission of the City of Goshen, Indiana, being known to me or whose identity have been authenticated by me to be the persons who acknowledged the execution of the foregoing Interlocal Agreement for and on behalf of the City of Goshen, Indiana for the purpose stated therein.

Witness my hand and Notarial Seal this _____ day of _____, 2025.

_____
Printed Name: _____
Notary Public of _____ County, Indiana
My Commission Expires: _____
Commission Number: _____

APPROVAL

The Goshen Common Council of the City of Goshen, Indiana hereby approves of the above and foregoing Interlocal Agreement this ____ day of _____, 2025.

Goshen Common Council
City of Goshen, Indiana

_____
Gina M. Leichty, Mayor & Presiding Officer

ATTEST:

_____
Richard R. Aguirre, Clerk-Treasurer
City of Goshen, Indiana

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, a Notary Public in and for said County and State, this ____ day of _____, 2025, personally appeared Gina M. Leichty, Mayor and Presiding Officer of the Goshen Common Council of the City of Goshen, Indiana and Richard R. Aguirre, Clerk-Treasurer of the City of Goshen, Indiana, and acknowledged that as said representatives, they respectively executed the foregoing Interlocal Agreement for and on behalf of, and in the name of the City of Goshen, Indiana, for the uses and purposed therein mentioned, and that they were authorized so to do.

Witness my hand and Notarial Seal.

_____
Printed Name: _____
Notary Public of _____ County, Indiana
My Commission Expires: _____
Commission Number: _____

Board of Commissioners of the
County of Elkhart, Indiana

_____
Bradley D. Rogers

_____
Suzanne M. Weirick

_____
Bob Barnes

ATTEST:

_____
Patricia A. Pickens, Auditor
County of Elkhart, Indiana

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, the undersigned Notary Public in and for said County and State, this ____ day of _____, 2025, personally appeared Bradley D. Rogers, Suzanne M. Weirick, and Bob Barnes of the Board of Commissioners of the County of Elkhart, Indiana, and Patricia A. Pickens, Auditor of the County of Elkhart, Indiana, being known to me or whose identity have been authenticated by me to be the persons who acknowledged the execution of the foregoing Interlocal Agreement for and on behalf of the County of Elkhart, Indiana for the purpose stated therein.

Witness my hand and Notarial Seal.

_____
Printed Name: _____
Notary Public of _____ County, Indiana
My Commission Expires: _____
Commission Number: _____