

TITLE 6

HEALTH, PEACE, SAFETY AND SANITATION

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HEALTH, PEACE, SAFETY AND SANITATION

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Chapter 6.10

OBSCENE PERFORMANCES

Sections:

6.10.010 Unlawful to engage in obscene performances

6.10.020 Penalty for violation

6.10.010 Unlawful to engage in obscene performances. It shall be unlawful for a person to knowingly or intentionally engage in, participate in, manage, produce, sponsor, present, exhibit, photograph, film or videotape any obscene performance. (Ord. 1987-1, S1, Sept. 14, 1987)

6.10.020 Penalty for violation. Any person who violates this Ordinance shall be guilty of a misdemeanor and shall, upon conviction, be fined in any sum not exceeding \$2,500.00 for each violation. (Ord. 1987-1, S2, Sept. 14, 1987)

Chapter 6.18

RAILROAD CROSSINGS

Sections:

- 6.18.010 Lighting of railroad crossings**
- 6.18.020 Failure to provide lights**

6.18.010 Lighting of railroad crossings. That to further provide for the proper security and safety of the citizens of the said town and other persons from the running of trains and cars in and through the said Town of Chrisney upon all railroads, electric roads and street car lines, that the Southern Railway Company, or any Railroad Company, or any person or persons owning or operating a railroad through or within the incorporate limits of the said Town of Chrisney, Indiana, be and are hereby ordered and directed to maintain from the hour of 6 o'clock P.M. to the hour of 11 o'clock P.M., an electric light to be of a power sufficient to light each of the crossings hereinafter named, not to exceed that in use in the said Town of Chrisney, on each and every night at each and all three of the following named places, to wit: Where each of the following named streets: North Street, Chestnut Street and Market Street cross the Southern Railway Company's Railroad or any other Company's Railroad owned or operated by any person or persons through or within the incorporate limits of the said Town of Chrisney, Indiana. It is further provided that one light shall be sufficient at each of the above named crossings where said streets now cross the Southern Railway Company's Railroad or any other Company's Railroad owned or operated by any person or persons through or within the incorporate limits of the said Town of Chrisney, Indiana. (Ord. 34, S1, Dec. 7, 1903) (Ord. 32, S1, July 6, 1903)

6.18.020 Failure to provide lights. It is further ordained by the Board of Trustees of and for the said Town of Chrisney, in the County of Spencer and State of Indiana, and in regular session, that if the Southern Railway Company, or any Railroad Company, or person or persons owning and operating a railroad through or within the incorporate limits of the said Town of Chrisney, Indiana, after the taking effect of this Ordinance, violates the provisions of the forgoing section 6.18.010 shall be deemed guilty of disorderly conduct, and upon conviction thereof before any Town Clerk or Justice of the Peace shall be fined Ten (\$10.00) Dollars together with costs of prosecution: Each day to constitute a separate offense. (Ord. 34, S2, Dec. 7, 1903) (Ord. 32, S2, July 6, 1903)

CHAPTER 6.25

CONSTRUCTION STANDARDS; PERMITTING; INSPECTIONS

SECTIONS:

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6.25.600	Fees And Required Inspections
6.25.700	Effective Date

6.25.110 Title. This Ordinance and all material included herein by reference shall be known as the "Building Code of the Town of Chrisney, Indiana." (Ord. 2003-1A, Article I, S1, May 5, 2003)

6.25.120 Purpose. The purpose of this Ordinance is to protect the life, public safety, health and general welfare of the citizens of the Town of Chrisney, Indiana, and shall be construed in such a manner to effectuate this purpose. (Ord. 2003-1A, Article I, S2, May 5, 2003)

6.25.130 Definitions. Unless otherwise clearly indicated by its context, the words and terms defined in this section shall have the specified meanings.

- (1) "Building Commissioner," as used in this Ordinance, includes individuals employed by the Building Department that are authorized to represent the Building Commissioner.
- (2) "Class I structure," pursuant to IC 22-12-1-4, has the following definition:

- A. "Class I structure" means any part of the following:
 1. A building or structure that is intended to be or is occupied or otherwise used in any part by any of the following:
 - (a) The public.
 - (b) Three (3) or more tenants.
 - (c) One (1) or more persons who act as the employees of another.
 2. A site improvement affecting access by persons with physical disabilities to a building or structure described in subdivision (1).
 3. Any class of buildings or structures that the commission determines by rules to affect a building or structure described in subdivision (1), except buildings or structures described in subsections (c) through (e).
 - B. Subsection A.1. includes a structure that contains three (3) or more condominium units (as defined in IC 32-25-2-9) or other units that:
 1. are intended to be or are used or leased by the owner of the unit; and
 2. are not completely separated from each other by an unimproved space.
 - C. Subsection A.1. does not include a building or structure that:
 1. is intended to be or is used only for an agricultural purpose on the land where it is located; and
 2. is not used for retail trade or is a stand used for retail sales of farm produce for eight (8) or less consecutive months in a calendar year.
 - D. Subsection A.1. does not include a Class 2 structure.
 - E. Subsection A.1. does not include a vehicular bridge.
 - F. Pursuant to IC 22-12-1-24, structure includes swimming pool.
- (3) "Class 2 structure", pursuant to IC 22-12-1-5, has the following definition:
- A. "Class 2 structure" means any part of the following:

1. A building or structure that is intended to contain or contains only one (1) dwelling unit or two (2) dwelling units unless any part of the building or structure is regularly used as a Class I structure.
 2. An outbuilding for a structure described in subdivision (1), such as a garage, barn, or family swimming pool, unless any part of the outbuilding is regularly used as a Class I structure.
- B. Subsection A. does not include a vehicular bridge.
- C. Pursuant to IC 22-12-1-24, structure includes swimming pool.
- (4) "Construction", pursuant to IC 22-12-1-7, means any of the following:
- A. Fabrication of any part of an industrialized building system or mobile structure for use at another site.
 - B. Erection or assembly of any part of a Class I or Class 2 structure at the site where it will be used.
 - C. Installation of any part of the permanent heating, ventilating, air conditioning, electrical, plumbing, sanitary, emergency detection, emergency communication, or fire or explosion suppression systems for a Class I or Class 2 structure at the site where it will be used.
 - D. Work undertaken to alter, remodel, rehabilitate, or add to any part of a Class I or Class 2 structure.
 - E. Work undertaken to relocate any part of a Class I or Class 2 structure, except a mobile structure.
- (5) "Industrialized building system", pursuant to IC 22-12-1-14, means any part of a building or other structure that is in whole or in substantial part fabricated in an off-site manufacturing facility for installation or assembly at the building site as part of a Class I structure, a Class 2 structure, or another building or structure. However, the term does not include a mobile structure or a system that is capable of inspection at the building site.
- (6) "Manufactured home", pursuant to IC 22-12-1-16, has the meaning set forth in 42 U.S.C. 5402 as it existed on January 1, 1984. This definition is as follows: "Manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein;

except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and complies with the standards established under this 42 U.S.C. 5402.

- (7) "Mobile structure", pursuant to IC 22-12-1-17, has the following definition:
 - A. "Mobile structure", means any part of a fabricated unit that is designed to be:
 - 1. towed on its own chassis; and
 - 2. connected to utilities for year-round occupancy or use as a Class I structure, a Class 2 structure, or another structure.
 - B. The term includes the following:
 - 1. Two (2) or more components that can be retracted for towing purposes and subsequently expanded for additional capacity.
 - 2. Two (2) or more units that are separately towable but designed to be joined into one (1) integral unit.
- (8) "Person", pursuant to IC 22-12-1-18, means an individual, corporation, limited liability company, partnership, unincorporated association, or governmental entity.
- (9) "Structure" means both Class I and Class 2 structures, unless specifically stated otherwise.
- (10) "Vehicular bridge", pursuant to IC 22-12-1-26, means any bridge that is neither:
 - A. a pedestrian walkway; nor
 - B. a passageway for light vehicles; suspended between two (2) or more parts of a building or between two (2) or more buildings. (Ord. 2003-1A, Article I, S3, May 5, 2003)

6.25.140 Scope.

- (1) All construction shall be accomplished in compliance with the provisions of this Building Ordinance.
- (2) Pursuant to IC 22-13-2-6, this Building Ordinance shall not apply to industrialized building systems or mobile structures certified under IC 22-15-

4; however, the provisions of this Building Ordinance and the rules promulgated by the Fire Prevention and Building Safety Commission do apply to any construction related to an industrialized building system or mobile structure not certified under IC 22-15-4.

- (3) Pursuant to IC 22-13-2-9, this Building Ordinance is not applicable to regulated amusement devices, regulated boilers, regulated pressure vessels, or regulated lifting devices. (Ord. 2003-1A, Article I, S4, May 5, 2003)

6.25.150 Authority. The Building Commissioner is hereby authorized and directed to administer and enforce the following:

- (1) All of the provisions of this Building Ordinance.
- (2) Variances granted in accordance with IC 22-13-2-11.
- (3) Orders issued under IC 22-12-7. (Ord. 2003-1A, Article I, S5, May 5, 2003)

6.25.155 Conflict of Interest Rules.

- (1) Definitions
 - A. The following definitions apply to this chapter:
 1. “Conflict of interest” means a direct or indirect financial interest in the issuance of a permit, pursuant to IC 36-1-27-1.
 2. “Permit” has the meaning set forth in IC 36-7-4-1109(b).
- (2) A building commissioner, building coder official, or inspector of the Town of Chrisney may not issue a permit or oversee the issuance of a permit through a subordinate if the building commissioner, building code official, or inspector has a conflict of interest.
- (3) A building commissioner, building code official, inspector, or other employee of the Town of Chrisney shall report a conflict of interest to President of the Chrisney Town Council and the town attorney.
- (4) Promptly upon receipt of a conflict of interest report made under this subsection, President of the Chrisney Town Council, in consultation with the town attorney, shall appoint a qualified temporary replacement building commissioner, building code official, or inspector.

6.25.160 Severability. Should any provision (section, clause, phrase, word, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions be given the effect intended in

adopting this ordinance. To this end, the provisions of this ordinance are severable. (Ord. 2003-1A, Article I, S6, May 5, 2003)

6.25.170 Effect of Adoption on Prior Ordinance. The expressed or implied repeal of amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. These rights, liabilities, and other proceedings are continued and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted. (Ord. 2003-1A, Article I, S7, May 5, 2003)

6.25.210 Building Permit Required. Construction is prohibited unless in conformity with a valid building permit obtained from the Building Commissioner prior to commencement of construction. (Ord. 2003-1A, Article II, S8, May 5, 2003)

6.25.220 Application for Building Permit.

- (1) Any person required to have a building permit shall submit a complete application to the Building Commissioner.
- (2) This application shall be submitted on a form prepared by the Building Commissioner, and shall contain the following:
 - A. Information that the Building Commissioner determines to be necessary to locate and contact the applicant.
 - B. A clear and understandable copy of detailed plans and specifications drawn to scale which indicate in a precise manner the nature and location of all work to be accomplished.
 - C. A plot plan drawn to scale. This plot plan shall reflect the location of the structure in relation to existing property lines and show streets, curbs and sidewalks and proposed changes or additions to such streets, curbs and sidewalks.
 - D. If required by Indiana law or any rule of the Fire Prevention and Building Safety Commission, a copy of a Design Release for the work to be done that has been issued by the State Building Commissioner and the State Fire Marshal pursuant to IC 22-15-3.
 - E. Any additional information that the Building Commissioner finds to be necessary to determine that the construction will conform to all applicable building laws and will not violate any other applicable ordinances or laws.
 - F. The fee established by _____.

- (3) Application for a building permit shall be made by the person entitled to obtain the permit or by an employee or agent of that person. The Building Commissioner may require that such an employee or agent provide written authority to apply for a permit. (Ord. 2003-1A, Article II, S9, May 5, 2003)

6.25.230 Issuance of Building Permit. The Building Commissioner shall issue a building permit to a person after the person has submitted a complete application, including any applicable fee, provided that the proposed construction will conform to all applicable building laws and will not violate any other applicable ordinances or laws. (Ord. 2003-1A, Article II, S10, May 5, 2003)

6.25.240 Certificate of Occupancy. No certificate of occupancy for any building or structure shall be issued unless such building or structure was constructed in compliance with the provisions of this Building Ordinance. It shall be unlawful to occupy any such building or structure unless a full, partial, or temporary certificate of occupancy has been issued by the Building Commissioner. (Ord. 2003-1A, Article II, S11, May 5, 2003)

6.25.320 General Authority to make Inspections and Investigations.

- (1) All construction shall be subject to periodic inspections by the Building Commissioner irrespective of whether a building permit has been or is required to be obtained.
- (2) The Building Commissioner may at any reasonable time go in, upon, around or about the premises where any structure subject to the provisions of this Building Ordinance or to the rules of the Fire Prevention And Building Safety Commission is located for the purposes of inspection and investigation of such structure. Such inspection and investigation may be made before and/or after construction on the project is completed for the purposes of determining whether the structure meets building standards and procedures, and ascertaining whether the construction and procedures have been accomplished in a manner consistent with this Building Ordinance and the rules of the Fire Prevention And Building Safety Commission. (Ord. 2003-1A, Article III, S12, May 5, 2003)

6.25.330 Inspections by Fire Department. The Building Commissioner and the Fire Department shall work cooperatively to conduct inspections and investigations to promote compliance with fire safety laws (The Fire Department has independent authority to conduct inspections and take enforcement actions under IC 36-8-17). (Ord. 2003-1A, Article III, S13, May 5, 2003)

6.25.410 Withhold Issuance of Permits.

- (1) Whenever a person which is either an applicant for a building permit or an obtainer of a building permit owes fees (including checks returned for insufficient funds, permit fees owed pursuant to _____, or inspection fees owed pursuant to _____) to the Building Commissioner the Building

Commissioner may withhold the issuance of subsequently requested permits until such time that the debt is satisfied.

- (2) Whenever a person applies for a building permit for a structure that is not being used or constructed in conformance with applicable provisions of an applicable zoning ordinance or other ordinance relating to land use, the Building Commissioner is authorized to withhold the issuance of requested permits until such time that the property is brought into conformance with applicable ordinances. (Ord. 2003-1A, Article IV, S14, May 5, 2003)

6.25.420 Permit Revocation. The Building Commissioner may revoke a building permit when any of the following are applicable:

- (1) The application, plans or supporting documents contain a false statement or misrepresentation as to a material fact.
- (2) The application, plans or supporting documents reflect a lack of compliance with building standards and procedures.
- (3) There is failure to comply with the Building Ordinance.
- (4) The structure for which the building permit has been issued is not being used or constructed in conformance with an applicable zoning ordinance or other ordinance relating to land use. (Ord. 2003-1A, Article IV, S15, May 5, 2003)

6.25.430 Stop-work Order.

- (1) The Building Commissioner may issue an order requiring suspension of the pertinent construction (stop-work order) in accordance with this section.
- (2) The stop-work order shall:
 - A. Be in writing.
 - B. State with specificity the construction to which it is applicable and the reason for its issuance.
 - C. Be posted on the property in a conspicuous place.
 - D. If practicable, be given to:
 1. The person doing the construction; and
 2. To the owner of the property or the owner's agent.
 - E. The stop-work order shall state the conditions under which construction may be resumed.

- (3) The Building Commissioner may issue a stop-work order if.
 - A. Construction is proceeding in an unsafe manner, including, but not limited to, in violation of any standard set forth in this Building Ordinance or any state law pertaining to safety during construction.
 - B. Construction is occurring in violation of this Building Ordinance or in such a manner that if construction is allowed to proceed, there is a reasonable probability that it will substantially difficult to correct the violation.
 - C. Construction for which a building permit is required is proceeding without a building permit being in force.
- (4) The issuance of a stop-work order shall in no way limit the operation of penalties provided elsewhere in this Building Ordinance. (Ord. 2003-1A, Article IV, S16, May 5, 2003)

6.25.440 Civil Action. Pursuant to IC 36-1-6-4, the City may initiate a civil action in a court of competent jurisdiction to restrain any person from violating a provision of this Building Ordinance. (Ord. 2003-1A, Article IV, S17, May 5, 2003)

6.25.450 Monetary Penalty. Any person violating any provision of this Building Ordinance may be subject to a fine in any sum not exceeding two thousand five hundred dollars (\$2,500). The assessment of a monetary penalty shall in no way limit the operation of the penalties provided elsewhere in this Building Ordinance. (Ord. 2003-1A, Article IV, S18, May 5, 2003)

6.25.460 Right of Appeal. Any person aggrieved by an order issued under this Building Ordinance shall have the right to petition for review of any order of the Building Commissioner. Such a person may file a petition using either, or both, of the following procedures:

- (1) Appeal to the Fire Prevention and Building Safety Commission.
 - A. A person aggrieved by an order issued under this Building Ordinance may submit a petition for review to the Fire Prevention and Building Safety Commission, in accordance with IC 22-13-2-7.
 - B. The Commission may modify or reverse any order that covers a subject governed by IC 22-12, IC 22-13, IC 22-14, IC 22-15, a fire safety, or a building rule.
 - C. The Fire Prevention and Building Safety Commission must review orders that concern a Class 2 Structure if the person aggrieved by the order petitions for review under IC 4-21.5-3-7 within thirty (30) days after the issuance of the order.

- D. The Fire Prevention and Building Safety Commission may review all other orders issued under this Building Ordinance that cover a subject governed by IC 22-12, IC 22-13, IC 22-14, IC 22-15, a fire safety rule, or a building rule.
 - E. The review of an order by the Fire Prevention and Building Safety Commission does not suspend the running of the time period under any statute in which a person must petition a court for judicial review of the order.
- (2) Appeal to an Established Local Administrative Body or Court.

If, pursuant to IC 36-1-6-9, the City has established by ordinance to hear appeals of orders issued under ordinances, where a person aggrieved by an order may petition for review with this administrative body in accordance with said ordinance. If no such administrative body exists, then the person may petition a court for judicial review of the order. (Ord. 2003-1A, Article IV, S19, May 5, 2003)

6.25.510 Adoption of Rules by Reference.

- (1) Pursuant to IC 22-13-2-3(b), the rules of the Indiana Fire Prevention and Building Safety Commission as set out in the following Articles of Title 675 of the Indiana Administrative Code are hereby incorporated by reference in this code and shall include any later amendments to those rules.
 - A. Article 13 - Building Codes
 - 1. Fire and Building Safety Standards.
 - 2. Indiana Building Code.
 - B. Article 14 - Indiana Residential Code
 - C. Article 16 - Indiana Plumbing Code
 - D. Article 17 - Indiana Electrical Code
 - E. Article 18 - Indiana Mechanical Code
 - F. Article 19 - Indiana Energy Conservation Code
 - G. Article 20 - Indiana Swimming Pool Code
 - H. Article 22 - Indiana Fire Code

- (2) Two (2) copies of the above building rules incorporated by reference are on file in the office of the clerk for the legislative body for public inspection as required by IC 36-1-5-4.
- (3) The Building Commissioner and the Fire Prevention and Building Safety Commission may grant a variance to the fire safety laws and building laws adopted in this Building Ordinance. Pursuant to IC 22-13-2-7(b), a variance granted by the Building Commissioner is not effective until it has been approved by Fire Prevention and Building Safety Commission. (Ord. 2003-1A, Article V, S20, May 5, 2003)

6.25.520 Lifting Devices located within a private residence.

- (1) Pursuant to IC 22-12-1-22(b)(12), lifting devices, such as elevators and wheelchair lifts, located within a private residence are not regulated lifting devices. Therefore, the following standards applicable to lifting devices located within a private residence are incorporated by reference:
 - A. Part 5.3, Private Residence Elevators, ANSI/ASME A17.1-2000, Safety Code for Elevators and Escalators published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016.
 - B. Part 5.4, Private Residence Inclined Elevators, ANSI/ASME A17.1-2000, Safety Code for Elevators and Escalators published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016.
 - C. Section 5, Private Residence Vertical Platform Lifts, ASME A18.1a, 2001 (Addenda to ASME 18.1-1999), Safety Standard for Platform and Stairway Chair Lifts, published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016.
 - D. Section 6, Private Residence Inclined Platform Lifts, ASME A18. 1a, 2001 (Addenda to ASME 18.1-1999), Safety Standard for Platform and Stairway Chair Lifts, published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016.
 - E. Section 7, Private Inclined Stairway Lifts, ASME A18.1a, 2001 (Addenda to ASME 18.1-1999), Safety Standard for Platform and Stairway Chair Lifts, published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016.
- (2) Two (2) copies of the above lifting device standards incorporated by reference are on file in the office of the clerk for the legislative body for

public inspection as required by IC 36-1-5-4. (Ord. 2003-1A, Article V, S21, May 5, 2003)

6.25.600 Fees And Required Inspections. Permits required by Section 6.25.230 of this code or Section 10 of the Ordinance 2003-1A shall be issued upon prior payment of permit fees according to the following schedule:

<u>Type of Construction</u>	<u>Estimated Inspection</u>	<u>Estimated Total Inspection Fee (\$30.00 per inspection)</u>
1 or 2 Family Dwelling (including manufactured homes), including Attached Garages, Covered Patios and Non-Enclosed Porches	5	\$ 150.00
Apartments, Hotels & Motels	8	\$ 240.00
Business, Commercial & Public Buildings not here otherwise covered	8	\$ 240.00
Educational, Institutional & Churches	8	\$ 240.00
Industrial	8	\$ 240.00
Warehouse & Bulk Storage Buildings	8	\$ 240.00
Accessory Buildings for Residential Use	3	\$ 90.00
Mobile Homes	3	\$ 90.00
Swimming Pool	1	\$ 30.00

The minimum permit fee for any permit shall be \$30.00. The Building Commissioner shall in all cases designate the stage of construction when each required inspection must be requested by the permit holder. The proposed foundation will be inspected prior to the pouring of concrete. No electrical, mechanical, plumbing, or thermal insulation work shall be covered without prior inspection. However, the unusually large or complex buildings or structures, the Building Commissioner shall have the right to make the inspections in the manner and at the times appropriate for such large or complex buildings or structures. The architect or engineer for any building requiring an architect or engineer under state law or regulation shall make available his inspection reports to the Building Commissioner. Where additional inspections are required due to failure to permit holder to have work ready for inspection at a designated stage of construction, the Building Commissioner shall have the power to assess a re-inspection fee of \$30.00 for each such additional inspection. Reinspection fees shall be paid to the Town of Chrisney prior to the issuance of a certificate of occupancy.

The Building Commissioner shall submit an annual report to the Town Council of the Town of Chrisney which shall include an analysis of inspections performed, permit fees collected, cost of inspection operations and recommendations for adjustment of required inspections and single inspection fees as necessary. (Ord. 2003-1A, Article VI, S22, May 5, 2003)

6.25.700 Effective Date. This Building Ordinance shall be in full force and effect beginning on the date on which both of the following have occurred:

- (1) The Town Council has adopted this Ordinance.
- (2) The Fire Prevention and Building Safety Commission has approved of this Ordinance as required by IC 22-13-2-5.
- (3) Publication as required by law.

(Authentication of enactment according to local style). (Ord. 2003-1A, Article VII, S23, May 5, 2003)

Chapter 6.28

UNSAFE BUILDINGS

Sections:

- 6.28.010 Town adopts by reference I.C. 36-7-9-1 through 36-7-9-28**
- 6.28.020 Administrative enforcement**
- 6.28.025 Hearing Authority**
- 6.28.030 Definitions**

6.28.010 Town adopts by reference I.C. 36-7-9-1 through 36-7-9-28. The Town Council of the Town of Chrisney hereby adopts Indiana Code 36-7-9-1 through 36-7-9-28, entitled Enforcement of Building Standards, as the Ordinance of the Town, pursuant to Indiana Code 36-7-9-3, and incorporates said statutes by reference into this Ordinance. (Ord. 1991-4, S1, Aug. 5, 1991)

6.28.020 Administrative enforcement. The executive department of the Town responsible for the administration and enforcement of this Ordinance is the Building Inspector. (Ord. 2004-2, Mar. 8, 2004) (Ord. 1991-4, S2, Aug. 5, 1991)

6.28.025 Hearing Authority. The Town Council or the person designated by it, is hereby designated as the Hearing Authority. (Res. 2017-8, Oct. 10, 2017) (Ord. 2004-2, Mar. 8, 2004)

6.28.030 Definitions. The definition of “substantial property interest” as set out in Indiana Code 36-7-9-2 is specifically adopted and incorporated by reference into this Ordinance. (Ord. 1991-4, S3, Aug. 5, 1991)

Chapter 6.40

REMOVAL OF WEEDS AND RANK VEGETATION

Sections:

- 6.40.010 Administration
- 6.40.020 Definitions
- 6.40.030 Height
- 6.40.040 Notice of violation
- 6.40.050 Removal costs incurred by the Town
- 6.40.060 Appeal
- 6.40.070 Failure to pay

6.40.010 Administration. The department of the Town responsible for the administration of this Ordinance is the Town Council. (Ord. 2004-4, S1, Sept. 13, 2004)

6.40.020 Definitions. Weeds and rank vegetation include all weeds and grasses, except agriculture crops, vegetable gardens and flower gardens. (Ord. 2004-4, S2, Sept. 13, 2004)

6.40.030 Height. The height at which weeds or rank vegetation become a violation of this Ordinance is twelve (12) inches. (Ord. 2004-4, S3, Sept. 13, 2004) (Ord. 47, S1, Sept. 28, 1908)

6.40.040 Notice of violation. Notice of the violation of this Ordinance shall be given to the owner of the real property by regular U.S. mail to the address shown on tax records or by posting a notice on property in a conspicuous place, which notice shall provide that the owner has 10 days from receipt of the notice to cut the weeds and rank vegetation and upon failure of the owner to do so the Town or its contractors may enter the real property and abate a violation of this Ordinance. (Ord. 2004-4, S4, Sept. 13, 2004) (Ord. 47, S2, Sept. 28, 1908)

6.40.050 Removal Costs incurred by the Town. When the Town or its contractors abates a violation of this Ordinance, the Clerk-Treasurer shall bill the owner of the real property for the costs incurred by the Town in abating the violation including administrative costs and removal costs. (Ord. 2004-4, S5, Sept. 13, 2004)

6.40.060 Appeal. Any property owner who receives a notice of violation of this Ordinance or a bill issued under this Ordinance may appeal the notice or the bill by filing a notice of appeal with the Clerk-Treasurer requesting a hearing at the next Town Council meeting following receipt of the notice of violation or the bill; and said matter will be heard at the next Town Council meeting. (Ord. 2004-4, S6, Sept. 13, 2004)

6.40.070 Failure to pay. If the owner of the real property fails to pay a bill issued under this Ordinance within the time specified in this Ordinance, the Clerk-Treasurer shall certify to the County Auditor the amount of the bill, plus any additional administrative costs

incurred in the certification. The Auditor shall place the total amount certified on the tax duplicate for the property affected, and the total amount, including any accrued interest, shall be collected as delinquent taxes are collected and shall be disbursed to the general fund of the Town. (Ord. 2004-4, S7, Sept. 13, 2004) (Ord. 47, S3, Sept. 28, 1908)

Chapter 6.45

ABANDONED VEHICLES

Sections:

6.45.010	Purpose of Ordinance
6.45.020	Authority for Ordinance on Abandoned Vehicles
6.45.030	Abandoned Vehicles Declared a Nuisance
6.45.040	Definition of Abandoned Vehicle
6.45.050	Definition of Vehicle
6.45.060	Definition of Other Terms
6.45.070	Visibility of Abandoned Vehicle from Public Premises
6.45.080	Responsibility of Owner
6.45.090	Notice Tag Prepared by Officer or Other Designated Individual
6.45.100	Disposition of Vehicle Less Than \$750.00
6.45.110	Disposition of Vehicle \$750.00 or more
6.45.120	Abandoned Vehicle Report
6.45.130	Disposal of Vehicle by Town
6.45.140	Exempt from Liability
6.45.150	Incorporation of State Statute into Ordinance

6.45.010 Purpose of Ordinance. It is the purpose of this ordinance to provide for the disposal of abandoned vehicles which are discarded or otherwise permitted to remain in any place where they are visible from a public place in the Town of Chrisney, Indiana. (Ord. 2010-4, S1, May 3, 2010) (Ord. 2008-7, S1, June 2, 2008) (Ord. 1981-2, S1, Apr. 6, 1981)

6.45.020 Authority for Ordinance on Abandoned Vehicles. The ordinance enacted pursuant to authorization given in I.C. 9-22-1-3 to enact an ordinance for the removal, storage and disposal of abandoned vehicles. (Ord. 2010-4, S2, May 3, 2010) (Ord. 2008-7, S2, June 2, 2008)

6.45.030 Abandoned Vehicles Declared a Nuisance. Abandoned vehicles are declared a public nuisance because they are detrimental to the safety, morals and welfare of the general public, economic welfare of the Town, and a scenic blight. (Ord. 2010-4, S3, May 3, 2010) (Ord. 2008-7, S3, June 2, 2008) (Ord. 1981-2, S2, Apr. 6, 1981)

6.45.040 Definition of Abandoned Vehicle. Abandoned vehicle is defined in I.C. 9-13-2-1 to mean the following:

- (1) A vehicle located on public property illegally.
- (2) A vehicle left on public property without being moved for twenty-four (24) hours.
- (3) A vehicle located on public property in such a manner as to constitute a hazard or obstruction to the movement of pedestrian or vehicular traffic on a public right of way.

- (4) A vehicle that has remained on private property without consent of the owner or person in control of that property for more than forty-eight (48) hours.
- (5) A vehicle from which the engine, transmission, or differential has been removed or that is otherwise partially dismantled or inoperable and left on public property.
- (6) A vehicle that has been removed by a towing service or public agency upon request of an officer enforcing a statute or an ordinance other than this chapter if the impounded vehicle is not claimed or redeemed by the owner or the owner's agent within twenty (20) days after the vehicle removal.
- (7) A vehicle that is at least three (3) model years old, is mechanically inoperable, and is left on private property continuously in a location visible from public property for more than twenty (20) days. For purposes of this subdivision, a vehicle covered by a tarpaulin or other plastic, vinyl, rubber, cloth, or textile covering is considered to be visible. (Ord. 2010-4, S4, May 3, 2010) (Ord. 2008-7, S4, June 2, 2008) (Ord. 1981-2, S3 (part), Apr. 6, 1981)

6.45.050 Definition of Vehicle. Any automobile, motorcycle, truck, trailer, semitrailer, tractor, bus, school bus, trailer or semitrailer used in the transportation of watercraft, recreational vehicle, motorized bicycle, or parts of the foregoing items. (See I.C. 9-13-2-196(d)) (Ord. 2010-4, S5, May 3, 2010) (Ord. 2008-7, S5, June 2, 2008) (Ord. 1981-2, S3 (part), Apr. 6, 1981)

6.45.060 Definition of Other Terms:

- (1) Public Premises. Any building right of way, street, highway, alley, park or other state, county or municipally owned property.
- (2) Private Premises. All privately owned property which is not classified within the definition of public premises.
- (3) Person. All natural persons, firms, partnership and corporations.
- (4) Officer. As used in this ordinance officer means the following:
 - A. A regular member of the state police department.
 - B. A regular member of a city or town police department.
 - C. A town marshal or town marshal deputy.
 - D. A regular member of the county police force.

- E. The utility superintendent of the Town of Chrisney or the Zoning Administrator of the Town of Chrisney. (Ord. 2010-4, S6, May 3, 2010) (Ord. 2008-7, S6, June 2, 2008) (Ord. 1981-2, S3 (part), Apr. 6, 1981)

6.45.070 Visibility of Abandoned Vehicle from Public Premises. No person shall abandon a vehicle on any public or private premises in a location which is visible from public premises within the limits of the Town of Chrisney, Indiana. (Ord. 2010-4, S7, May 3, 2010) (Ord. 2008-7, S7, June 2, 2008) (Ord. 1981-2, S4, Apr. 6, 1981)

6.45.080 Responsibility of Owner.

- (1) (a) except as provided in subsection (c), the person who owns an abandoned vehicle or part is:
 - A. responsible for the abandonment; and
 - B. liable for all of the costs incidental to the removal, storage, and disposal; of the vehicle or the parts under this chapter.
- (2) The costs for storage of an abandoned vehicle may not exceed one thousand five hundred dollars (\$1,500.00).
- (3) If an abandoned vehicle is sold by a person who removed, towed, or stored the vehicle, the person who previously owned the vehicle is not responsible for storage fees.
- (4) If an abandoned vehicle is sold by a person who removed, towed, or stored the vehicle, and proceeds from the sale of the vehicle covered the removal, towing, and storage expenses, any remaining proceeds from the sale shall be returned to the previous owner of the vehicle if the previous owner is known. (See I.C. 9-22-1-4) (Ord. 2010-4, S8, May 3, 2010) (Ord. 2008-7, S8, June 2, 2008) (Ord. 1981-2, S5, Apr. 6, 1981)

6.45.090 Notice Tag Prepared by Officer or Other Designated Individual. An officer who finds or is notified of a vehicle or parts believed to be abandoned shall attach in a prominent place a notice tag containing the following information:

- (1) The date, time, officer's name, public agency, and address and telephone number to contact for information.
- (2) That the vehicle or parts are considered abandoned.
- (3) That the vehicle or parts will be removed after twenty-four (24) hours if located on the right of way of a state highway or within seventy-two hours (72) for all other vehicles or parts..

- (4) That the person who owns the vehicle will be held responsible for all costs incidental to the removal, storage, and disposal of the vehicle.
- (5) That the person who owns the vehicle may avoid costs by removal of the vehicle or parts within twenty-four (24) hours if located on the right of way of a state highway or within seventy-two (72) hours for all other vehicles or parts. (See I.C. 9-22-1-11) (Ord. 2010-4, S9, May 3, 2010) (Ord. 2008-7, S9, June 2, 2008) (Ord. 1981-2, S6, Apr. 6, 1981)

6.45.100 Disposition of Vehicle Less Than \$750.00. If in opinion of the officer the market value of an abandoned vehicle or parts determined in accordance with I.C. 9-22-1-12 is less than seven hundred and fifty dollars (\$750.00) the officer shall immediately dispose of the vehicle to a storage yard. A copy of the abandoned vehicle report and photographs relating to the abandoned vehicle shall be forwarded to the bureau. A towing service may dispose of an abandoned vehicle not less than thirty (30) days after the date on which the towing service removed the abandoned vehicle. (Ord. 2010-4, S10, May 3, 2010) (Ord. 2008-7, S10, June 2, 2008)

6.45.110 Disposition of Vehicle \$750.00 or more. If in the opinion of the officer the market value of the abandoned vehicle or parts determined in accordance with this ordinance is:

- (1) \$750.00 or more, the officer, before placing a notice tab on the vehicle or parts, shall make a reasonable effort to ascertain the person who owns the vehicle or parts or who may be in control of the vehicle or parts.
- (2) After seventy-two (72) hours, the officer shall require the vehicle or parts to be towed to a storage yard or towing service. (Ord. 2010-4, S11, May 3, 2010)

6.45.120 Abandoned Vehicle Report.

- (1) Within seventy-two (72) hours after removal of a vehicle to a storage yard or towing service under I.C. 9-22-1-5, I.C. 9-22-1-13, I.C. 9-22-1-14, or I.C. 9-22-1-16, the public agency or towing service shall do the following:
 - A. Prepare and forward to the bureau a report containing a description of the vehicle, including the following information concerning the vehicle:
 1. The make.
 2. The model.
 3. The identification number.
 4. The number of the license plate.

- B. Conduct a search of national data bases, including a data base of vehicle identification numbers, to attempt to obtain the name and address of the person who owns or holds a lien on the vehicle.
- (2) Notwithstanding I.C. 9-22-1-4, if the public agency or towing service fails to notify the bureau of the removal of an abandoned vehicle within seventy-two (72) hours after the vehicle is removed as required by subsection (1), the public agency or towing service:
 - A. may not initially collect more in reimbursement for the costs of storing the vehicle than the cost incurred for storage for seventy-two (72) hours; and
 - B. subject to subsection (3), may collect further reimbursement only for additional storage costs incurred after notifying the bureau of the removal of the abandoned vehicle.
- (3) If the public agency or towing service obtains the name and address of the person who owns or holds a lien on a vehicle under subsection (1)B., within seventy-two (72) hours after obtaining the name and address, the public agency or towing service shall, by certified mail, notify the person who owns or holds a lien on the vehicle of the:
 - A. name;
 - B. address; and
 - C. telephone number;

of the public agency or towing service. Notwithstanding I.C. 9-22-1-4 and subsection (2)B., a public agency or towing service that fails to notify a person who owns or holds a lien on the vehicle as set forth above may not collect additional storage costs incurred after the date of receipt of the name and address obtained under subsection (1)B.
- (4) A towing service may not collect reimbursement under both subsections (2) and (3) for storage costs incurred during a particular period for one (1) vehicle. (See I.C.9-22-1-19) (Ord. 2010-4, S12, May 3, 2010) (Ord. 2008-7, S11, June 2, 2008)

6.45.130 Disposal of Vehicle by Town.

- (1) This section applies to a town.
- (2) Except as provided in subsection (3), if the person who owns or holds a lien upon a vehicle does not appear within twenty (20) days after the mailing of a notice under I.C. 9-22-1-19, the unit may sell the vehicle or parts by either of the following methods:

- A. The unit may sell the vehicle or parts to the highest bidder at public sale. Notice of the sale shall be given under I.C. 5-3-1, except that only one (1) newspaper insertion one (1) week before the public sale is required.
- B. The unit may sell the vehicle or part as unclaimed property under I.C. 36-1-11. The twenty (20) day period for the property to remain unclaimed is sufficient for a sale under this subdivision. (See I.C. 9-22-1-23) (Ord. 2010-4, S13, May 3, 2010) (Ord. 2008-7, S12, June 2, 2008)

6.45.140 Exempt from Liability. The following are not liable for loss damage to a vehicle or parts occurring during the removal, storage, or disposition of a vehicle or parts:

- (1) A person who owns, leases, or occupies property from which an abandoned vehicle or parts are removed.
- (2) A public agency;
- (3) A towing service
- (4) An automobile scrapyard.
- (5) A storage yard.
- (6) An agent of a person or entity listed in subdivision 1-5. (See I.C. 9-22-1-32) (Ord. 2010-4, S14, May 3, 2010) (Ord. 2008-7, S13, June 2, 2008)

6.45.150 Incorporation of State Statute into Ordinance. The provisions of I.C. 9-22-1-1 through 9-22-1-32 are incorporated into and made a part of this ordinance. If any provision of this ordinance is not in accord with the foregoing cited statutes of the State of Indiana, the State Statute shall prevail. (Ord. 2010-4, S15, May 3, 2010) (Ord. 2008-7, S14, June 2, 2008)

NOTICE OF ABANDONED VEHICLE TAG

DATE: _____, 201____

TIME: _____ (A.M.) (P.M.)

OFFICER'S NAME AND TITLE: _____

PUBLIC AGENCY: Town of Chrisney, Indiana

ADDRESS OF PUBLIC AGENCY: Town Hall, Chestnut Street, Indiana 47511

TELEPHONE NO. OF PUBLIC AGENCY: (812) 362-8668 (Town Hall)

This vehicle or parts are considered abandoned.

This vehicle or parts will be removed after seventy-two (72) hours.

The owner will be held responsible for all costs incidental to the removal, storage and disposal of the vehicle.

The owner may avoid costs by removal of the vehicle or parts within seventy-two (72) hours.

Reference: I.C. 9-22-1-1 through 9-22-1-32
I.C. 9-13-2-1

**TOWN OF CHRISNEY, INDIANA
TOWN HALL
CHRISNEY, INDIANA 47511**

ABANDONED VEHICLE REPORT

The following vehicle to wit:

- a. Make: _____
- b. Model: _____
- c. Identification No.: _____
- d. License Plate No.: _____

was found abandoned at _____ Street, Chrisney, Indiana on

_____, was tagged on the same date and time with a Notice of
(date and time)

Abandoned Vehicle Tag. The vehicle was then removed after seventy-two (72) hours [twenty-four (24) hours if within state highway right of way] by having it towed to the _____
_____ storage yard.

The value of the vehicle or part(s) was (more than) (less than) \$750.00 (strike as appropriate).

(Signature and title of official)

(Printed name and title of official)
Town of Chrisney, Indiana
Town Hall, Chestnut Street
Chrisney, Indiana 47511
Telephone No.: (812)362-8668(Town Hall)

NOTE: This completed form must be signed and mailed to Indiana Department of Motor Vehicles, Indiana Gov. Ctr. North, 100 North Senate Avenue, Indianapolis, Indiana 46204, within seventy-two (72) hours after the removal of the vehicle.

Photographs must be attached to substantiate the estimated value of the removed vehicle.

Chapter 6.50

PUBLIC NUISANCE

Sections:

6.50.010	Definitions
6.50.020	Prohibition on nuisances
6.50.030	Nuisances defined
6.50.040	Authority to make inspections
6.50.050	Abatement Notice
6.50.060	Nuisances constituting an emergency
6.50.070	Hearings
6.50.080	Compliance with Abatement Notice
6.50.090	Failure to comply with Abatement Notice
6.50.100	Fines
6.50.110	Abatement by Town of Chrisney

6.50.010 Definitions.

- (1) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.
 - A. “ENFORCEMENT AUTHORITY.” The Chrisney Police Department, the Utility and Street Superintendent, or anyone authorized by the Town of Chrisney Council.
 - B. “HEARING AUTHORITY.” A single member, a quorum or the entirety of the Town Council of Chrisney.
 - C. “LITTER.” Includes any man-made or man-used waste, which, if deposited within the Town of Chrisney otherwise than in a litter receptacle, tends to create a danger to public health, safety, and welfare or tends to impair the environment or aesthetic well-being of the community. “LITTER” shall include, but not be limited to, garbage, trash, refuse, debris, grass clippings or other lawn or garden waste, paper products, glass, metal, plastic or paper container, motor vehicle parts, furniture, appliances, carcasses of dead animals, or other waste material of an unsightly, unsanitary, nauseous or offensive nature.
 - D. “NUISANCE.” Defined as set out in IC 32-30-6-6, to-wit: whatever 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, and exemplified in Section 6.50.030 of this Chapter.

- E. “OF RECORD.” Recorded in the records of the recorder of Spencer County, Indiana, or in the records of the auditor of Spencer County, Indiana.
- F. “PERSON.” A human being, a firm, labor organization, partnerships, associations, corporations, limited liability companies, legal representatives, trustees, trustees in bankruptcy, or receivers.
- G. “PRIVATE PREMISES.” All property, including, but not limited to, vacant land or any land upon which is located one or more buildings or other structures designated or used for residential, commercial, business, industrial, institutional or religious purposes, together with any yards, grounds, walks, driveways, fences, porches, or other structures or improvements appurtenant to the land, except any public place.
- H. “PUBLIC PLACE.” Any and all streets, cubs, gutters, sidewalks, alleys or other public ways, any and all public parks, lakes, spaces, publicly owned rights-of-way, grounds, or buildings within the corporate limits of the Town of Chrisney, or owned by the Town of Chrisney.
- I. “SUBSTANTIAL PROPERTY INTEREST.” Any right in real property that may be affected in a substantial way by actions authorized by this chapter, including a fee interest, a life estate interest, a future interest, a present possessory interest, or an equitable interest of a contract purchaser. (Ord. 2020-11, S1, Sept. 14, 2020)

6.50.20 Prohibition on nuisances.

- (1) No owner, occupant, tenant, or any person having a substantial property interest in any real or personal property within the Town of Chrisney limits, or any agent thereof, shall maintain, create, cause, place, deposit, leave, or permit a nuisance to remain on such property, or upon any public place abutting such real or personal property,
- (2) No owner, occupant, tenant, or any person having a substantial property interest in any real or personal property within the Town of Chrisney limits, or any agent thereof, shall own, rent, or lease a chronic nuisance property. (Ord. 2020-11, S2, Sept. 14, 2020)

6.50.20 Nuisances defined.

- (1) For the purposes of this chapter, the following list includes, but is not limited to, conditions which constitute a nuisance:
 - A. Litter, accumulations of rubbish, trash, refuse, junk, or other abandoned materials, metals, and lumber.
 - B. Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained.
 - C. Violations of any Town of Chrisney ordinance pertaining to property or structures.
 - D. Fallen trees, stumps, dead trees, cut brush, fallen or cut limbs except stacked firewood.
 - E. Boxes, appliances, household items and tires.
 - F. Demolition remains, open excavations, uncovered or improperly covered holes, whether lined or unlined, and dirt piles on any open or unfenced real property within the Town of Chrisney.
 - G. Automobile parts, disassembled automobiles, automobiles without engines, plumbing and piping materials and parts, scrap metal, unseaworthy or dilapidated boats, dilapidated, deteriorated, or nonoperable jet skis, snowmobiles, bicycles, trailers, or mopeds.
 - H. Structures defaced with paint, graffiti, or wording.
 - I. Any waste water, filth, offal, garbage, rubbish, animal waste, human excrement, which is deposited, allowed or caused to be upon any public or private property.
 - J. Any water or any other substance which is caused or permitted to flow onto or be deposited upon any private or public way, except natural surface water drainage.
 - K. All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches.
 - L. Any dead animal or animal parts.

- M. The erection of a dam or any other obstruction by a private party which prevents the natural flow of water and causes it to collect in pool upon any public property.
- N. Any real or personal property which is infected with contagious disease or is likely to cause an immediate health hazard.
- O. The placing or accumulating on or within any real or personal property or the permitting of the same, of any matter which attracts rodents, insects, domestic or wild animals in such manner as to create a health hazard or unsanitary or dangerous condition.
- P. Any real or personal property, used as a place of residence or habitation or for sleeping, that is maintained in such a way as to be dangerous or detrimental to life or health due to lack of or defects in water, drainage, heat, electricity of Chrisney, plumbing, ventilation or garbage and trash removal.
- Q. The storage of any explosive, combustible or other material which creates a safety or health hazard.
- R. Trees, shrubbery, weeds, or other matter obstructing public ways, or causing visual barriers which create vehicular traffic or pedestrian safety hazards.
- S. Any furniture, not originally designed or manufactured solely for outdoor use, or furniture which was originally designed or manufactured for outdoor use, which is now dilapidated or deteriorated.
- T. Accumulations of stagnant water.
- U. Any real or personal property infested with insects, rats, vermin, or wild or domestic animals, to a degree that prevents the reasonable use and enjoyment of adjoining and surrounding properties.
- V. Basketball goals or other privately owned structures erected in, or infringing upon, any public place.
- W. Fences and walls on commercial or industrial properties that are not maintained to community standards, in a state of disrepair and/or a danger to the public.
- X. Exterior lighting fixtures on commercial or industrial structures and/or lighting fixtures in the parking lot surrounding commercial or industrial structures that are broken, non-functioning, burned out

and/or are insufficient in number or brightness to provide for the safety and security of employees or patrons of the commercial or industrial establishment.

- Y. Paint, siding, shingle, stucco, wood or any other exterior covering on all structures that is, missing, decayed, in disrepair, or detached from the exterior of the structure.
- Z. All unnecessary or unauthorized noises and annoying vibrations in addition to those prohibited in Chapter 12 of the Town of Chrisney Municipal Code. (Ord. 2020-11, S3, Sept. 14, 2020)

6.50.040 Authority to make inspections.

- (1) It is made the duty of all officers and employees of the Town of Chrisney to report the existence of nuisances to the enforcement authority. The enforcement authority, or any other municipal employees so designated by the Town Council of Chrisney, shall be authorized to visit, enter into or upon any building, lot, grounds, or premises within the limits of the Town of Chrisney for the purpose of ascertaining and discovering any nuisances and to make examination thereof. (Ord. 2020-11, S4, Sept. 14, 2020)

6.50.050 Abatement Notice.

- (1) Abatement notice. Where, upon inspection, reasonable cause is found to believe that a Nuisance or a Chronic Nuisance Property exists, the enforcement authority shall issue a written abatement notice.
- (2) To whom notice is given. Abatement notices shall be served upon all know holders of substantial property interests in the real estate upon which the nuisance is alleged to exist. If the resident or occupant of the premises is not the owner of record of the real estate, the enforcement authority is authorized to serve the owner of record as shown in the records of the Spencer County Recorder's Office in addition to other known holders of substantial property interest, including the resident, or occupant.
- (3) Content of notice. The abatement notice must contain:
 - A. The name of the person to whom the notice is issued.
 - B. The legal description or address of the real estate where the nuisance is located which is the subject of the notice.
 - C. The action that the notice requires. The ordered action must be reasonably related to abatement of the conditions constituting the nuisance.

- D. The period of time within which the action ordered is required to be accomplished, measured from the time when the abatement notice is served. The time allowed must allow a sufficient time, of at least 10 days from the time the abatement notice is served, to accomplish the required action. If the notice allows more than 30 days to accomplish the action, the notice may require that a substantial beginning be made in accomplishing the action within the initial 30 day period following service of the notice.
 - E. A statement that the order becomes final ten calendar days after notice is served, unless a hearing is requested in writing by the owner of record, the tenant or occupant, or by a person holding a substantial property interest in the private premises upon which the nuisance is alleged to exist. The request for a hearing must be served upon the enforcement authority prior to the expiration of the aforementioned ten calendar day period.
 - F. A statement briefly indicating what action can be taken by the Town of Chrisney if there is non-compliance with the orders contained in the abatement notice.
 - G. The name, business address, and business telephone number of the enforcement authority.
- (4) Manner of giving notice. Service of abatement notices shall be made by any of the following means:
- A. Sending a copy of the notice by registered or certified mail to the residence or place of business or employment of the person to be notified, with return receipt requested.
 - B. Delivering a copy of the notice personally to the person to be notified.
 - C. Leaving a copy of the notice at the dwelling or usual place of abode of the person to be notified.
 - D. Posting a copy of the notice in a prominent place upon the premises where the nuisance is located.
 - E. If, after a reasonable effort, service cannot be obtained by any of the means previously described, service may be made by publishing the notice in a newspaper of general circulation in the county in which the property subject to the notice is located. Publication shall be made one time.

- (5) Effective date of notice. The date when notice is considered given is as follows:
- A. If the notice is delivered personally or left at the dwelling or usual place of abode, notice is considered given on the day when the order or statement is delivered to the person or left at his dwelling or usual place of abode.
 - B. If the notice is mailed, notice is considered given on the date shown on the return receipt, or, if no date is shown, on the date when the return receipt is received by the Town of Chrisney.
 - C. Notice by publication is considered given on the date of publication. (Ord. 2020-11, S5, Sept. 14, 2020)

6.50.060 Nuisances constituting an emergency.

- (1) Where, in the opinion of the enforcement authority, a nuisance exists that creates an immediate risk of injury or death if not promptly abated or remedied, the enforcement authority shall include on the Notice of Correction Order a statement indicating such a finding and allowing a period of time of not less than twenty-four (24) hours to abate the Nuisance. (Ord. 2020-11, S6, Sept. 14, 2020)

6.50.070 Hearings.

- (1) Any owner, tenant or occupant, or person holding a substantial property interest in private premises upon which a Nuisance is alleged to exist who disputes the existence of such, or disputes the nature of the abatement action ordered in the abatement notice, may, within ten calendar days of service of the abatement notice, submit a written request for a hearing to Chrisney Town Hall. The written request does not need to be in any particular form, but shall clearly indicate that a hearing is requested, and shall set out the nature of the individual's disagreement with the content of the abatement notice.
- (2) Upon receipt of the written request for a hearing, the hearing authority shall set the matter for hearing.
- (3) The hearing authority shall give written notice to the party requesting the hearing of the date and time of the hearing. Such notice shall be given no less than five calendar days prior to the date set for the hearing.
- (4) At the hearing, which may be adjourned from time to time, it shall be the enforcement authority's burden to go forward with evidence sufficient to

demonstrate that a nuisance exists, and that the actions required are reasonably calculated to abate the nuisance within a reasonable period of time. The party requesting the hearing shall have the right to dispute the existence of the nuisance, the reasonableness of the remedy, or the reasonableness of the time allowed for remedial action. The party requesting the hearing may propose alternative remedies or time periods for remedial action, or alternate remediation plans.

- (5) At the hearing, both sides may present witnesses, elicit testimony, introduce physical evidence, cross-examine opposing witnesses or dispute evidence submitted by their hearing opponent. Both sides may present oral arguments. Both sides may be represented by counsel.
- (6) All such hearings shall be open to the public pursuant to Indiana statutes on open meetings.
- (7) Upon conclusion of the presentation of evidence and oral argument, if any, the hearing authority shall deliberate and render a decision either confirming, amending, or rescinding the disputed content of the abatement notice. The decision of the hearing authority shall be final, but any interested person, whether or not a previous party to the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law.
- (8) All time parameters set out in the abatement notice for completion of compliance actions shall be tolled, pending the outcome of the hearing authority's decision. In cases where the actions of the enforcement authority are upheld, or are upheld as modified by the hearing authority, it shall be the responsibility of the Hearing authority, in its decision, to establish time periods for completion of compliance activities held in abeyance during the hearing process.(Ord. 2020-11, S7, Sept. 14, 2020)

6.50.080 Compliance with Abatement Notice.

- (1) It being the intent of this chapter to promote the abatement of nuisances within the Town of Chrisney, in those instances where the nuisance is abated to the satisfaction of the enforcement authority as required in the abatement notice, or as required by the hearing authority after hearing, and within the time periods set out in the abatement notice, or within any other extended time periods agreed to by the enforcement authority, or such time extensions as are, after the hearing, ordered by the Town Council of Chrisney, no further fines or penalties will be imposed. The enforcement authority shall make written note of the compliance and the enforcement file shall be closed. (Ord. 2020-11, S8, Sept. 14, 2020)

6.50.090 Failure to comply with Abatement Notice.

- (1) Failure, neglect, or refusal by the recorded owner or his agent, or the tenant or occupant, to comply with the orders set out in the abatement notice within the time periods set out therein, or within any extended time periods agreed to by the enforcement authority, shall constitute a violation of this chapter and shall render the individual upon whom the abatement notice was served liable to a fine as set forth in this chapter. Each day's failure, neglect or refusal to abate the nuisance during the time period allowed for compliance shall constitute a separate offense under this chapter. The recorded owner of the premises upon which the nuisance is found to exist, and the tenant or occupant, may be held jointly and severally liable for payment of fines assessed under this chapter. (Ord. 2020-11, S9, Sept. 14, 2020)

6.50.100 Fines.

- (1) Each day's failure, neglect or refusal to abate the nuisance during the time period allowed for compliance shall incur a fine of \$50 per day the nuisance remains unremedied. This fine is separate from costs associated with abating the nuisance in Section 6.50.110. (Ord. 2020-11, S10, Sept. 14, 2020)

6.50.110 Abatement by Town of Chrisney.

- (1) In addition to fines imposed under Section 6.50.100, in non-emergency situations where abatement is not accomplished immediately by the Town of Chrisney, failure, neglect, or refusal of any party to abate a nuisance as required by the abatement notice, the enforcement authority may proceed at once to cause the nuisance to be abated and charge the cost thereof against the Owner and/or Occupant of said property. The liability created herein shall be joint and several as to the owners and occupants or tenants and shall include any attorneys' fees incurred as part of collection.
- (2) The Town of Chrisney may refer said costs of abatement and any levied fines to the Town Attorney who shall forthwith collect the fees and charges by any process provided by law including, but not limited to, the imposition of liens. (Ord. 2020-11, S11, Sept. 14, 2020)

Chapter 6.70

TRASH DISPOSAL

Sections:

- 6.70.010** **Accumulation of trash unlawful**
- 6.70.020** **Penalty for violation**
- 6.70.030** **Town Attorney's responsibilities**
- 6.70.040** **Cumulative remedies**

6.70.010 Accumulation of trash unlawful. It shall be unlawful for a landowner to have trash, rubbish and junk, that is visible from a public street on his property. (Ord. 1998-4, S1, April 6, 1998)

6.70.020 Penalty for violation. Any person or corporation, whether a principal, agent, employee or otherwise, who violates any of the provisions of this Ordinance shall be guilty of an infraction and upon conviction, shall be fined not less than Ten Dollars (\$10.00) and not more than Three Hundred Dollars(\$300.00), for each offense, such fine to inure to the Town (I.C. 34-4-32-1). A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. 1998-4, S2, April 6, 1998)

6.70.030 Town Attorney's responsibilities. The Town Attorney shall, immediately upon any violation of this Ordinance (Chapter) having been called to his attention, institute injunction, abatement, or any other appropriate action to prevent, enjoin, abate or remove such violation (I.C. 36-1-6-4).

Such action may also be instituted by any property owner who may be especially damaged by any violation of this Ordinance (Chapter). (Ord. 1998-4, S3, April 6, 1998)

6.70.040 Cumulative remedies. The remedies provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law. (Ord. 1998-4, S4, April 6, 1998)

Chapter 6.72

THROWING GARBAGE NEAR SOUTHERN RAILWAY

Sections:

- 6.72.010 Unlawful to deposit garbage on or near railroad**
- 6.72.020 Penalty for violation**

6.72.010 Unlawful to deposit garbage on or near railroad. It shall hereafter be unlawful for any person or persons to throw, place or deposit any garbage, rubbish or refuse of any kind or character on or near the railroad track of the Southern Railway Company in the Town of Chrisney, Spencer County, Indiana. (Ord. 49, S1, June 7, 1909)

6.72.020 Penalty for violation. Any person violating the provisions of this section 6.72.010 shall be fined in any sum not less than One Dollar nor more than Five Dollars to be collected in any Court of competent jurisdiction. (Ord. 49, S2, June 7, 1909)

Chapter 6.74

TRASH BURNING

Sections:

6.74.005	Joint Ordinance
6.74.010	Title
6.74.020	Purpose
6.74.030	Applicability
6.74.040	Definitions
6.74.050	Acts Prohibited
6.74.060	Acts Allowed
6.74.070	Variances
6.74.080	Burning Guidelines
6.74.090	Ordinance Enforcement Authority
6.74.100	Investigation
6.74.110	Enforcement
6.74.120	Penalties and Fines
6.74.130	Indirect Liability
6.74.140	Spencer County Illegal Burning Fund
6.74.150	Severability
6.74.160	Applicability and Effective Date

6.74.005 Joint Ordinance.

THIS IS AN ORDINANCE to control unsafe and improper burning of wastes, to define trash burning, to establish violations thereof, and to protect the citizens of Spencer County from the health threats associated with the burning of trash.

WHEREAS, the burning of residential trash has traditionally been tolerated as acceptable means of disposal;

WHEREAS, in recent years public awareness has greatly increased with regard to the source of pollutants in our environment;

WHEREAS, it is quite evident that burning in general generates smoke which by its nature contains pollutants and contaminates the environment, in turn, causing harm to human and animal life;

WHEREAS, said pollutants are a danger to the health, safety and welfare of all the citizens of Spencer County; and

WHEREAS, the health and safety factors far outweigh the traditional tolerance of burning as a means of trash disposal.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF SPENCER COUNTY, INDIANA, THE SPENCER COUNTY SOLID WASTE DISTRICT BOARD OF DIRECTORS AND PARTICIPATING INCORPORATED COMMUNITIES as follows: (Ord. 2005-6, Sept. 06, 2005-Spencer County Commissioners adoption; Sept. 12, 2005-Spencer County Solid Waste Management District adoption; Oct. 10, 2005-Town of Chrisney adoption)

6.74.010 Title. This ordinance is titled "Joint Spencer County Illegal Trash Burning Ordinance. (Ord. 2005-4, S1, Oct. 10, 2005)

6.74.020 Purpose. This ordinance is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of Spencer County, Indiana due to the air pollution and fire hazards of outdoor burning and burning trash. (Ord. 2005-4, S2, Oct. 10, 2005)

6.74.030 Applicability. This ordinance applies to all outdoor burning and trash burning within Spencer County. If a provision in a city or town ordinance in Spencer County covers a provision contained in this ordinance, the city or town ordinance controls.

- (1) This ordinance does not apply to grilling or cooking using charcoal, wood, propane, natural gas in cooking or grilling appliances.
- (2) This ordinance does not apply to burning in a stove, furnace, fireplace or other heating device unless the material being burned includes trash as defined in 6.74.040 of this ordinance.
- (3) This ordinance does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating construction or maintenance activities. (Ord. 2005-4, S3, Oct. 10, 2005)

6.74.040 Definitions.

- (1) "Clean Wood" means natural wood which has not been painted, varnished or coated with a similar material, has not been pressure treated with preservatives and does not contain resins or glues as in plywood or other composite wood products.
- (2) "Emergency Situation" - refers to any situation that because of: a) the type of material being burned (i.e. hazardous or noxious materials), b) the atmospheric conditions during the burning, or c) the careless nature in which the burning is occurring; poses a threat to the public health, the safety of public or private property, or the welfare of the environment.
- (3) "Exemption" - defined under 326 IAC 4-1-0.5: Exemptions include, but are not limited to, allowances for open burning to occur when burning clean untreated wood and natural wood products (including leaves), charcoal and other traditional food cooking fuels, vegetation from a farm, an orchard, a nursery, a tree farm, or a drainage ditch as well as fires used for recreational

or ceremonial purposes, such as school pep rally fires or the celebration of scout activities, unless prohibited by a burn ban or local ordinance.

- (4) "Hazardous Materials" - means any waste that because of its quantity; concentration; or physical, chemical, or infectious characteristics may: a) cause or significantly contribute to an increase in mortality or increase in serious irreversible, or incapacitating reversible, illness; or, b) pose a substantial present or potential hazard to health or the environment when improperly treated, stored, transported, handled, disposed of or otherwise managed; or c) be nondegradable or persistent in the environment; or d) be biologically magnified; or e) cause or tend to cause cumulative effects; or f) be defined in 40 CFR 261.3 and any future amendments.
- (5) "Noxious Materials" - are defined as materials that when burned produce by-products that may be injurious to human health or the environment. This list of materials shall include, but not be limited to, tires, roofing material, treated lumber, waste oil, oil contaminated products, herbicide/pesticide products and their containers.
- (6) "Open Burning" - defined under 326 IAC 4-1-0.5 (6) as the burning of any materials wherein air contaminants resulting from combustion are emitted directly into the air, without passing through a stack or chimney from an enclosed chamber."
- (7) "Predominantly Wooden Structure" defined as a "clean wood" structure with no coatings, wiring, plumbing fixtures, or other non-wood items.
- (8) "Person" - for the purposes of this ordinance, shall be defined by the definition in IC 13-11-2-158 as any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, municipal corporation, city, school city, town, school district, school corporation, county, any consolidated unit of government, political subdivision, state agency, or any other legal entity.
- (9) "Solid Waste" - shall mean any garbage, refuse, sludge, or other discard or disposed materials including solid, liquid or semi-solid or contained gaseous materials resulting from any operation, activity or source. For the purposes of this ordinance this definition excludes hazardous materials as defined above.
- (10) "Stack" - means a duct, chimney, flue, or other conduit arranged for the purpose of emission or channeling of air pollutants into the atmosphere.
- (11) "Trash" - means any waste material except clean wood products and leaves.
- (12) "Unattended Burning" - means the burning of materials without a person in attendance. This definition shall include, but not be limited to, leaving the property where open burning is occurring, being outside of visual sight of

where the open burning is occurring, going indoors while open burning, and leaving a fire before it is fully extinguished.

- (13) "Variance" - a permit allowing open burning with the approval of the Indiana Air Pollution Control Board or its designated agent or agents. (Ord. 2005-4, S4, Oct. 10, 2005)

6.74.050 Acts Prohibited.

- (1) Burning of all hazardous materials and all noxious materials, as defined within this ordinance or as defined by any state or federal laws, rules or regulations.
- (2) Burning of household trash either on the ground or in a burn barrel including but not limited to food waste, packaging, newspaper, corrugated cardboard, container board, office paper, plastic containers, polystyrene and disposable diapers.
- (3) Wood products that are painted, varnished, or stained including, but not limited to, plywood, composite wood products.
- (4) Unattended burning that creates or could create an emergency situation.
- (5) Any burning not exempt as provided herein or allowed by a variance. (Ord. 2005-4, S5, Oct. 10, 2005)

6.74.060 Acts Allowed. All acts as defined by IC 13-17-9-1 subject to the conditions of IC 13-17-9-3 and as amended, including exemptions as defined herein.

- (1) Burning of clean wood, leaves, weeds, brush, stumps and any other vegetative debris.
 - A. If the brush pile is **More Than** one hundred twenty-five (125) cubic feet (for example 5 ft. long, 5 ft. wide, 5 ft. high) Spencer County Dispatch must be notified at 649-2286 before igniting.
- (2) Recreational or ceremonial fires that meet the following conditions:
 - A. Only clean untreated wood or charcoal shall be used. Paper products can be used for ignition purposes only.
 - B. If the pile is **More Than** one hundred twenty-five (125) cubic feet (for example 5 ft. long, 5 ft. wide, 5 ft. high) Spencer County Dispatch must be notified at least twenty-four (24) hours prior to any burning.

- C. The fire shall not be ignited more than two (2) hours before the recreational activity is to take place and shall be extinguished upon the conclusion of the activity.
 - D. The pile to be burned shall be less than one thousand (1,000) cubic feet (For example: 10 ft. long, 10 ft. wide and 10 ft. high.)
 - E. The fires shall not be used solely for disposal purposes.
 - F. Fires shall not take place within five hundred (500) feet of any fuel storage area or pipeline.
- (3) Burning of predominantly wood structures on real property or wood remnants of the demolition of a predominantly wooden structure originally located on real property.
- A. The Spencer County Solid Waste Management District must be notified 72 hours (3 days) before the planned burn.
 - B. All wood structures or remnants of the demolition of wooden structures must be inspected and a notice of approval must be issued before the planned burn.
 - C. The notice of approval shall be made available at the burning site to state or local officials upon request.
- (4) All Allowed Acts and Variances are subject to and shall adhere to the Illegal Trash Burning Ordinance Policies and Guidelines as adopted by the Spencer County Solid Waste Management District Board. (Ord. 2005-4, S6, Oct. 10, 2005)

6.74.070 Variances. Variances must be obtained from the Indiana Air Pollution Control Board or its designated agent or agents for the following circumstances.

- (1) Burning of refuse consisting of material resulting from a natural disaster.
- (2) Burning for the purpose of fire training.
- (3) Burning of natural growth derived from a clearing operation or removal of natural growth for change in the use of the land. (Ord. 2005-4, S7, Oct. 10, 2005)

6.74.080 Burning Guidelines. All Allowed Acts and Variances must follow these guidelines (defined in 326 IAC 4-1-3):

- (1) Only wood products or other pre-approved material may be burned.
- (2) Fires shall be attended at all times until completely extinguished and all cold.

- (3) Burning shall occur only in daylight hours with the exception of rallies and recreational or ceremonial fires.
- (4) If a fire creates an air pollution problem, a nuisance or a fire hazard, it shall be extinguished.
- (5) No burning shall be conducted during unfavorable meteorological conditions such as temperature inversions, high winds, air stagnation, etc.
- (6) All persons during burning shall have sufficient fire suppression equipment present.
- (7) Burning must be in compliance with any state and/or local burn bans.

Any granted variance cannot violate the provisions of the 326 I.A.C. 4-1-3 et seq. and as amended, or I.C. 13-17-9. (Ord. 2005-4, S8, Oct. 10, 2005)

6.74.090 Ordinance Enforcement Authority. The following shall be authorized enforcement agents in the enforcement of this ordinance within the limits of Spencer County, Indiana: Area law enforcement officials serving the County, the Spencer County Health Department and the Spencer County Solid Waste Management District. (Ord. 2005-4, S9, Oct. 10, 2005)

6.74.100 Investigation.

- (1) It shall be the duty of the authorized enforcement agents to evaluate any report or complaint of a violation of this ordinance for proper enforcement procedures.
- (2) Authorized enforcement agents shall provide a written "Illegal Burning Case Report" of all reported burning violations to the Solid Waste Management District.
- (3) The Solid Waste Management District shall be responsible for issuing the violator a "Notice of Violation for Illegal Burning" and, if necessary, enforcement of penalties or fines as set forth herein.
- (4) If access to property is granted, the investigation shall proceed on a voluntary basis. If access is needed to proceed with any investigation, but is denied, the authorized enforcement agents may seek any necessary authorizations, including a search warrant, to enter the property; provided, however, in cases of a visible emergency situation a access to property shall be deemed granted.
 - A. Any pertinent evidence may be considered to determine whether a violation of this ordinance has occurred and the identity of any violator. (Ord. 2005-4, S10, Oct. 10, 2005)

6.74.110 Enforcement.

- (1) If a condition violating this ordinance exists on real property, the authorized enforcement agents may take the following actions:
 - A. In cases of actions violating this Ordinance a certified "Notice of Violation" shall be issued by the Solid Waste Management District to all owner(s) of record at their last known mailing address.
 - B. In cases of an emergency situation, an authorized enforcement agent, as set forth herein, may take immediate action to suppress the fire. If action to suppress the fire and bring the property into compliance is taken; the costs of these actions may be recovered as set forth in this ordinance.
- (2) It shall be a violation of this ordinance to interfere with any authorized enforcement agent while in the performance of their duties hereunder.
- (3) The owner(s) of property on which illegal burning acts have occurred may be included as a party in an enforcement action against a person who committed the violation.
- (4) A notice of ordinance violation shall state the name of the person(s) to whom the notice is being issued, the nature of the violation, the specific section of this ordinance that has been violated, the date of the notice, and the fine imposed, if warranted, for the violation in accordance with this ordinance. The notice of ordinance violation shall direct the person to whom it is issued to respond to the Director of the Spencer County Solid Waste Management District and submit an acceptable clean-up plan specifying dates and an acceptable plan for any future solid waste disposal. (Ord. 2005-4, S11, Oct. 10, 2005)

6.74.120 Penalties and Fines.

- (1) Class "C" Violation. Any person who violates any of the provisions of this ordinance, except the burning of noxious materials and/or hazardous materials, and whose violation is a first violation, commits a Class "C" violation of this ordinance. Class "C" violations have no fines. Person(s) responsible for a Class "C" violation shall:
 - A. Contact the Spencer County Solid Waste Management District within the permitted time on the Notice of Violation.
 - B. Pay for the costs of fire-suppression - if the fire department was required to extinguish the fire.

- C. Provide evidence/receipts that the site of the illegal burn, including the burn barrel, has been cleaned up and the waste has been properly disposed or reimburse the authorized enforcement agents for all costs related to the clean-up.
 - D. Provide an acceptable plan for any future trash disposal.
- (2) Class "B" Violation. Any person who violates any of the provisions of this ordinance, except the burning of noxious materials and/or hazardous materials, and whose violation is a second violation or any other subsequent violation, commits a Class "B" violation of this ordinance. Person(s) responsible for a Class "B" violation shall:
- A. Contact the Spencer County Solid Waste Management District within the permitted time on the Notice of Violation.
 - B. Pay a fine of One Hundred Dollars (\$100.00).
 - C. Pay for the cost of fire suppression, if the fire department was required to extinguish the fire.
 - D. Provide evidence/receipts that the site of the illegal burn, including the burn barrel, has been cleaned up and the waste has been properly disposed or reimburse the authorized enforcement agents for all costs related to the clean-up.
 - E. Provide an acceptable plan for any future trash disposal.
- (3) Class "A" Violation. Any person whose acts violate this ordinance by the burning of noxious materials and/or hazardous materials commits a Class "A" violation of this ordinance. Person(s) responsible for a Class "A" violation shall:
- A. Contact the Spencer County Solid Waste Management District within the permitted time on the Notice of Violation.
 - B. Pay a fine of Two Hundred Fifty Dollars (\$250.00).
 - C. Pay for the cost of fire suppression, if the fire department was required to extinguish the fire.
 - D. Provide receipts evidencing all costs related to the clean-up of the waste and proper disposal of any waste related to the violation; or reimburse the authorized enforcement agents for all cost related to the clean-up.
 - E. Provide an acceptable plan for any future waste disposal.

- (4) If further actions in violation of this ordinance occur, or if no action to bring a property into compliance by the property owner(s) occurs within the permitted time, litigation may be pursued in the County Circuit Court, or any successor court.
 - A. The County Attorney, the Solid Waste Management District Attorney, or a designated agent of these, may pursue litigation of this ordinance in the County Circuit Court, or any successor court.
- (5) Upon adjudication or admission of any violation of this ordinance in Spencer County Circuit Court, or any successor court, the violator shall be subject to the following fines and penalties:
 - A. Any person who has committed a Class "C" violation of this ordinance shall be fined by the Court a sum of not less than One Hundred Dollars (\$100.00) and not greater than Five Hundred Dollars (\$500.00) per violation.
 - B. Any person who has committed a Class "B" violation of this ordinance shall be fined by the Court a sum of not less than Two Hundred Fifty Dollars (\$250.00) and not greater than One Thousand Dollars (\$1,000.00) per violation.
 - C. Any person who has committed a Class "A" violation of this ordinance shall be fined by the Court a sum of not less than Five Hundred Dollars (\$500.00) and not greater than Two Thousand Five Hundred Dollars (\$2,500.00) per violation.
 - D. Any person found to be in violation of any provision of this ordinance, whether by admission or adjudication, shall, in addition to any fines as set forth above, be required to provide an acceptable plan for any future solid waste disposal, be assessed all costs and expenses of the fire suppression, investigation, clean-up and removal of waste connected with the violation, and shall, in addition, be liable for all reasonable attorney fees, court costs, and other costs incurred by the County or District in connection with the enforcement of the ordinance.
 - E. Failure or refusal to bring property into compliance with this ordinance after adjudication of a violation shall constitute a Class "A" violation of this ordinance. Each day a noncompliance continues shall constitute a separate violation of this ordinance. (Ord. 2005-4, S12, Oct. 10, 2005)

6.74.130 Indirect Liability.

- (1) Any person who allows the accumulation or existence of combustible material(s) which constitutes or contributes to a fire causing air pollution may

not refute liability for the violation of this ordinance on the basis that said fire was set by vandals, accidental, and/or act of God, pursuant to 326 I.A.C. 4-1.

- (2) A property owner cannot direct another person to carry out actions in violation of this ordinance or knowingly allow another person to carry out actions in violation of this ordinance on their property.

Violating this provision constitutes a violation of the ordinance and carries the equivalent sanctions and penalties as the violation. (Ord. 2005-4, S13, Oct. 10, 2005)

6.74.140 Spencer County Illegal Trash Burning Fund.

- (1) All fines, penalties, and clean-up costs paid pursuant to this ordinance shall be deposited into the Spencer County Illegal Trash Burning Fund.
- (2) The funds collected in the Spencer County Illegal Trash Burning Fund shall be administered under the direction of the Spencer County Solid Waste Management District Board of Directors after a public meeting notice has been sent to all affected Spencer County taxing authorities.
- (3) The funds collected within the Spencer County Illegal Trash Burning Fund shall be used for the following purposes:
 - A. Reimbursement to area fire departments for costs related to the suppression of fires.
 - B. Clean-up and disposal cost of materials collected at illegal burn sites.
 - C. Court fees and attorney fees related to the prosecution of burn violations.
 - D. Educational materials to inform residents of and the publicizing of the Trash Burning Ordinance.
 - E. Other expenditures as deemed appropriate by the Spencer County Solid Waste Management District Board of Directors and affected Spencer County taxing authorities. (Ord. 2005-4, S14, Oct. 10, 2005)

6.74.150 Severability. If any part of this ordinance shall be deemed invalid its invalidity shall not affect the remaining parts of this ordinance. (Ord. 2005-4, S15, Oct. 10, 2005)

6.74.160 Applicability and Effective Date.

- (1) This ordinance shall apply to the entirety of Spencer County, Indiana. Enforcement shall include incorporated cities and towns that adopt this ordinance, unless such areas currently enforce a more stringent ordinance.

Incorporated Cities mid Towns, without a burn ordinance, may enter into an inter-local agreement with the Solid Waste Management District to delineate enforcement and investigation procedures of this ordinance.

- (2) All portions of former ordinances in conflict herewith are hereby repealed or superseded. This ordinance shall become effective from and after its adoption and publication as required by law. (Ord. 2005-4, S16, Oct. 3, 2005)

Chapter 6.90

MULTI-HAZARD MITIGATION PLAN

Sections:

6.90.010	Development of Plan
6.90.020	Risk Assessment
6.90.030	Mitigation Strategy
6.90.040	Maintenance or Implementation Process
6.90.050	Approval
6.90.060	Requirement for Grant Funding
6.90.070	Adoption of Plan

6.90.010 Development of Plan. The Town of Chrisney has participated in the hazard mitigation planning process as established under the Disaster Mitigation Act of 2000.

- (1) The Act establishes a framework for the development of a multi-jurisdictional County Hazard Mitigation Plan.
- (2) The Act as part of the planning process requires public involvement and local coordination among neighboring local units of government and businesses. (Ord. 2021-1, Feb. 1, 2021)

6.90.020 Risk Assessment. The Spencer County Plan includes a risk assessment including past hazards, hazards that threaten the county, an estimate of structures at risk, a general description of land uses and development trends. (Ord. 2021-1, Feb. 1, 2021)

6.90.030 Mitigation Strategy. The Spencer County Plan includes a mitigation strategy including goals and objectives and an action plan identifying specific mitigation projects and costs. (Ord. 2021-1, Feb. 1, 2021)

6.90.040 Maintenance or Implementation Process. The Spencer County Plan includes a maintenance or implementation process including plan updates, integration of the plan into other planning documents and how Spencer County will maintain public participation and coordination. (Ord. 2021-1, Feb. 1, 2021)

6.90.050 Approval. The Plan has been shared with the Indiana Department of Homeland Security and the Federal Emergency Management Agency for review and comment. (Ord. 2021-1, Feb. 1, 2021)

6.90.060 Requirement for Grant Funding. The Spencer County Multi-Hazard Mitigation Plan will make the county and participating jurisdictions eligible to receive FEMA hazard mitigation assistance grants. (Ord. 2021-1, Feb. 1, 2021)

6.90.070 Adoption of Plan.

- (1) Spencer County Multi-Hazard Mitigation Plan updates the existing Multi-Hazard Mitigation Plan adopted in February 2021.
- (2) This is a multi-jurisdictional plan and cities and towns that participated in the planning process may choose to also adopt the county plan. (Ord. 2021-1, Feb. 1, 2021)

Chapter 6.92

FLOOD HAZARD AREAS

Sections:

6.92.010	Statutory Authorization, Findings of Fact, Purpose, and Objectives
6.92.020	Definitions
6.92.030	General Provisions
6.92.040	Administration
6.92.050	Provisions for Flood Hazard Reduction
6.92.060	Variance Procedures
6.92.070	Severability
6.92.080	Effective Date

6.92.010 Statutory Authorization, Findings of Fact, Purpose, and Objectives.

- (1) Statutory Authorization. The Indiana Legislature has in IC 37-7-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the Town Council of the Town of Chrisney does hereby adopt the following floodplain management regulations.
- (2) Findings of Fact.
 - A. The flood hazard areas of the Town of Chrisney are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
 - B. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, inadequately flood-proofed, or otherwise unprotected from flood damages
- (3) Statement of Purpose. It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities.
 - B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
 - C. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters.
 - D. Control filling, grading, dredging, and other development which may increase erosion or flood damage.
 - E. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
 - F. Make federal flood insurance available for structures and their contents in the Town by fulfilling the requirements of the National Flood Insurance Program.
- (4) Objectives. The objectives of this chapter are:
- A. To protect human life and health.
 - B. To minimize expenditure of public money for costly flood control projects.
 - C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
 - D. To minimize prolonged business interruptions.
 - E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains.
 - F. To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas. (Ord. 2020-3, Article 1, Mar. 2, 2020) (Ord. 2019-3, Article 1, May 6, 2019)

6.92.020 Definitions. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

- (1) **A zone** means portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A zones, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings. These areas are labeled as Zone A, Zone AE, Zones A1-A30, Zone AO, Zone AH, Zone AR and Zone A99 on a FIRM. The definitions are presented below:
 - A. Zone A: Areas subject to inundation by the one-percent annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown.
 - B. Zone AE and A1-A30: Areas subject to inundation by the one-percent annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. (Zone AE is on new and revised maps in place of Zones A1-A30.)
 - C. Zone AO: Areas subject to inundation by one-percent annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.
 - D. Zone AH: Areas subject to inundation by one-percent annual chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.
 - E. Zone AR: Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection.
 - F. Zone A99: Areas subject to inundation by the one-percent annual chance flood event, but which will ultimately be protected upon completion of an under-construction Federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. Zone A99 may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown.
- (2) **Accessory structure** (appurtenant structure) means a structure with a floor area 400 square feet or less that is located on the same parcel of property as

the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

- (3) **Addition** (to an existing structure) means any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.
- (4) **Appeal** means a request for a review of the Floodplain Administrator's interpretation of any provision of this chapter.
- (5) **Area of shallow flooding** means a designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- (6) **Base Flood** means the flood having a one percent chance of being equaled or exceeded in any given year.
- (7) **Base Flood Evaluation (BFE)** means the elevation of the one-percent annual chance flood.
- (8) **Basement** means that portion of a structure having its floor sub-grade (below ground level) on all sides.
- (9) **Boundary River** means the part of the Ohio River that forms the boundary between Kentucky and Indiana.
- (10) **Boundary River Floodway** means the floodway of a boundary river.
- (11) **Building** - see "Structure."
- (12) **Community** means a political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.
- (13) **Community Rating System (CRS)** means a program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

- (14) **Critical facility** means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.
- (15) **D Zone** means unstudied areas where flood hazards are undetermined, but flooding is possible. Flood insurance is available in participating communities but is not required by regulation in this zone.
- (16) **Development** means any man-made change to improved or unimproved real estate including but not limited to:
- A. construction, reconstruction, or placement of a structure or any addition to a structure;
 - B. 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 180 days;
 - C. installing utilities, erection of walls and fences, construction of roads, or similar projects;
 - D. construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
 - E. mining, dredging, filling, grading, excavation, or drilling operations;
 - F. construction and/or reconstruction of bridges or culverts;
 - G. storage of materials; or
 - H. 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 structures 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 structures.
- (17) **Elevated structure** means a non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, filled stem wall foundations (also called chain walls), pilings, or columns (posts and piers).

- (18) **Elevation Certificate** is a certified statement that verifies a structure's elevation information. This certification must be signed and sealed by a land surveyor, engineer, or architect authorized by law to certify elevation information.
- (19) **Emergency Program** means the first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.
- (20) **Existing manufactured home park or subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the community's first floodplain ordinance.
- (21) **Expansion to an existing manufactured home park or subdivision** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
- (22) **FEMA** means the Federal Emergency Management Agency.
- (23) **Flood** means 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.
- (24) **Flood Boundary and Floodway Map (FBFM)** means an official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.
- (25) **Flood Insurance Rate Map (FIRM)** means an official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.
- (26) **Flood Insurance Study (FIS)** is the official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FBFM (where applicable), and the water surface elevation of the base flood.
- (27) **Flood Prone Area** means any land area acknowledged by a community as being susceptible to inundation by water from any source. (See "Flood")

- (28) **Flood Protection Grade (FPG)** is the elevation of the regulatory flood plus two feet at any given location in the SFHA. (See “Freeboard”)
- (29) **Floodplain** means the channel proper and the areas adjoining any wetland, lake, or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the fringe districts.
- (30) **Floodplain management** means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.
- (31) **Floodplain management regulations** means this chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage. Floodplain management regulations are also referred to as floodplain regulations, floodplain ordinance, flood damage prevention ordinance, and floodplain management requirements.
- (32) **Floodproofing (dry floodproofing)** is a method of protecting a structure that ensures that the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation with walls that are substantially impermeable to the passage of water. All structural components of these walls are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.
- (33) **Floodproofing certificate** is a form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be by a Registered Professional Engineer or Architect.
- (34) **Floodway** is the channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.
- (35) **Freeboard** means a factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to

compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

- (36) **Fringe** is those portions of the floodplain lying outside the floodway.
- (37) **Hardship** (as related to variances of this chapter) means the exceptional hardship that would result from a failure to grant the requested variance. The Town of Chrisney Board of Zoning Appeals requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.
- (38) **Highest adjacent grade** means the highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.
- (39) **Historic structures** means any structures individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.
- (40) **Letter of Final Determination (LFD)** means a letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The LFD initiates the six-month adoption period. The community must adopt or amend its floodplain management regulations during this six-month period unless the community has previously incorporated an automatic adoption clause.
- (41) **Letter of Map Change (LOMC)** is a general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They include Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F). The definitions are presented below:
 - A. **Letter of Map Amendment (LOMA)** means an amendment by letter to the currently effective FEMA map that establishes that a property is not located in a SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA.

- B. **Letter of Map Revision (LOMR)** means an official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.
 - C. **Letter of Map Revision Based on Fill (LOMR-F)** means an official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.
- (42) **Lowest adjacent grade** means the lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.
- (43) **Lowest floor** means the lowest elevation described among the following:
- A. The top of the lowest level of the structure.
 - B. The top of the basement floor.
 - C. The top of the garage floor, if the garage is the lowest level of the structure.
 - D. The top of the first floor of a structure elevated on pilings or pillars.
 - E. The top of the floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of flood waters unless:
 - 1. the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters by providing a minimum of two openings (in addition to doorways and windows) in a minimum of two exterior walls; if a structure has more than one enclosed area, each shall have openings on exterior walls;
 - 2. the total net area of all openings shall be at least one (1) square inch for every one square foot of enclosed area; the bottom of all such openings shall be no higher than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and,
 - 3. such enclosed space shall be usable solely for the parking of vehicles and building access.

- (44) **Manufactured home** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle.”
- (45) **Manufactured home park or subdivision** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- (46) **Market value** means the building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value) or adjusted assessed values.
- (47) **Mitigation** means sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the cost of disaster response and recovery.
- (48) **National Flood Insurance Program (NFIP)** is the federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.
- (49) **National Geodetic Vertical Datum (NGVD) of 1929** as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.
- (50) **New Construction** means any structure for which the “start of construction” commenced after the effective date of the community’s first floodplain ordinance.
- (51) **New manufactured home park or subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community’s first floodplain ordinance.
- (52) **Non-boundary river floodway** means the floodway of any river or stream other than a boundary river.

- (53) **North American Vertical Datum of 1988 (NAVD 88)** as adopted in 1993 is a vertical control datum used as a reference for establishing varying elevations within the floodplain.
- (54) **Obstruction** includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.
- (55) **One-percent annual chance flood** is the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See “Regulatory Flood”.
- (56) **Physical Map Revision (PMR)** is an official republication of a community’s FEMA map to effect changes to base (1-percent annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.
- (57) **Public safety and nuisance** means anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.
- (58) **Recreational vehicle** means a vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.
- (59) **Regular program** means the phase of the community’s participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.
- (60) **Regulatory flood** means the flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in Section 6.92.030(2)

of this chapter. The “Regulatory Flood” is also known by the term “Base Flood”, “One-Percent Annual Chance Flood”, and “100-Year Flood”.

- (61) **Section 1316** is that section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.
- (62) **Special Flood Hazard Area (SFHA)** means those lands within the jurisdiction of the Town subject to inundation by the regulatory flood. The SFHAs of the Town of Chrisney are generally identified as such on the Spencer County, Indiana and Incorporated Areas Flood Insurance Rate Map dated May 18, 2015 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1-A30, AH, AR, A99, or AO).
- (63) **Start of construction** includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- (64) **Structure** means a structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles to be installed on a site for more than 180 days.
- (65) **Substantial damage** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition

would equal or exceed 50 percent of the market value of the structure before the damage occurred.

- (66) **Substantial improvement** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage” regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements.
- (67) **Suspension** means the removal of a participating community from the NFIP because the community has not enacted and/or enforced the proper floodplain management regulations required for participation in the NFIP.
- (68) **Variance** is a grant of relief from the requirements of this chapter, which permits construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship.
- (69) **Violation** means the failure of a structure or other development to be fully compliant with this chapter. A structure or other development without the elevation, other certification, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.
- (70) **Watercourse** means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.
- (71) **X zone** means the area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2 percent chance of being equaled or exceeded (the 500-year flood). Unshaded X zones (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2 percent.
- (72) **Zone** means a geographical area shown on a FIRM that reflects the severity or type of flooding in the area.
- (73) **Zone A** (see definition for A zone)
- (74) **Zone B, C, and X** means areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated

rainfall coupled with inadequate local drainage systems. Flood insurance is available in participating communities but is not required by regulation in these zones. (Zone X is used on new and revised maps in place of Zones B and C.) (Ord. 2020-3, Article 2, Mar. 2, 2020) (Ord. 2019-3, Article 2, May 6, 2019)

6.92.030 General Provisions.

- (1) **Lands to Which this Chapter Applies.** This chapter shall apply to all SFHAs and known flood prone areas within the jurisdiction of the Town of Chrisney.
- (2) **Basis for Establishing Regulatory Flood Data.** This chapter's protection standard is the regulatory flood. The best available regulatory flood data is listed below.
 - A. The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of the Town of Chrisney shall be as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of Spencer County, Indiana and Incorporated Areas dated May 18, 2015 and the corresponding Flood Insurance Rate Map as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.
 - B. The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of the Town of Chrisney, delineated as an "A Zone" on the Spencer County, Indiana and Incorporated Areas Flood Insurance Rate Map dated May 18, 2015 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as provided by the Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available data. The party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.
 - C. In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas shall be according to the best data available as provided by the Indiana Department of Natural Resources;

provided the upstream drainage area from the subject site is greater than one square mile.

D. Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.

(3) **Establishment of Floodplain Development Permit.** A Floodplain Development Permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities in areas of special flood hazard.

(4) **Compliance.** No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this chapter and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this chapter and other applicable regulations.

(5) **Abrogation and Greater Restrictions.** This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(6) **Discrepancy between Mapped Floodplain and Actual Ground Elevations.**

A. In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.

B. If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.

C. If the elevation (natural grade) of the site in question is above the base flood elevation and not located within the floodway, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner shall be advised to apply for a LOMA.

(7) **Interpretation.** In the interpretation and application of this chapter all provisions shall be:

- A. Considered as minimum requirements.
 - B. Liberally construed in favor of the governing body.
 - C. Deemed neither to limit nor repeal any other powers granted under state statutes.
- (8) **Warning and Disclaimer of Liability.** The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this chapter does not create any liability on the part of the Town of Chrisney, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this chapter or any administrative decision made lawfully thereunder.
- (9) **Penalties for Violation.** Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance shall be deemed to be a violation of this chapter. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for the Town of Chrisney. All violations shall be punishable by a fine not exceeding no less than five dollars (\$5.00) nor more than two hundred dollars (\$200.00) for each offense.
- A. A separate offense shall be deemed to occur for each day the violation continues to exist.
 - B. The Town of Chrisney Floodplain Administrator shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.
 - C. Nothing herein shall prevent the Town from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible. (Ord. 2020-3, Article 3, Mar. 2, 2020) (Ord. 2019-3, Article 3, May 6, 2019)

6.92.040 Administration.

- (1) **Designation of Administrator.** The Town Council of the Town of Chrisney hereby appoints the Chrisney Zoning Administrator to administer and implement the provisions of this chapter and is herein referred to as the Floodplain Administrator.
- (2) **Permit Procedures.** Application for a Floodplain Development Permit shall be made to the Floodplain Administrator on forms furnished by him or her

prior to any development activities, and may include, but not be limited to, the following: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically the following information is required:

A. Application Stage

1. A description of the proposed development.
2. Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams.
3. A legal description of the property site.
4. A site development plan showing existing and proposed development locations and existing and proposed land grades.
5. Elevation of the top of the planned lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD.
6. Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed.
7. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required and any watercourse changes submitted to DNR for approval and then to FEMA as a Letter of Map Revision. (See Section 6.92.040(3)(F) for additional information.)

B. Finished Construction. Upon completion of construction, an elevation certification which depicts the “as-built” lowest floor elevation is required to be submitted to the Floodplain Administrator. If the project includes a floodproofing measure, floodproofing certification is required to be submitted by the applicant to the Floodplain Administrator.

- (3) **Duties and Responsibilities of the Floodplain Administrator.** The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this chapter. The administrator is further authorized to render interpretations of this chapter, which are consistent with its spirit and purpose.

Duties and Responsibilities of the Floodplain Administrator shall include, but are not limited to:

- A. Review all floodplain development permits to assure that the permit requirements of this chapter have been satisfied.
- B. Inspect and inventory damaged structures in the SFHA and complete substantial damage determinations.
- C. Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Section 6.92.050(5) and (7) of this chapter, and maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).
- D. Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits/authorizations are to be maintained on file with the floodplain development permit.
- E. Maintain and track permit records involving additions and improvements to residences located in the floodway.
- F. Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA.
- G. Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and “as-built” elevation and floodproofing data for all buildings constructed subject to this chapter.
- H. Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.
- I. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- J. Review certified plans and specifications for compliance.

- K. Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Section 6.92.040(2).
- L. Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with Section 6.92.040(2). (Ord. 2020-3, Article 4, Mar. 2, 2020) (Ord. 2019-3, Article 4, May 6, 2019)

6.92.050 Provisions for Flood Hazard Reduction.

- (1) **General Standards.** In all SFHAs and known flood prone areas the following provisions are required:
 - A. New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
 - B. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.
 - C. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.
 - D. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.
 - E. Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.
 - F. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
 - G. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
 - H. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

- I. Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this chapter shall meet the requirements of “new construction” as contained in this chapter.

(2) **Specific Standards.** In all SFHAs, the following provisions are required:

- A. In addition to the requirements of Section 6.92.050(1), all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:
 1. Construction or placement of any structure having a floor area greater than 400 square feet.
 2. Addition or improvement made to any existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land).
 3. Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred.
 4. Installing a travel trailer or recreational vehicle on a site for more than 180 days.
 5. Installing a manufactured home on a new site or a new manufactured home on an existing site. This chapter does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.
- B. **Residential Structures.** New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor, including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 6.92.050(2)(D).
- C. **Non-Residential Structures.** New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor,

including basement, elevated to or above the FPG (two feet above the base flood elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 6.92.050(2)(D). Structures located in all “A Zones” may be floodproofed in lieu of being elevated if done in accordance with the following:

1. A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the Floodplain Administrator as set forth in Section 6.92.040(3)(L).
2. Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

D. **Elevated Structures.** New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG.

Elevated structures with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs must meet the following minimum criteria:

1. Provide a minimum of two openings located in a minimum of two exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).
2. The bottom of all openings shall be no more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher.
3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

4. Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
5. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
6. The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.

E. **Structures Constructed on Fill.** A residential or nonresidential structure may be constructed on a permanent land fill in accordance with the following:

1. The fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file.
2. The fill shall extend 10 feet beyond the foundation of the structure before sloping below the BFE.
3. The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.
4. The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
5. The top of the lowest floor including basements shall be at or above the FPG.

F. **Standards for Manufactured Homes and Recreational Vehicles.** Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following requirements:

1. These requirements apply to all manufactured homes to be placed on a site outside a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured

home park or subdivision on which a manufactured home has incurred “substantial damage” as a result of a flood:

- (a) The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - (b) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 6.92.050(2)(D).
- 2. These requirements apply to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood:
 - (a) The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - (b) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 6.92.050(2)(D).
- 3. Recreational vehicles placed on a site shall either:
 - (a) be on site for less than 180 days; and
 - (b) be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and

security devices, and has no permanently attached additions); or

- (c) meet the requirements for “manufactured homes” as stated earlier in this section.

G. **Accessory Structures.** Relief to the elevation or dry floodproofing standards may be granted for accessory structures. Such structures must meet the following standards:

1. Shall not be used for human habitation.
2. Shall be constructed of flood resistant materials.
3. Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.
4. Shall be firmly anchored to prevent flotation.
5. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG.
6. Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 6.92.050(2)(D).

H. **Above Ground Gas or Liquid Storage Tanks.** All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement.

(3) **Standards for Subdivision Proposals.**

- A. All subdivision proposals shall be consistent with the need to minimize flood damage.
- B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- D. Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home

parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres.

- (4) **Critical Facility.** Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.
- (5) **Standards for Identified Floodways.**

Located within SFHAs, established in Section 6.92.030(2), are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC 14-28-1 a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (IC 14-28-1-26 allows construction of a non-substantial addition/improvement to a residence in a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval for the fill is required from the Indiana Department of Natural Resources.)

No action shall be taken by the Floodplain Administrator until a permit or letter of authorization (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the floodway. Once a permit for construction in a floodway or letter of authorization has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Section 6.92.050 of this chapter have been met. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a floodway issued by

the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

No development shall be allowed, which acting alone or in combination with existing or future development, that will adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse affect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.

For all projects involving channel modifications or fill (including levees) the Town shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44 CFR § 65.12.

- (6) **Standards for Identified Fringe.** If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in Section 6.92.050 of this chapter have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.
- (7) **Standards for SFHAs without Established Base Flood Elevation and/or Floodways/Fringes.**

A. Drainage area upstream of the site is greater than one square mile:

If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.

No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway (including letters of authorization) or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

Once the Floodplain Administrator has received the proper permit for construction in a floodway (including letters of authorization) or floodplain analysis/regulatory assessment approving the proposed development, a Floodplain Development Permit may be issued

provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in Section 6.92.050 of this chapter have been met.

B. Drainage area upstream of the site is less than one square mile:

If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and one-percent annual chance flood elevation for the site.

Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Section 6.92.050 of this chapter have been met.

C. The total cumulative effect of the proposed development, when combined with all other existing and anticipated development shall not adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse effect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.

- (8) **Standards for Flood Prone Areas.** All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet applicable standards as required per Section 6.92.050. (Ord. 2020-3, Article 5, Mar. 2, 2020) (Ord. 2019-3, Article 5, May 6, 2019)

6.92.060 Variance Procedures.

- (1) **Designation of Variance and Appeals Board.** The Board of Zoning Appeals shall hear and decide appeals and requests for variances from requirements of this chapter.
- (2) **Duties of Variance and Appeals Board.** The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this chapter. Any person aggrieved by the decision of the board may appeal such decision to the Spencer County Circuit Court.

(3) **Variance Procedures.** In passing upon such applications, the board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and;

- A. The danger of life and property due to flooding or erosion damage.
- B. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- C. The importance of the services provided by the proposed facility to the community
- D. The necessity of the facility to a waterfront location, where applicable.
- E. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
- F. The compatibility of the proposed use with existing and anticipated development.
- G. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
- H. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- I. The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site.
- J. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(4) **Conditions for Variances.**

- A. Variances shall only be issued when there is:
 - 1. A showing of good and sufficient cause.
 - 2. A determination that failure to grant the variance would result in exceptional hardship.
 - 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety,

extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

- B. No variance for a residential use within a floodway subject to Section 6.92.050(5) or (7) of this chapter may be granted.
 - C. Any variance granted in a floodway subject to Section 6.92.050(5) or (7) of this chapter will require a permit from the Indiana Department of Natural Resources.
 - D. Variances to the Provisions for Flood Hazard Reduction of Section 6.92.050(2), may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
 - E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - F. Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures. (Refer to Section 6.92.060(6)).
 - G. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation (See Section 6.92.060(5)).
 - H. The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (See Section 6.92.060(5)).
- (5) **Variance Notification.** Any applicant to whom a variance is granted that allows the lowest floor of a structure to be built below the flood protection grade shall be given written notice over the signature of a community official that:
- A. The issuance of a variance to construct a structure below the flood protection grade will result in increased premium rates for flood

insurance up to amounts as high as \$25 for \$100 of insurance coverage; and;

- B. Such construction below the flood protection grade increases risks to life and property.

The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance.

- (6) **Historic Structure.** Variances may be issued for the repair or rehabilitation of “historic structures” upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as an “historic structure” and the variance is the minimum to preserve the historic character and design of the structure.
- (7) **Special Conditions.** Upon the consideration of the factors listed in Section 6.92.060, and the purposes of this chapter, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter. (Ord. 2020-3, Article 6, Mar. 2, 2020) (Ord. 2019-3, Article 6, May 6, 2019)

6.92.070 Severability. If any section, clause, sentence, or phrase of the Chapter is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Chapter. (Ord. 2020-3, Article 7, Mar. 2, 2020) (Ord. 2019-3, Article 7, May 6, 2019)

6.92.080 Effective Date. This chapter shall be in full force and effect on May 6, 2019. Passed by the Town Council of Chrisney, Indiana on the 6th day of May, 2019. (Ord. 2020-3, Article 8, Mar. 2, 2020) (Ord. 2019-3, Article 8, May 6, 2019)

Chapter 6.93

NATIONAL FLOOD INSURANCE PROGRAM

Sections:

6.93.010	Enforcement
6.93.020	Zoning Administrator - Responsibility
6.93.030	Public Records/Inspection
6.93.040	Objectives of the Program – Official Action

6.93.010 Enforcement. Assures the Federal Insurance Administration that it will enact as necessary and maintain in force in those areas having flood, mudslide (i.e., mudflow), or flood-related erosion hazards, adequate land use and control measures with effective enforcement provisions consistent with the Criteria set forth in Section 59 et. Seq., of the National Flood Insurance Program Regulations. (Res. 2019-7, S1, Aug. 5, 2019)

6.93.020 Zoning Administrator – Responsibility. Vests the Chrisney Zoning Administrator with the responsibility, authority, and means to:

- (1) Delineate the limits of the area having special flood, mudslide, or flood-related erosion hazards.
- (2) Provide information concerning present uses and occupancy of the floodplain, mudslide or flood-related erosion areas.
- (3) Cooperate with Federal, State, and local agencies and private firms which undertake to study, survey, map, and identify floodplain, mudflow, or flood-related erosion areas, and cooperate with neighboring communities with respect to management of adjoining floodplain, mudslide and/or flood-related erosion areas in order to prevent aggravation of existing hazards.
- (4) Submit an annual report on the progress made during the past year within the community in the development and implementation of floodplain management measures.
- (5) Notify the Council in writing whenever the boundaries of the community have been modified by annexation of the community has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area. Include an accurate corporate limit map suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority. The community will use the Flood Insurance Rate Map or Flood Hazard Boundary Map published for the community from which land areas were annexed or from that political entity that previously had regulatory authority until the Administrator provides a map using the new corporate limits. (Res. 2019-7, S2, Aug. 5, 2019)

6.93.030 Public Records/Inspection. Appoints the Chrisney Zoning Administrator to maintain for public inspection and to furnish upon request (for determining flood insurance premium rates), the following information on all new and substantially improved structures constructed within the identified special flood hazard areas:

- (1) the actual (as built) lowest floor (including basement) elevation in relation to mean sea level;
- (2) any certificates of flood-proofing;
- (3) whether or not a building has a basement;
- (4) for all floodproofed structures, the elevation to which the structure has been floodproofed. (Res. 2019-7, S3, Aug. 5, 2019)

6.93.040 Objectives of the Program – Official Action. Agrees to take such other official action as may be reasonably necessary to carry out the objectives of the program. (Res. 2019-7, S4, Aug. 5, 2019)